

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

February 8, 1991
p.m.

Hearing Room F 12:15
Tapes 24 - 25

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 2627 PH & WS

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TAPE 24, SIDE A

004 CHAIR SCHOON calls the meeting to order at 12:18 and opens the public hearing on HB 2627.

HB 2627 - FINDS THAT FEDERAL LAW REQUIRES RESPONSIBILITY FOR CERTIFYING, LICENSING, SUPERVISING AND DISCIPLINING REAL ESTATE APPRAISERS BE DELEGATED TO STATE ENTITY INDEPENDENT FROM AGENCY REGULATING REAL ESTATE LICENSEES. Witnesses: Frank Brawner, Oregon Bankers Association Steve Hawes, Deputy Real Estate Commissioner Mike Dewey, Appraisal Foundation of Oregon Larry Tapenen, Appraisal Foundation of Oregon Dave Barrows, savings and loans

The Preliminary Staff Measure Summary is hereby made a part of these minutes (EXHIBIT A).

008 CHAIR SCHOON: It is my intent that we take public testimony today, but not go through the bill section-by-section. Amendments need to be made and the bill needs to go to Ways and Means. We will have the hearing and work session, have the bill engrossed with the amendments and bring the bill back to the committee for review section-by-section.

015 FRANK BRAWNER, Oregon Bankers Association, submits and reads a prepared statement and proposed amendments (EXHIBIT B).

048 STEVE HAWES, Deputy Real Estate Commissioner: Reviews memo proposing amendments (EXHIBIT C). On page 3, Section 3 (1) and (2) give the definition of real estate appraisal activity. Lines 11 through 15 essentially say that real estate appraisal activity is either the things the feds describe as appraisal and federally related transactions or a

transaction other than a federally related transaction. The problem is the word "transaction." It assumes that all appraisals are always related to a transaction; they are not. In the memo, I am suggesting rewording to eliminate "transaction" and simply describes what I think was intended.

On page 5, in lines 9 and 10, we are talking about the appointment of the interim appraisal regulation board. In earlier discussions among ourselves, we discussed the idea that both broker and appraiser licensees are qualified to appraise. Therefore, you might have both brokers and appraisers on the interim board. You wouldn't have to worry about the federal conflict of interest. The current wording in line 9 limits the appointment to the interim board to only someone who holds a current real estate appraiser license under ORS 696 .162. It should refer to someone who is qualified to appraise under the real estate law. Brokers would not be qualified to be on the board. There is some language in the bill from the old tax statutes being amended that describes someone as being qualified to appraise which allows either a broker or appraiser without naming the license type.

We agree with Mr. Brawner's changes.

087 CHAIR SCHOON: We don't have the language from Sue Hanna yet so we will do it in concept.

091 MIKE DEWEY, Appraisal Foundation of Oregon: We are 99 percent there in completing the legislation. We do support the technical amendments by Mr. Brawner. Mr. Hawes spoke about, on page 5, who qualifies to serve on the board. As we discussed one time, we don't want to jeopardize this legislation because brokers were tied too closely to the Real Estate Agency. Appraisers who are licensed are also tied to the Real Estate Agency. The first two to three years are most important in dealing with certification and licensure. We will establish a good pool of applicants. Brokers would not be qualified even though they appraise. We support a modification to allow that expansion to the pool.

We still have a question on page 4 of the bill, lines 5 and 6, dealing with exemptions. It limits the giving of an opinion in an administrative or judicial proceeding regarding the value of real estate for taxation. Mr. Tapenen will explain our concern. We may need an amendment.

122 CHAIR SCHOON: Who are we talking about in (k) on page 4?

124 MR. DEWEY: Section 3 establishes exemptions in terms of those who do not need an appraisers license or certification to perform certain activities. Our intent in (k) is to speak to Realtors who would go before the Department of Revenue or Tax Court and give an opinion of value, as opposed to an appraisal. We want to allow Realtors to do that in their normal activities. With the language, the value of real estate for taxation expands the market place in terms of values, etc. Mr. Tapenen can explain how it could be interpreted and we may need to limit it with some additional verbiage.

LARRY TAPENEN, Chair, Appraisal Foundation of Oregon: It is my contention that the initial intent of the legislation is to allow brokers to make evaluations or represent tax payers for property taxation purposes, not taxation. Taxation purposes can also mean 231 exchanges, allocation of purchase prices for IRS and SEC purposes; it has a broad overlay for taxation only purposes. I think the intent was to allow them to do work for property taxation only.

154 CHAIR SCHOON: Subsection (k) does say "in any administrative or judicial proceeding...."

159 MR. TAPENEN: A judicial review could be in front of an IRS board or Tax Court, therefore, expanding far beyond property taxes. It is our contention that we would like to limit it to property tax only.

163 MR. DEWEY: There may be additional language in the bill that speaks to that. We will talk with Legislative Counsel and if we don't need to correct it we will not bring an amendment. We may have to narrow the exemption.

173 MR. SCHOON: We are trying to expedite this bill and we are not prepared to let people take a lot of time in developing amendments. If you have amendments, we would like them now.

MR. DEWEY: We can do it quickly.

