

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

HOUSE COMMITTEE ON BUSINESS AND CONSUMER AFFAIRS

January 24, 1991
p.m.

Hearing Room F 1:15
Tapes 9 - 11

MEMBERS PRESENT: Rep. John Schoon, Chair Rep. Hedy L. Rijken,
Vice-Chair Rep. Jerry Barnes Rep. Lisa Naito Rep. Carolyn Oakley Rep.
Beverly Stein Rep. Greg Walden

STAFF PRESENT: Terry Connolly, Committee Administrator Annetta
Mullins, Committee Assistant

MEASURES CONSIDERED: HB 2297 PH HB 2298 PH HB 2123 PH

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TAPE 1, SIDE A

010 CHAIR SCHOON calls the meeting to order at 1:18 p.m. and announces that following the introduction of bills the public hearings will be held on HB 2297 and HB 229 8 to be followed by a public hearing on HB 2123 at 2:00 p.m.

INTRODUCTION OF MEASURES

011 TERRY CONNOLLY, Administrator, reviews Legislative Counsel draft LC 136 8-2 which the committee has been requested to introduce for the Oregon Trial Lawyers Association (EXHIBIT A).

030 MOTION: REP. WALDEN moves that the committee introduce LC 1368-2 at the

request of the Oregon Trail Lawyers Association.

VOTE: In a roll call vote, all members present vote AYE. REPS. STEIN AND RIJKEN are EXCUSED.

035 CHAIR SCHOON declares the motion PASSED.

037 MR. CONNOLLY reviews LC 1368-3 which the committee has been requested to introduce for the Oregon Trial Lawyers Association (EXHIBIT B).

041 MOTION: REP. WALDEN moves that the committee introduce LC 1368-3 at the

request of the Oregon Trial Lawyers Association.

VOTE: Hearing no objection to the motion, CHAIR SCHOON declares the motion

PASSED. REPS. STEIN AND RIJKEN are EXCUSED.

045 MR. CONNOLLY reviews LC 1365 which the committee has been requested to introduce at the request of the Oregon Trial Lawyers Association (EXHIBIT C).

050 MOTION: REP. WALDEN moves that LC 1365 be introduced by the committee at the request of the Oregon Trial Lawyers Association.

052 VOTE: CHAIR SCHOON, hearing no objection to the motion, declares the motion PASSED. REPS. STEIN AND RIJKEN are EXCUSED.

054 MR. CONNOLLY reviews LC 1366 which the committee has been requested to introduce at the request of the Oregon Trail Lawyers Association (EXHIBIT D).

057 MOTION: REP. WALDEN moves that LC 1366 be introduced by the committee at the request of the Oregon Trial Lawyers Association.

060 VOTE: CHAIR SCHOON, hearing no objection to the motion, declares the motion PASSED. REPS. STEIN AND RIJKEN ARE EXCUSED.

HB 2297 REQUIRES INSURERS OR REGISTERED OWNERS TO REPORT TOTALED VEHICLES TO MOTOR VEHICLES DIVISION AND TO SUBMIT CERTIFICATE OF TITLE AND REGISTRATION PLATES IF POSSIBLE. Witnesses: John Powell, State Farm Insurance Companies and North Pacific Insurance Company

064 CHAIR SCHOON opens the public hearing on HB 2297.

058 MR. CONNOLLY reviews HB 2297 (SEE EXHIBIT A, PRELIMINARY STAFF MEASURE SUMMARY, COMMITTEE MINUTES DATED JANUARY 22, 1991).

068 JOHN POWELL, State Farm Insurance Companies and North Pacific Insurance Company: We testified on HB 2297 at the last hearing and requested changes in some of the provisions of the bill. We have agreed to get all parties together and work on amendments that would be amenable to those parties. We ask for time to that.

087 CHAIR SCHOON closes the public hearing on HB 2297 and opens the public hearing on HB 229 8.

HB 2298 - CREATES BOARD TO LICENSE AND REGULATE AUTO BODY REPAIR SHOPS.

090 MR. CONNOLLY reviews HB 2298 (SEE EXHIBIT D, PRELIMINARY STAFF MEASURE SUMMARY, COMMITTEE MINUTES DATED JANUARY 22, 1991).

