

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3624**

1 On page 1 of the printed A-engrossed bill, line 2, after "ORS" delete the
2 rest of the line and delete line 3 and insert "705.141; and declaring an
3 emergency."

4 Delete lines 5 through 25 and delete pages 2 through 11 and insert:

5 **"SECTION 1. As used in sections 1 to 8 of this 2010 Act:**

6 **"(1)(a) 'Appraisal management company' means a business entity**
7 **that:**

8 **"(A) Performs appraisal management services;**

9 **"(B) Administers networks of independent contractor appraisers to**
10 **perform real estate appraisal activity for clients; or**

11 **"(C) Otherwise serves as a third-party broker of real estate ap-**
12 **praisal activity between clients and appraisers.**

13 **"(b) 'Appraisal management company' does not include:**

14 **"(A) An appraiser who in the normal course of business enters into**
15 **an agreement with another appraiser for the performance of real es-**
16 **tate appraisal activity that the hiring appraiser cannot complete;**

17 **"(B) An appraiser who in the normal course of business enters into**
18 **an agreement with another appraiser for the performance of real es-**
19 **tate appraisal activity and upon the completion of the activity, jointly**
20 **signs the appraisal report with the appraiser performing the activity;**

21 **or**

22 **"(C) A person who contracts for fewer than 10 appraisals in this**

1 state in a calendar year.

2 “(2) ‘Appraisal management services’ means the process of receiv-
3 ing a request for the performance of real estate appraisal activity from
4 a client and, for a fee paid by the client, entering into an agreement
5 with an independent contractor appraiser to perform the real estate
6 appraisal activity contained in the request.

7 “(3) ‘Appraiser’ means a state certified appraiser or state licensed
8 appraiser certified or licensed under ORS 674.310.

9 “(4) ‘Appraiser panel’ means a group of independent contractor ap-
10 praisers who have been selected by an appraisal management company
11 to perform real estate appraisal activity for the appraisal management
12 company.

13 “(5) ‘Controlling person’ means:

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

16 “(b) An individual employed, appointed or authorized by an ap-
17 praisal management company to enter into an agreement with a client
18 for the performance of appraisal management services or to enter into
19 an agreement with an independent contractor appraiser for the per-
20 formance of real estate appraisal activity; or

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

24 “(6) ‘Financial institution’ has the meaning given that term in ORS
25 674.010.

26 “(7) ‘Real estate appraisal activity’ means the activity described in
27 ORS 674.100.

28 SECTION 2. (1)(a) A person may not provide appraisal manage-
29 ment services unless the person is registered as an appraisal manage-
30 ment company with the Department of Consumer and Business

1 Services.

2 “(b) Notwithstanding ORS 674.100 (3)(a), an affiliate of a financial
3 institution or insurance company may not provide appraisal manage-
4 ment services unless the affiliate is registered as an appraisal man-
5 agement company with the department.

6 “(2) A business entity may apply for registration as an appraisal
7 management company on forms prescribed by rule by the department.

8 The application must include:

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

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

12 “(c) If the entity is not domiciled in this state, the name and con-
13 tact information for the entity’s agent for service of process in this
14 state;

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

17 “(e) A certification that:

18 “(A) The entity has a system to verify that each appraiser on the
19 entity’s appraiser panel is licensed or certified under ORS 674.310 and
20 is competent to perform real estate appraisal activity;

21 “(B) If the entity reviews real estate appraisal activity performed
22 by an appraiser, the review is conducted by another appraiser; and

23 “(C) The entity maintains and retains for at least five years, or as
24 required under ORS 674.150, a detailed record of each appraisal man-
25 agement services request the entity receives and the appraiser who
26 performs the real estate appraisal activity contained in the request;

27 “(f) The surety bond, letter of credit or deposit required by section
28 3 of this 2010 Act;

29 “(g) Fees in an amount prescribed by rule by the department, which
30 must be sufficient to cover the costs of administering sections 1 to 8

1 and 9 of this 2010 Act;

2 “(h) A description of the dispute resolution process required by
3 section 7 of this 2010 Act; and

4 “(i) Any other information required by the department by rule.

5 “(3) The department may not issue a registration to a business en-
6 tity as an appraisal management company unless the department de-
7 termines that each individual who owns 10 percent or more of the
8 entity and the controlling person identified by the entity in the appli-
9 cation:

10 “(a) Are of good moral character; and

11 “(b) Have never had a license, certification or registration to act
12 as an appraiser or appraisal management company refused, denied,
13 canceled or revoked in this state or in any other state.

