

Enrolled
Senate Bill 37

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CHAPTER

AN ACT

Relating to appraisal management companies; amending ORS 674.200, 674.205, 674.220, 674.250, 674.310, 674.330 and 674.340; and declaring an emergency.

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

SECTION 1. ORS 674.200 is amended to read:

674.200. As used in ORS 674.200 to 674.250:

(1) "Appraisal" means the process of developing an opinion of the value of real property in conformance with commonly accepted standards for appraisers.

(2)(a) "Appraisal management company" means an external third party that:

(A) Oversees an [appraisal] **appraiser** panel of more than 15 appraisers in Oregon or at least 25 appraisers in the United States; and

(B) Is authorized by a client to:

(i) Recruit, select and retain appraisers;

(ii) Contract with appraisers to perform appraisal assignments;

(iii) Manage the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to clients, collecting fees from clients for services provided and reimbursing appraisers for services performed; or

(iv) Review and verify the work of appraisers.

(b) "Appraisal management company" does not include an entity that employs real estate appraisers exclusively as employees for the performance of real estate appraisal activity.

(3) "Appraisal management services" means the process of receiving a request for the performance of real estate appraisal activity from a client and, for a fee paid by the client, entering into an agreement with an independent contractor appraiser to perform the real estate appraisal activity contained in the request.

(4)(a) "Appraisal review" means the act or process of developing and communicating an opinion about the quality of the substantive aspects of another appraiser's work that was performed as part of an appraisal assignment.

(b) An "appraisal review" is not a quality control examination.

(5) "Appraisal Subcommittee" has the meaning given that term in ORS 674.010.

[5] **(6) "Appraiser"** means a state certified appraiser or state licensed appraiser certified or licensed under ORS 674.310.

[6] (7) “Appraiser panel” means a group of appraisers who have been selected by an appraisal management company to perform real estate appraisal activity for clients.

[7] (8) “Client” means a person that engages an appraisal management company to perform appraisal management services.

[8] (9) “Controlling person” means:

(a) An owner, officer or director of an appraisal management company;

(b) An individual authorized by an appraisal management company to enter into a contractual relationship with:

(A) A client for the performance of services requiring registration as an appraisal management company; and

(B) An appraiser for the performance of appraisals; or

(c) An individual who possesses, directly or indirectly, the power to direct the management or policies of an appraisal management company.

[9] (10) “Independent contractor appraiser” means an appraiser who receives a fee for performing an appraisal, but who is not an employee of the person engaging the appraiser.

[(10)(a)] (11)(a) “Quality control examination” means an examination of an appraisal report for compliance and completeness in relation to client specifications, including examination for grammatical or typographical errors.

(b) A “quality control examination” is not an appraisal review.

[(11)] (12) “Real estate appraisal activity” means the activity described in ORS 674.100.

[(12)] (13) “Uniform Standards of Professional Appraisal Practice” means the current standards of the appraisal profession, developed for appraisers and users of appraisal services by the Appraisal Standards Board of the Appraisal Foundation.

SECTION 2. ORS 674.205 is amended to read:

674.205. (1) A person may not directly or indirectly engage in or attempt to engage in business as an appraisal management company or advertise or represent that the entity is an appraisal management company unless the person is:

(a) Registered as an appraisal management company with the Appraiser Certification and Licensure Board; or

(b) An appraisal management company *[that is a subsidiary of and owned and controlled by a financial institution regulated by a federal financial institution regulatory agency, as that term is defined in ORS 674.010]* **owned and controlled by an insured depository institution as defined in 12 U.S.C. 1813 that is regulated by the Comptroller of the Currency, the Board of Governors of the Federal Reserve System or the Federal Deposit Insurance Corporation.**

(2) A business entity may apply for registration as an appraisal management company on forms prescribed by rule by the board. The application must include:

(a) The name, address and phone contact information of the entity;

(b) The name, address and phone contact information of a controlling person of the entity;

(c) If the entity is not domiciled in this state, the name and phone contact information for the entity’s agent for service of process in this state;

