

# House Bill 3079

Sponsored by Representative HOLVEY (at the request of Coalition of Oregon Real Estate Appraisers)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that real estate appraisal activity does not include certain evaluations performed by state licensed appraiser or state certified appraiser if evaluation includes prescribed disclaimer.

## A BILL FOR AN ACT

1  
2 Relating to real estate appraisers; amending ORS 674.100.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 674.100 is amended to read:

5 674.100. (1)(a) A person may not engage in, carry on, advertise or purport to engage in or carry  
6 on real estate appraisal activity within this state without first obtaining certification, licensure or  
7 registration as provided for in ORS 674.310.

8 (b) Real estate appraisal activity is the preparation, completion and issuance of an opinion as  
9 to the value on a given date or at a given time of real property or an interest in real property,  
10 whether the activity is performed in connection with a federally related transaction or is not per-  
11 formed in connection with a federally related transaction. Notwithstanding any other provision of  
12 law, a state certified appraiser or a state licensed appraiser:

13 (A) Is not required to be licensed under ORS 696.022 to perform real estate appraisal activity  
14 or any other activity that constitutes the giving of an opinion as to the value of real property or  
15 an interest in real property; and

16 (B) Is not subject to regulation under ORS 696.010 to 696.495 and 696.600 to 696.995 in con-  
17 nection with the performance of real estate appraisal activity or the performance of any other ac-  
18 tivity that constitutes the giving of an opinion as to the value of real estate or an interest in real  
19 estate.

20 (2) Real estate appraisal activity excludes activity that is not performed in connection with a  
21 federally related transaction and that:

22 (a) Is performed by a nonlicensed regular full-time employee of a single owner of real estate, if  
23 the activity involves the real estate of the employer and is incidental to the employee's normal,  
24 nonreal estate activities;

25 (b) Is performed by a nonlicensed regular full-time employee whose activity involves the real  
26 estate of the employer, when the activity is the employee's principal activity, but the employer's  
27 principal activity or business is not the appraisal of real estate;

28 (c) Is performed by an attorney at law rendering services in the performance of duties as an  
29 attorney at law;

30 (d) Is performed by a registered geologist, registered professional engineer or architect render-  
31 ing services as a registered geologist, registered professional engineer or architect;

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (e) Is performed by a certified public accountant rendering services as a certified public ac-  
2 countant;

3 (f) Is performed by a mortgage banker rendering services as a mortgage banker;

4 (g) Constitutes a letter opinion or a competitive market analysis as those terms are defined in  
5 ORS 696.010 that, by administrative or judicial order or subpoena, is compelled from an individual  
6 licensed to engage in professional real estate activity under ORS 696.022;

7 (h) Is performed by a salaried employee of the federal government, the State of Oregon or a  
8 political subdivision of the federal government or the State of Oregon while engaged in the per-  
9 formance of the duties of the employee;

10 (i) Is limited to analyzing or advising of permissible land use alternatives, environmental impact,  
11 building and use permit procedures or demographic market studies, if the performance of the activ-  
12 ities does not involve the rendering of an opinion as to the value of the real estate in question;

13 (j) Is performed by a professional forester appraising or valuing timber, timberland or both as  
14 part of services performed as a private consultant in forest management, but only if, in the case of  
15 timberland, the appraisal or valuation is limited to the use of the land as forestland;

16 (k) Is limited to giving an opinion in an administrative or judicial proceeding regarding the  
17 value of real estate for taxation;

18 (L) Is limited to giving an opinion regarding the value of real estate by a person who is not li-  
19 censed under ORS chapter 696, if the person's business is not the appraisal, selling or listing of real  
20 estate and the activity is performed without compensation. This paragraph does not apply to a  
21 person conducting transactional negotiations on behalf of another person for transfer of an interest  
22 in real property;

23 (m) Is limited to transferring or acquiring an interest in real estate by a person who is not li-  
24 censed under ORS chapter 696; or

25 (n) Is performed by a home inspector acting within the scope of a certificate or license issued  
26 under ORS chapter 701.

27 (3)(a) Real estate appraisal activity does not include an analysis, evaluation, opinion, conclusion,  
28 notation or compilation of data prepared by a financial institution or affiliate, a consumer finance  
29 company licensed under ORS chapter 725 or an insurance company or affiliate, made for internal  
30 use only by the financial institution or affiliate, consumer finance company or the insurance com-  
31 pany or affiliate, concerning an interest in real estate for ownership or collateral purposes by the  
32 financial institution or affiliate, the consumer finance company licensed under ORS chapter 725 or  
33 the insurance company or affiliate. Nothing in this subsection shall be construed to excuse a fi-  
34 nancial institution or affiliate from complying with the provisions of Title XI of the federal Financial  
35 Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. 3310 et seq.).

36 (b) As used in this subsection, "evaluation" means a study of the nature, quality or utility of a  
37 parcel of real estate or interests in, or aspects of, real property in which a value estimate is not  
38 necessarily required.

39 **(4)(a) A state licensed appraiser or state certified appraiser engaged to perform an eval-  
40 uation is not engaged in real estate appraisal activity if the evaluation includes a disclaimer  
41 that:**

42 **(A) Is located immediately above the appraiser's signature; and**

43 **(B) Includes the following language in at least 10-point boldfaced type:**

44 \_\_\_\_\_  
45

1       **I am a state licensed appraiser or a state certified appraiser. This evaluation was not**  
2 **prepared in my capacity as a real estate appraiser and might not comply with the uniform**  
3 **standards of professional appraisal practice.**  
4 \_\_\_\_\_

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6       **(b) As used in this subsection, “evaluation” means an opinion of the market value of real**  
7 **property or real estate provided to a financial institution in conformance with the Intera-**  
8 **gency Appraisal and Evaluation Guidelines adopted jointly by the federal financial insti-**  
9 **tutions regulatory agencies for use in real estate-related financial transactions that do not**  
10 **require an appraisal.**

11       [(4)(a)] **(5)** As used in this section, “purport to engage in or carry on real estate appraisal ac-  
12 tivity” means the display of a card, sign, advertisement or other printed, engraved or written in-  
13 strument bearing the person’s name in conjunction with the term “appraiser,” “licensed appraiser,”  
14 “certified appraiser,” “appraiser assistant,” “registered appraiser assistant” or “appraisal” or an  
15 oral statement or representation of certification, licensure or registration by the Appraiser Certi-  
16 fication and Licensure Board made by a person.

17       [(b)] **(6)** Each display or statement described in [*paragraph (a) of this subsection*] **subsection (5)**  
18 **of this section** by a person not licensed, certified or registered by the board is a separate violation  
19 under ORS 674.850 or 674.990.

20       [(c)] **(7)** In a proceeding under ORS 674.850 or 674.990, a display or statement described in  
21 [*paragraph (a) of this subsection*] **subsection (5) of this section** shall be considered prima facie  
22 evidence that the person named in the display or making the statement purports to engage in or  
23 carry on real estate appraisal activity.  
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