14 “(4) An appraisal management company registration expires two
15 years after the date of the issuance of the registration. The depart-
16 ment shall adopt rules establishing the requirements for renewal or
17 reactivation of a registration. The rules must include a requirement
18 that the appraisal management company must certify that:

19 “(a) The company has a system to verify that each appraiser on the
20 company’s appraiser panel is licensed or certified under ORS 674.310
21 and is competent to perform real estate appraisal activity;

22 “(b) If the company reviews real estate appraisal activity performed
23 by an appraiser, the review is conducted by another appraiser; and

24 “(c) The company maintains and retains for at least five years, or
25 as required under ORS 674.150, a detailed record of each appraisal
26 management services request the company receives and the appraiser
27 who performs the real estate appraisal activity contained in the re-
28 quest.

29 “SECTION 3. (1) An applicant for issuance or renewal of an ap-
30 praisal management company registration shall file with the Depart-

1 ment of Consumer and Business Services a surety bond with one or
2 more corporate sureties authorized to do business in this state, or an
3 irrevocable letter of credit issued by an insured institution, as defined
4 in ORS 706.008, in the amount of \$25,000.

5 “(2) The surety bond or letter of credit required under subsection
6 (1) of this section must:

7 “(a) Be conditioned that the applicant pays:

8 “(A) All amounts owing to persons who perform real estate ap-
9 praisal activity for the appraisal management company; and

10 “(B) All amounts adjudged against the appraisal management
11 company by reason of negligent or improper real estate appraisal ac-
12 tivity or appraisal management services or breach of contract in per-
13 forming real estate appraisal activity or appraisal management
14 services; and

15 “(b) Require the surety company to provide written notice to the
16 department by registered or certified mail:

17 “(A) At least 30 days before the surety company cancels or revokes
18 the bond; or

19 “(B) When the surety company pays for a loss under the bond.

20 “(3) In lieu of the surety bond or letter of credit required under
21 subsection (1) of this section, the appraisal management company may
22 file with the department, under the same terms and conditions as
23 when a bond is filed, a deposit in cash or negotiable securities ac-
24 ceptable to the department.

25 “(4) The surety bond, letter of credit or deposit required by this
26 section must be continuously on file with the department in the
27 amount of \$25,000 and is for the exclusive purpose of payment of the
28 obligations listed in subsection (2) of this section. Upon termination
29 or cancellation of the bond, withdrawal of the deposit or reduction of
30 the bond, letter of credit or deposit to less than \$25,000, a registered

1 appraisal management company shall:

2 “(a) File a replacement bond, letter of credit or deposit within the
3 time period established by the department by rule; or

4 “(b) Surrender the company’s registration to the department and
5 cease operating as an appraisal management company.

6 “(5) Any person damaged by an appraisal management company’s
7 failure to pay an obligation listed in subsection (2) of this section has
8 a right of action under the bond. An action under the bond must be
9 commenced within one year after the appraisal management company
10 fails to pay the amount owing or the amount adjudged against the
11 appraisal management company.

12 “SECTION 4. (1) The Department of Consumer and Business Ser-
13 vices shall adopt rules establishing a procedure for auditing an ap-
14 praisal management company registered under section 2 of this 2010
15 Act to examine the appraisal management company’s compliance with
16 sections 1 to 8 of this 2010 Act.

17 “(2) The department shall audit each appraisal management com-
18 pany registered under section 2 of this 2010 Act at least every two
19 years.

20 “(3) The department shall issue written findings on the results of
21 the audit.

22 “(4) If an appraisal management company fails an audit, the de-
23 partment may impose a civil penalty under section 9 of this 2010 Act.

24 “SECTION 5. (1) An appraisal management company or an em-
25 ployee, controlling person or agent of an appraisal management com-
26 pany may not:

27 “(a) Attempt to influence the development, reporting or review of
28 an appraisal or appraisal review assignment through coercion,
29 extortion, collusion, compensation, instruction, inducement, intim-
30 idation, bribery or any other manner, including but not limited to:

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

3 “(B) Withholding or threatening to withhold future business for an
4 independent contractor appraiser;

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

7 “(D) Conditioning the request for real estate appraisal activity or
8 any payment on the opinion, conclusion or valuation to be reached,
9 or on a preliminary estimate or opinion requested from an appraiser;

10 “(E) Requesting that an appraiser provide an estimated, predeter-
11 mined or desired valuation in an appraisal report, or provide estimated
12 values or comparable sales at any time prior to the appraiser’s com-
13 pletion of real estate appraisal activity;

14 “(F) Providing to an appraiser an anticipated, estimated, encour-
15 aged or desired value for a subject property or a proposed or target
16 amount to be loaned to the borrower, except that a copy of the sales
17 contract for a purchase transaction may be provided;

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

20 “(H) Allowing the removal of an appraiser from an appraiser panel
21 without prior written notice to the appraiser;

22 “(I) Obtaining, using or paying for a second or subsequent appraisal
23 or ordering an automated valuation model in connection with a
24 mortgage financing transaction unless there is a reasonable basis to
25 believe that the initial appraisal was flawed or tainted and such basis
26 is clearly and appropriately noted in the loan file, or unless such ap-
27 praisal or automated valuation model is done pursuant to an appraisal
28 review or quality control process that is completed by an appraiser
29 before or after a loan is funded; or

30 “(J) Any other act or practice that impairs or attempts to impair

1 an appraiser's independence, objectivity or impartiality.