(d) The name, address and phone contact information of any person that owns 10 percent or more of the entity;

(e) A certification that:

(A) Each owner, in whole or in part, directly or indirectly, of the entity and the controlling person identified in the application have not had an appraiser license or certificate refused, denied, canceled, surrendered in lieu of revocation or revoked in any state, territory or possession of the United States, for a substantive cause, as determined by the Appraisal Subcommittee;

[(A)] **(B) The entity has a system to verify that each appraiser on the entity’s appraiser panel is licensed or certified under ORS 674.310;**

[B)] (C) The entity requires an appraiser completing an appraisal at the entity's request to confirm that the appraiser is competent to perform the appraisal assignment before accepting the assignment;

[C)] (D) The entity requires appraisers completing appraisals at the entity's request to comply with the Uniform Standards of Professional Appraisal Practice;

[D)] (E) The entity has a system in place to require that appraisals are conducted independently and without inappropriate influence or coercion as required by the appraisal independence standards established under section 129E of the Truth in Lending Act; and

[E)] (F) The entity maintains and retains for at least five years, or as required under ORS 674.150, a detailed record of each appraisal management services request the entity receives and the appraiser who performs the real estate appraisal activity contained in the request;

(f) The surety bond, letter of credit or deposit required by ORS 674.210;

(g) Fees in an amount prescribed by rule by the board, which must be sufficient to cover the costs of administering ORS 674.200 to 674.250 and 674.995; and

(h) Any other information required by the board by rule.

(3) The board may not issue a registration to a business entity as an appraisal management company unless:

(a) Each individual who owns 10 percent or more of the entity and the controlling person identified by the entity in the application have completed a criminal records check; *[and]*

(b) The board finds that no owner, in whole or in part, directly or indirectly, of the entity or the controlling person identified in the application has had an appraiser license or certificate refused, denied, canceled, surrendered in lieu of revocation or revoked in any state or territory or possession of the United States, for a substantive cause, as determined by the Appraisal Subcommittee; and

[(b)] (c) The board determines that each individual who owns **more than** 10 percent *[or more]* of the entity and the controlling person identified by the entity in the application **are of good moral character.***[:]*

[(A) Are of good moral character; and]

[(B) Have never had a license, certification or registration to act as an appraiser or appraisal management company refused, denied, canceled or revoked in this state or in any other state.]

(4)(a) The board shall issue a unique registration number to each appraisal management company registered under this section.

(b) The board shall maintain a published list of appraisal management companies registered under this section.

(c) An appraisal management company registered under this section shall disclose the company's registration number to each appraiser used by the company.

(5) An appraisal management company registration expires two years after the date of the issuance of the registration. The board shall adopt rules establishing the requirements for renewal or reactivation of a registration. The rules must require that an appraisal management company provide all of the information and certifications required for an initial application for registration under subsection (2) of this section in the renewal application.

SECTION 3. ORS 674.220 is amended to read:

674.220. (1) An appraisal management company or an employee, controlling person or agent of an appraisal management company may not:

(a) Attempt to influence the development or reporting of an appraisal or appraisal review through coercion, extortion, collusion, compensation, inducement, intimidation, bribery or any other manner, including but not limited to:

(A) Withholding or threatening to withhold timely payment for an appraisal;

(B) Withholding or threatening to withhold future business for an appraiser;

(C) Expressly or impliedly promising future business, promotions or increased compensation for an appraiser;

(D) Conditioning the ordering of an appraisal report or any payment on the opinion, conclusion or valuation to be reached, or on a preliminary estimate or opinion requested from an appraiser;

(E) Requesting that an appraiser provide an estimated, predetermined or desired valuation in an appraisal report, or provide estimated values or comparable sales at any time prior to the appraiser's completion of real estate appraisal activity;

(F) Providing to an appraiser an anticipated, estimated, encouraged or desired value for a subject property or a proposed or target amount to be loaned to the borrower, except that a copy of the sales contract for a purchase transaction may be provided; or