106 CHAIR SCHOON: The sponsors are working on amendments to the bill and we will give them time to do that.

109 CHAIR SCHOON closes the public hearing on HB 2298.

111 CHAIR SCHOON declares the meeting in recess at 1:28 until 2:00 p.m.

120 CHAIR SCHOON reconvenes the meeting at 2:00 p.m. and opens the public hearing on HB 212 3.

HB 2123 - ESTABLISHES TRANSITIONAL AND NEW REGULATORY SYSTEM FOR REAL ESTATE APPRAISERS TO CONFORM TO FEDERAL REGULATION Witnesses:Morella

Larsen, Oregon Real Estate Commissioner Frank Brawner, Oregon Bankers Association and State Chartered Banks of Oregon Ken Sherman, Jr., Oregon Bankers Association and State Chartered Banks of Oregon Mike Dewey, Appraisal Foundation of Oregon Larry Tappleton, Chair, Appraisal Foundation of Oregon Ray Gribbling, Oregon Mortgage Bankers Dave Barrows, Oregon League of Financial Institutions Genoa Ingram, Oregon Association of Realtors Barton DeLacy, Appraisal Institute Brian Glanville, Appraisal Institute James L. Barclay, appraiser Larry Ward, Oregon Chapter of the American Society of Farm Managers and Rural Appraisers of the Oregon Appraisal Foundation

121 MR. CONNOLLY reviews the Preliminary Staff Measure Summary on HB 2123 (EXHIBIT E).

153 MORELLA LARSEN, Oregon Real Estate Commissioner, submits and reads parts of a prepared statement (EXHIBIT F) referencing attached exhibits explaining the agency's efforts to provide for a transition from the current Oregon licensing program for real estate appraisers to the requirements by the new federal law.

274 CHAIR SCHOON: What was Title XI intended to solve?

274 MS. LARSEN: In 1985, Congressman Bernard from Georgia determined that there was something wrong with our failing savings and loans. He headed a subcommittee which proceeded to meet and determine what happened. They determined part of the reason that savings and loans had been failing was because of faulty or fraudulent appraisals and therefore appraisers should be licensed. Most states did not regulate or license appraisers. They enacted Title XI to set up standards for real estate appraisers and established a hierarchy of people. In this process it has become very difficult to determine who the authorities are. They are going to let every state do what they can and will review the states later and make suggestions. It was to cure what they saw as part of the contributing factor to the failing savings and loans.

345 FRANK BRAUNER, Oregon Bankers Association and State Chartered Banks of Oregon: We have had countless meetings on this issues and are grateful that the Real Estate Commissioner brings us to this point. In the 26 years I have been dealing with Congress, I have never seen such a mess as this. They are attempting to implement a law that is an over reaction. All loans on real estate transactions over \$50,000, for all institutions, except FED members which are at \$100,000, are involved. We will not argue the bill but will tell you what has to happen if real estate lending continues after July 1, at least from federally insured depositories and on federally related transactions. That is the current deadline to have legislation passed and implemented in Oregon including the board, rules and recertification and licensing of those who currently appraise. We have a series of handouts including a FIRREA organizational chart (EXHIBIT G), and the Title XI-Real Estate Appraisal Reform Amendments (EXHIBIT H).

412 This law was signed by the President on August 8, 1989. Oregon and five other states did not meet in Session in 1989. The other states had a chance to pursue this and we have learned from the mistakes of other states, but the picture does not get any clearer. We have asked for a six-month extension nationwide for the implementation of this act. If that fails, Oregon can ask for a six-month extension because of our unique circumstances. If that becomes necessary, we will ask this committee to assist us in that request.

TAPE 10, SIDE A

040 MR. BRAUNER we have letters back from the board of directors talking about other states' legislation and have summarized them (EXHIBIT I). The list shows 19 states; 26 states have now acted and we don't have

them. No state has been certified and I believe the Real Estate Commissioner is accurate in saying they will let us proceed and then audit us and say the act is deficient. What would happen then with those appraisals that will have been made with a deficient statute?