2 “(b) Substantively alter in any way a completed appraisal report
3 submitted by an appraiser.

4 “(2) This section does not prohibit an appraisal management com-
5 pany from requesting, on behalf of a financial institution at the re-
6 quest of a consumer, that an appraiser:

7 “(a) Provide additional information about the basis for the valu-
8 ation;

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

11 “(c) Consider the values of other comparable properties.

12 **“SECTION 6.** Except in the case of breach of contract or substand-
13 ard performance of real estate appraisal activity, an appraisal man-
14 agement company shall make payment to an independent contractor
15 appraiser for the completion of an appraisal or appraisal review as-
16 signment within 60 days after the appraiser provides the completed
17 appraisal report to the appraisal management company.

18 **“SECTION 7.** The Department of Consumer and Business Services
19 shall adopt rules requiring an appraisal management company to es-
20 tablish a dispute resolution process that allows a person with an in-
21 terest in a real estate transaction for which an appraisal was arranged
22 by the appraisal management company to dispute the appraisal.

23 **“SECTION 8.** (1) The Department of Consumer and Business Ser-
24 vices may suspend or revoke an appraisal management company reg-
25 istration for a violation of sections 1 to 8 of this 2010 Act or of rules
26 adopted by the department.

27 “(2) The revocation, lapsing or suspension of an appraisal manage-
28 ment company registration does not deprive the department of juris-
29 diction to proceed with any investigation of or any action or
30 disciplinary proceedings against the appraisal management company,

1 or to revise or render null and void an order suspending or revoking
2 the registration.

3 **"SECTION 9.** (1) In accordance with ORS chapter 183, the Depart-
4 ment of Consumer and Business Services may impose a civil penalty
5 not to exceed \$15,000 on a person who violates a provision of sections
6 1 to 8 of this 2010 Act.

7 **"(2)** The civil penalty under this section is in addition to and not in
8 lieu of any other penalty or sanction provided by law.

9 **"SECTION 10.** ORS 705.141 is amended to read:

10 "705.141. For the purpose of requesting a state or nationwide criminal
11 records check under ORS 181.534, the Department of Consumer and Business
12 Services may require the fingerprints of a person who is applying for a li-
13 cense **or registration**, or renewal of a license **or registration**, under ORS
14 744.001, 744.059 or 744.326 **or section 2 of this 2010 Act** or a person who:

15 "(1)(a) Is employed or applying for employment by the department; or

16 "(b) Provides services or seeks to provide services to the department as
17 a contractor, vendor or volunteer; and

18 "(2) Is, or will be, working or providing services in a position:

19 "(a) In which the person is providing information technology services and
20 has control over, or access to, information technology systems that would
21 allow the person to harm the information technology systems or the infor-
22 mation contained in the systems;

23 "(b) In which the person has access to information that state or federal
24 laws, rules or regulations prohibit disclosing or define as confidential;

25 "(c) That has payroll functions or in which the person has responsibility
26 for receiving, receipting or depositing money or negotiable instruments, for
27 billing, collections or other financial transactions or for purchasing or sell-
28 ing property or has access to property held in trust or to private property
29 in the temporary custody of the state;

30 "(d) That has mailroom duties as a primary duty or job function;

1 “(e) In which the person has responsibility for auditing the department;

2 “(f) That has personnel or human resources functions as a primary re-
3 sponsibility;

4 “(g) In which the person has access to Social Security numbers, dates of
5 birth or criminal background information of employees or members of the
6 public; or

7 “(h) In which the person has access to tax or financial information about
8 individuals or business entities.

9 **“SECTION 11. Sections 1 to 8 and 9 of this 2010 Act and the**
10 **amendments to ORS 705.141 by section 10 of this 2010 Act apply to**
11 **persons who perform appraisal management services as defined in**
12 **section 1 of this 2010 Act on or after July 1, 2011.**

13 **“SECTION 12. (1) Sections 1 to 8 and 9 of this 2010 Act and the**
14 **amendments to ORS 705.141 by section 10 of this 2010 Act become op-**
15 **erative on July 1, 2011.**

16 **“(2) The Department of Consumer and Business Services may take**
17 **any action before the operative date specified in subsection (1) of this**
18 **section that is necessary to enable the department to exercise, on and**
19 **after the operative date specified in subsection (1) of this section, all**
20 **the duties, functions and powers conferred on the department by**
21 **sections 1 to 8 and 9 of this 2010 Act and the amendments to ORS**
22 **705.141 by section 10 of this 2010 Act.**

23 **“SECTION 13. This 2010 Act being necessary for the immediate**
24 **preservation of the public peace, health and safety, an emergency is**
25 **declared to exist, and this 2010 Act takes effect on its passage.”.**

26