(G) Providing to an appraiser, or any entity or individual related to the appraiser, stock or other financial or nonfinancial benefits;

(b) Require an appraiser to accept an appraisal assignment if the appraiser has notified the company that the appraiser declines the assignment because the assignment must be completed within a time frame that the appraiser, in the appraiser's professional judgment, believes does not afford the appraiser the ability to meet the appraiser's legal and professional obligations;

(c) Require an appraiser to accept an appraisal assignment if the appraiser has notified the company that the appraiser declines the assignment because, in the appraiser's professional judgment, the appraiser does not have the necessary expertise for the assignment;

(d) Prohibit lawful communications between the appraiser and any other person who the appraiser, in the appraiser's professional judgment, believes possesses information that would be relevant;

(e) Knowingly require an appraiser to take any action that does not comply with the provisions of ORS chapter 674, the rules of the Appraiser Certification and Licensure Board or any assignment conditions and certifications required by the client for whom an appraisal is being performed;

(f) Require an appraiser to indemnify the appraisal management company or any other party against liability, damages, losses or claims that arise out of any act or conduct of the appraisal management company or that do not arise out of the services performed by the appraiser;

(g) Prohibit an appraiser from reporting the fee paid to the appraiser in the appraisal report;

(h) Allow a person to perform an appraisal review relating to a property located in this state if the person is not an appraiser with the licensure required to perform the appraisal review;

(i) Substantively alter in any way a completed appraisal report submitted by an appraiser; or

(j) [*Except within the first 90 days after an appraiser is added to the company's appraiser panel,*] Remove the appraiser from the appraiser panel without prior written notice to the appraiser, including notice of evidence of the reason for removal.

(2) An appraisal management company may request, on behalf of and with the approval of a financial institution at the request of a consumer, that an appraiser:

(a) Provide additional information about the basis for the valuation;

(b) Correct objective factual errors in a completed appraisal report; or

(c) Consider the prices of other comparable properties.

SECTION 4. ORS 674.310 is amended to read:

674.310. (1) The Appraiser Certification and Licensure Board shall:

(a) Have the power to do all things necessary and convenient to carry into effect the provisions of this chapter, ORS 674.200 to 674.250 and the federal Act and to regulate the activities of state licensed appraisers, state certified appraisers, state registered appraiser assistants and appraisal management companies to ensure that real estate appraisals conform to the law in effect on the date of the real estate appraisal activity.

(b) Certify or license appraisers and register appraiser assistants as necessary to carry out the federal Act and the purposes set forth in ORS 674.020.

(c) Register appraisal management companies under ORS 674.200 to 674.250.

(d) Supervise the activities of state certified appraisers, state licensed appraisers, state registered appraiser assistants and appraisal management companies as provided in this chapter and ORS 674.200 to 674.250, to ensure that they perform real estate appraisal activity in strict conformance

with the provisions of this chapter and of the federal Act, and that they otherwise comply with the provisions of this chapter and ORS 674.200 to 674.250 in the conduct of their professional activities.

(e) Establish, keep current and, no less than annually, transmit to the Appraisal Subcommittee a roster listing state certified appraisers and state licensed appraisers.

(f) Collect and remit fees as required under ORS 674.250, [and] 674.330 and 674.340.

(2) Rules adopted by the Appraiser Certification and Licensure Board to govern real estate appraiser certification and licensure shall conform with the requirements of the federal Act. The board shall adopt rules including but not limited to:

(a) Establishing programs for the certification, licensure or registration of individuals who engage in real estate appraisal activity.

(b) Establishing educational requirements for certification or licensure of appraisers and for the registration of appraiser assistants that ensure protection of the public interest and comply with the requirements of the federal Act. Education requirements for state licensed appraisers and state certified appraisers must meet the minimum criteria established by the Appraiser Qualification Board of the Appraisal Foundation.

(c) Establishing a professional code of responsibility for state certified appraisers and state licensed appraisers that is in conformance with the federal Act.

(d) Providing for registration of out-of-state appraisers as provided for under ORS 674.120.