021 We also are submitting a summary of Title XI prepared by the American Bankers Association (EXHIBIT J).

022 The Oregon Appraisal Foundation, the Realtors, savings and loans, the mortgage bankers and our own membership have been meeting to try to find a tolerable solution. One of the things in Title XI is the statement that you cannot have this administered by an agency that is connected in any way with the real estate transaction. In our opinion, this means it can't be housed in Banking, Insurance, Housing Agency nor in the Real Estate Agency.

We have a proposed alternative bill (EXHIBIT K) and a section-by-section analysis of our proposal (EXHIBIT L). There are a couple of staff people with the Appraisal Board who have promised to informally review our bill and give us informal comments. We have not had a meeting with the Secretary of State's office which we need to have. This bill needs to be on the Governor's desk by March 1.

055 KEN SHERMAN, JR., Oregon Bankers Association: The alternative bill (EXHIBIT K) is composed of two primary parts. The first 15 sections create new law. They would establish the state appraiser certifying and licensing agency as a separate agency within the office of the Secretary of State. It would give that agency all the authority and responsibility for certifying and licensing, supervising, regulating and disciplining appraisers. It would create two categories of appraisers that the federal act requires.

081 CHAIR SCHOON: We have heard about certified appraisers and licensed appraisers. I think we need to have some understanding of why two levels are needed.

084 MR. BRAUNER: The licensed appraiser is someone who does appraisals for transactions under \$250,000 or under \$1 on a single family dwelling if it is not complicated. The certified appraiser can do anything. We are hearing that on Feb. 5 the board of directors is going to create a third category. This bill responds to that by having the state board and Secretary of State having rule making authority to comply. State after state was criticized for not using the federal designations and for not having a third and fourth level of appraisers. To be an appraiser in Oregon, and there is no grandfather clause, you have to have 2,000 hours experience and 75 class room experience to be a licensed appraiser. How can you get there without being an appraiser trainee? But states have been criticized for providing for that. I think the state board created in our alternative bill will be able to write rules to bring that about.

102 MR. SHERMAN reviews the Section by Section analysis (EXHIBIT L) explaining the bill draft (EXHIBIT K): >Defines "real estate appraisal activity." >Would require all activity which is performed in connection with federally related transactions be done by a certified or licensed appraiser. >Would require, with certain exceptions, all real estate appraisal activity which done on non- federally related transactions would also have to be done by a certified or licensed appraiser. >Would give the new agency broad authority to establish the necessary mechanisms for testing and for certifying, licensing, educating, supervising and disciplining appraisers. >Would define some critical terms. >Section 16 through 41 amend existing provisions of Oregon law; most relate to Chapter 696.

>Other amendments relate to property tax chapters dealing with who can represent taxpayers and who can do appraisal types of work in connection with real property tax appraisal questions.

139 He reviews the Section-by-Section Analysis (EXHIBIT L) on Sections 1 through 15 of the alternative bill.

269 REP. WALDEN: Section 5(2) talks about the Governor making appointments to the board prior to January 1, 1992. Yet, I thought this had to be running and everyone certified by July of this year.

273 MR. SHERMAN: There is a rather complex mechanism in the bill to deal with the situation. Until about January 1, 1992, we won't have any certified appraisers to put on the board. I have said until January 1, 1992, any appointments the Governor makes in the appraiser category can be today's version of the licensed appraiser. Those people will then serve out the terms to which they are appointed and their replacements must then be certified.

333 MR. SHERMAN continues with analysis of Section 6.

388 REP. BARNES: Will there be an effort to go back to Congress?

390 MR. BRAUNER: Yes, but there may not be time. The culprit was never the single family dwelling. The law is ridiculous and affects affordable housing. It won't be in time to help us.

410 MR. SHERMAN continues with analysis reviewing Section 9.

TAPE 9, SIDE B

014 MR. SHERMAN reviews Sections 14 and 15 of the alternative bill and adds that the remainder of the bill goes through existing Oregon law and makes amendments which bring them into conformity and consistency with Section 1 through 15. Most of those are currently in Chapter 696 .