(3) An individual may not be a state licensed appraiser or a state certified appraiser unless the individual has achieved a passing grade [upon a suitable examination equivalent to the Uniform Certification Examination issued or endorsed by the Appraisal Qualification Board of the Appraisal Foundation] **on an examination approved by the Appraisal Qualification Board of the Appraisal Foundation for the credential being sought.**

(4) The Appraiser Certification and Licensure Board, acting through the administrator, may issue subpoenas to compel the attendance of witnesses and the production of papers, books, records, correspondence, agreements, memoranda and other material or relevant documents in investigations or proceedings pertaining to the powers and duties of the board.

(5) In the case of a person who refuses to respond to a subpoena issued by the Appraiser Certification and Licensure Board, the judge of the circuit court, on the application of the board administrator, shall order compliance with the board subpoena in the same manner as a proceeding for contempt for failure to respond to a subpoena of the court.

SECTION 5. ORS 674.250 is amended to read:

674.250. (1) **The Appraiser Certification and Licensure Board shall collect from each appraisal management company an annual registry fee in an amount determined by the Appraisal Subcommittee as set forth in federal law.**

[(1)] (2) The [Appraiser Certification and Licensure] board shall establish by rule fees for appraisal management companies, including but not limited to fees for:

- (a) Application for registration.
- (b) Registration.
- (c) Renewal of registration.
- (d) Duplicate registration.
- (e) Renewal of inactive registration.
- (f) Reactivation of inactive registration.
- (g) Late renewal of registration.
- (h) Inactive status.

[(i) Annual appraisal management company registry fees in an amount determined by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council as set forth in federal law.]

[(2)] (3) All moneys collected or received by the board pursuant to this section shall be paid into the account created by the board under ORS 182.470.

SECTION 6. ORS 674.330 is amended to read:

674.330. (1) The Appraiser Certification and Licensure Board shall collect from each state certified appraiser and each state licensed appraiser an annual registry fee as required by the federal

Act and in an amount determined by the Appraisal Subcommittee. *[All annual registry fees collected by the board under this subsection shall be remitted to the Federal Financial Institutions Examination Council in accordance with the federal Act.]*

(2) Except as provided in subsection (1) of this section and in addition to any fees required by subsection (1) of this section, the board may establish by rule fees to be charged and collected under this chapter. The fees established by the board may include, but need not be limited to, fees:

- (a) For each certification or licensure examination administered under ORS 674.310.
- (b) For each certificate or license awarded or issued under ORS 674.310.
- (c) For each renewal of a certificate or license awarded or issued under ORS 674.310.
- (d) For each duplicate certificate or license, where the original license is lost or destroyed and affidavit made thereof.
- (e) For the renewal of an inactive certificate or license.
- (f) For the reactivation of an inactive certificate or license.
- (g) For late renewal, in addition to the renewal fee.
- (h) For a temporary registration provided for under ORS 674.120.
- (i) For each application.
- (j) For inactive status.
- (k) For each walk-in examination.
- (L) For each appraiser assistant registration.
- (m) For each appraiser assistant renewal.

SECTION 7. ORS 674.340 is amended to read:

674.340. (1) All moneys, fees and charges collected or received by the Appraiser Certification and Licensure Board pursuant to ORS **674.250 and** 674.330 shall be paid into the account created by the board under ORS 182.470. All moneys in the account are appropriated continuously to the board to carry out the duties that the board is charged with administering.

(2) The Federal Registry Fund is established in the account created by the board under ORS 182.470. Proceeds received under ORS **674.250 (1) and** 674.330 (1) shall be deposited in the Federal Registry Fund **for the sole purpose of remitting the funds to the Federal Financial Institutions Examination Council in accordance with the federal Act.** *[The moneys in the Federal Registry Fund shall be used solely as set forth in ORS 674.330 (1).]*

SECTION 8. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.

Passed by Senate March 4, 2021

Repassed by Senate June 3, 2021

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 1, 2021

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

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Shemia Fagan, Secretary of State