050 REP. WALDEN: How many appraisers are licensed in Oregon.

051 MS. LARSEN: As of January 1 there were 463 licensed appraisers.

058 MR. BRAUNER: A real concern is how do we get property appraised in some of our rural communities without asking someone from the Portland, Salem or the Valley.

064 REP. WALDEN: What is the comparison of the costs of training.

066 MS. LARSEN: The license fee for an appraiser is \$150 for two years.

071 BRAUNER: We are proposing the same, but that is without the consent of the new agency that will be administering this new law.

076 MR. SHERMAN: Section 8 (5) on page 11 is the fees provision. It mirrors the provisions of Chapter 696 which says fees can be up to a certain dollar amount.

080 REP. WALDEN: Does that include the new federal fee?

MR. SHERMAN: No, the federal fee is \$25 a year which will allow them to maintain a roster of appraisers across the country.

081 MS. LARSEN: Brokers can also appraise in Oregon. We anticipate that a few who do now appraise by virtue of their brokers license will pick up an appraiser license, but we don't know how many that will be. We have 4,000 to 4,500 brokers in Oregon but few appraise property.

096 REP. WALDEN: What do you anticipate the training requirement time frame to be?

097 MR. BRAWNER: The current requirement is 2,000 hours of experience to be licensed and 75 hours of classroom instruction. I don't see that weakening at the federal level. They may give us some benefit as to what qualifies as experience. To become certified, 165 hours of classroom instruction will be required.

REP. WALDEN: You said existing appraisers cannot be grandfathered. Would the 75 hours count toward the 165 hours?

SHERMAN: It is my understanding that whatever experience and training an appraiser has had in the past will count, but the fact that the appraiser was licensed will not in and of itself entitle a person to a license or certificate under the new program.

117 MS. LARSEN: They must meet education and experience requirements. Presently we have a licensing scheme which is a point system. They can have more of one requirement than the other, but they must come up with a total of 30 points. Under the new scheme you start with the basic and can add on to become certified. We have found the classes are very broad ranged and it should be easy to meet.

133 REP. NAITO: I am trying to determine who would be covered? In Section 11 (a) if you have a partnership or a couple of entities owning property, anyone doing an appraisal on that property would have to be licensed.

155 MR. SHERMAN: Any appraisal that is involved with a federally related transactions including any of those listed on pages 4 - 6 would require certification or licensing. If you are not talking about a federally related transaction, then you don't need to be licensed if you would fall under one of these categories. Subsections (a) and (b) came out of Chapter 696.

196 MIKE DEWEY, Appraisal Foundation of Oregon: We commend the agency for their efforts. The bill may look a little different as it moves through the Senate. I represent entities that are licensed in Oregon and that is the highest designation, but the new highest designation will be certified. That will cause confusion for some people because they will want to hire a licensed appraiser. The individuals are involved in all kinds of appraisals. We still have more questions to ask but think the legislation will work. The Secretary of State's office has the licensing structure. They license CPAs and tax preparers. Licensing is not new to them. The policies of our organization are to insure the integrity of the appraisal process and the regulatory system. There are few states that license appraisers. One of the problems with the real estate market and savings and loans was the appraisal activity. Perhaps the federal government over reacted, but we have to enact some legislation. Another policy is to have individuals demonstrate skills. It will be difficult for some because they will have to take a test again, but we don't know what kind of test it will be. Our third policy is to provide maximum protection of the financial interest of the United States and all federally related transactions, whether they are commercial or residential.

I heard discussion about where the problems were caused. There are 30,000 real estate properties held by the Resolution Trust; 90 percent of those are residential. There are clearly a lot that are in the residential area under \$150,000 and it is all over the board. We hear about the large commercial properties problems.

We can play a vital role in setting up educational requirement and preparation for certification. One advantage we have is we have been able to look at what other states have done and look at the interpretations by the federal government. Still we have the July 1 deadline and a number of states are scrambling. We are working in the process, but by July 1, even if we move as quickly as possible we will not have certified appraisers in place.

322 REP. BARNES: Would it be possible that the Legislative Assembly could by statute temporarily certify and license existing appraisers temporarily?

328 MR. DEWEY: I don't think you could. Hopefully, the federal board will recognize that there are some states that are floundering because there has not been proper direction from above. We feel there may be a six-month extension.

433 REP. WALDEN: Is somebody working to make sure the classes will be available?

TAPE 10, SIDE B

005 LARRY TAPPLETON, Chair, Appraisal Foundation of Oregon: The Appraisal Foundation is a coalition of appraisal organization that represent the vast amount of appraising functions across the United States. All of the organizations have training. They are nationally chartered to provide licensing and certification unto themselves. The MAIs and the SRPAs have extensive training systems and rigorous restrictions and qualifications for them to get their ticket to make appraisals to be accepted by lending institutes. The American Society of Appraisers has a similar type of training.

The training can be in any city. It is currently at the University of Portland.

046 MR. DEWEY: There will be a demand and the various disciplines are out there. We would envision the board and the feds sanctioning these groups to be able to provide classes and train. The universities, communities, etc. would provide classes and we would expect more classes just because of the demand. Some states have joined and contracted out the testing and licensing. Every time you get a conglomeration of people providing this type of activity, you will find entrepreneurial type people coming behind to provide the type of testing procedures and training procedures needed to pass those tests. There are organizations like that in Oregon and across the United States. Societies offer training and testing on a nationwide basis. But the board will have to sanction those to ensure that the applicants are receiving credible training.

075 RAY GRIBLING, Oregon Mortgage Bankers Association: We participated in drafting the amendments and the draft has received unanimous support from the mortgage bankers.

080 DAVE BARROWS, President, Oregon League of Financial Institutions: We have assisted in drafting the substitute bill and support it. It is critical to get this approved. The savings and loans under the FIRREA have been mandated to concentrate on residential lending. If this scheme isn't quickly put in place so we can get the education, testing, training and certification going, the savings and loans that are remaining are pretty much out of business. I am operating on the assumption that we will get the extension until the end of the year. But even with the extension we are on a tremendously tight time frame. The alternative is to bring in appraisers from out of state and we are talking about waiting months for appraisals that will be very expensive.

111 GENOA INGRAM, Oregon Association of Realtors: We support the alternate draft with some fine tuning. Given the urgency, we would like to offer our assistance in moving it along as quickly as possible.

137 REP. WALDEN: Do you know how many of the 4,000 brokers do appraisals?

140 MS. INGRAM: We do not represent all of the licensees in Oregon. We represent 10,000 Realtors, which is our trademark. Some people may only use it on rare occurrences and for others it may be a more regular occurrence. There are other variations of the scope of practice that will need to be addressed or be protected.

155 REP. BARNES: Most appraisals are done by the institutions.

148 REP. NAITO: If someone is going to sell their home, a real estate licensee might give a ball park figure as to the value of the home. Will that be changed?

152 MS. INGRAM: The Certified Market Analysis is protected by an exemption in the draft.

178 BARTON DELACY, State Legislative Coordinator, Appraisal Institute introduces Brian Glanville, President of the Greater Oregon Chapter of the Appraisal Institute and an approved instructor for Appraisal Institute courses, and Jim Barclay, a board member who previously served in a capacity to rate experiences and who served as Admission Chairman for years. We are here to answer questions. This is not something that has arisen overnight. We have been working together with Congress for over four years. There is a substantial public interest to be served by enhanced and uniform appraisal practices nationally. Some of the hoops are a product of this very desirable national situation.

199 BRIAN GLANVILLE, President of the Greater Oregon Chapter of the Appraisal Institute: I teach nationally. One course I teach is uniform standards of professional appraisal practices which is part of this regulation. I am also a member of a northwest regional panel which reviews and enforces violations of those standards within our professional organization. The Appraisal Institute consists of 40,000 residential and commercial appraisers nationally, 500 in Oregon. Our national organization has a requirement to become a general appraiser or MAI of over 3,000 hours experience credit. Also 350 hours of education are required to get the designation and you have to have continuing education each year to keep the designation. For a residential designation, 1,500 hours experience and 150 hours of education are required to get it originally, plus continuing education. Most of the people in the business are probably going to meet the qualifications and those who won't will have classes available through our national organization and our appraisers will teach it. It will be available to private schools and community college.

An appraiser is to be the third party giving an unbiased opinion of value. We not to be influenced by anybody. In the majority of this state we have not had that problem, but we have some. Hopefully, this will address some of the problems. We assisted in writing the national professional standards. It is setting a minimum requirement of what you have to do in order to do you job competently and to write a report that the general public will be able to understand and not make decisions that are inappropriate.

280 This bill sets up minimum standards and qualifications and a board to oversee both of those and enforcement thereof. It is a good bill. We think it will improve the quality of reports, protect the consumer and keep us in business because it meets the federal requirements.

301 REP. WALDEN: A comment was made earlier that this would adversely affect the rural areas.

304 MR. GLANVILLE: Approximately 50 percent of our 500 members are in Portland. In the metropolitan areas of Medford, Eugene and Salem, there are roughly 60 of our members in each area. We also have members in Bend and a small group in Baker. Most lending institutions have requirements that appraisals have to be done by FHA so there is a body out there. If there is a demand, we will have more people joining the organizations.

297 MR. DELACY: The thresholds will change. They are designed to protect the rural consumer. There will be limits below which lenders are able to make loans without certified appraisals. While we don't know where that line will be, it will be subject to rule making rather than setting it in our law. We are satisfied that the mechanisms in place with this bill and it is something we will have to work out over time.

338 JAMES L. BARCLAY: I have been an appraiser for over 15 years and am a member of the Appraisal Institute and have had the privilege of being involved for over two years anticipating where we are now with the FIRREA mandated state law. I am impressed with the players in this process and support the draft before the committee. Over 80 percent of the work I did last year would fall under this category of federally related transactions. While we would like to see the Real Estate Agency continue to administer our licensing program, unfortunately the federal requirements don't allow that.

378 CHAIR SCHOON: There is great concern that even if we have the law in effect by the end of March, there still won't be time to get the people certified. You have given rise for some hope that we could at least get the process started and have some of them on board by July 1.

391 MR. GLANVILLE: I think it will be difficult to get them on board by July 1. My understanding is that if we can show that we are moving forward the federal government will allow a six-month extension. We think we can do it within that time.

TAPE 11, SIDE A

013 LARRY WARD, Oregon Chapter of the American Society of Farm Managers and Rural Appraisers in the Oregon Appraisal Foundation: Our organization wants to go on record in favor of the law the Oregon Bankers Association has presented. In November there were a lot of questions on the changes. I got in touch with Mike Dillsma, a member of the subcommittee which was reviewing the state ordinance. In the end, he told me Oregon had some problems and that he would send me the reports from the 26 states they had reviewed. He said the feds are the ones setting the limits and the state reports should clarify them.

040 We have about 100 rural appraisers in Oregon with a designation of ARA (Accredited Rural Appraiser). We do the work outside the urban areas.

046 CHAIR SCHOON: We will have another public hearing and possible work session next Thursday. Amendments should be submitted in good form and the parties should be prepared to explain the amendments.

057 REP. BARNES: I think there is a need to expedite this because there may be serious repercussions if the Assembly doesn't act.

063 CHAIR SCHOON declares the meeting adjourned at 3:46 p.m.

Respectfully submitted, Reviewed by,

Annetta MullinsTerry Connolly AssistantAdministrator

EXHIBIT SUMMARY

A -Introduction of Measures, LC 1368-2, Oregon Trial Lawyers Assoc. B
-Introduction of Measures, LC 1368-3, Oregon Trial Lawyers Assoc. C
_Introduction of Measures, LC 1365, Oregon Trial Lawyers Assoc. D
-Introduction of Measures, LC 1366, Oregon Trial Lawyers Assoc. E -HB
2123, Preliminary Staff Measure Summary, staff F -HB 2123, prepared
statement, Morella Larsen G -HB 2123, FIRREA organizational chart, Frank
Brawner H -HB 2123, Title XI-Real Estate Appraisal Reform Amendments,
Frank Brawner I -HB 2123, summary and review of states' programs, Frank
Brawner J -HB 2123, American Bankers Association's summary of Title XI K
-HB 2123, substitute bill, Frank Brawner L -HB 2123, Section-by-Section
Analysis of substitute bill, Frank Brawner