189 FRANK BRAWNER: This only relates to federally regulated transactions. I can understand the concerns of the appraisers and Mike Dewey's concerns from the Realtors. We are attempting to walk the fine line and do it differently in Oregon where we bring about consensus. It depends on how far we go. Some of the examples that have been used, I think, are federally related transactions and would have to be done by a certified or licensed appraiser. Where there is no federally related transaction, I don't think we want to change the world from what it has been.

202 MR. DEWEY: We want to allow a broker to continue the same activity as today and not expand upon that.

247 MR. HAWES: Both parties are correct in a way. I think it is an honest turf battle. From the bankers and Realtors standpoint, the current practice is pretty much limited to property taxation. But there is nothing in the law that prevents an individual from testifying on a letter opinion in a tax proceeding. It is up to the Tax Court or the referee to qualify the "expert witness." In many cases they have qualified a real estate broker to give an opinion of market value or whatever in the proceeding. In effect, current law would be limited with the proposed language in the bill. Brokers are allowed to testify in a lot of proceedings where even the Real Estate Commissioner may not have thought they were authorized by law to testify. The judicial branch of government is making that decision.

269 REP. BARNES: Would this be on County Boards of Equalization?

272 MR. HAWES: No. That is normally what we think about when we talk about property taxation and representation. In the existing law, ORS 696.162 (5) we have a provision allowing a waiver of licensing for folks who come in from out of state for any judicial or administrative proceeding relating to taxation. Rep. Barnes is referring to the common, every day variety that everyone thinks about. This would limit the activity to that, but there are other things that brokers have been allowed by the judicial branch to do.

287 MR. DEWEY: Recognizing the discussion, it would seem the best approach is for the Appraisal Foundation to step back and have discussions with Mr. Hawes and the Realtors. It is not our intent to modify what they currently do. We would withdraw any amendments or concepts at this time.

300 We are fortunate that there are people in Washington, D.C. who are looking out for us. This bill has been sent to them and we are hoping to get an answer back on whether we are moving in the right direction to meet the qualifications of the subcommittee.

313 DAVE BARROWS, representing the savings and loans: We support the

amendments proposed by Mr. Brawner and Mr. Hawes. I have also been asked by the mortgage bankers to indicate they are in support of the bill as amended. I have checked with the credit unions and they are in support of the bill.

325 CHAIR SCHOON closes the public hearing and opens the work session on HB 262 7.

327 MOTION: REP. RIJKEN moves that the proposed amendments to HB 2627 as submitted by the Oregon Bankers Association (EXHIBIT B, Page 3) BE ADOPTED.

334 VOTE: CHAIR SCHOON, hearing no objection to the motion, declares the amendments ADOPTED. REP. OAKLEY is EXCUSED.

339 MR. HAWES: The wording for the proposed amendments, on page 3, line 13, after the "or" would read "is not performed in connection with a federally related transaction." Paraphrasing the language, it would say "This real estate appraisal activity would include preparation, completion, and issuance of an opinion as to the value on a given date and given time for real property or any interest in real property whether such activities is performed in connection with a federally related transaction or is not performed in connection with a federally related transaction."

370 In line 23, after "is" insert "not" and in line 24, delete "any transaction other than."

On page 5, lines 9 and 10, I suggest you delete "holds a current real estate appraiser license pursuant to ORS 696.162 (1989 Edition)" and insert "is qualified by license to appraise real estate." Essentially, that allows both brokers and appraisers to be qualified for initial appointments to the interim board.

416 REP. WALDEN: On page 3, in line 23, are we really saying that real estate appraisal activity includes any activity that is performed in connection with a federally related transaction?

420 MR. HAWES: Yes.

422 REP. WALDEN: It would read, if this is your intent, "Real estate appraisal activity (delete "does not") includes any activity that is performed in connection with (and delete "any transaction other than")."

432 MR. HAWES: The federal law says that federally related transactions must be covered. In (2) there are things other than the federally related transactions which are exempt. The word "transaction" in lines 14 and 24 appears to create a third bucket because appraisals aren't always done in the course of a transaction. It is a drafting question.

TAPE 25, SIDE A

032 REP. NAITO: Could it say "Real estate appraisal activity excludes any activity that is not performed in connection with...?"

035 MR. HAWES: "Real estate appraisal activity excludes any activity that is not performed in connection with a federally related transaction and that:" would say the same thing. That is the intent.

043 MOTION: REP. RIJKEN moves that HB 2627 be amended: On page 3, in line 13, after "is" insert "not" and in line 14 after "with" delete "a transaction other than". In line 23, after "activity" delete "does not include" and insert "excludes" and after "is" insert "not" and in line 24, after "with" delete "any transaction other than". On page 5, in line 9, after "appointment" delete "hold a current real estate appraiser license pursuant" and in line 10 delete "to ORS 696.162 (1989 Edition)"

and insert "is qualified by license to appraise real estate".

062 VOTE: CHAIR SCHOON, hearing no objection to the motion, declares the amendments ADOPTED. REPS. OAKLEY AND STEIN are EXCUSED.

066 CHAIR SCHOON declares the meeting adjourned at 12:52 p.m.

Respectfully submitted,

Reviewed by,

Annetta Mullins
Assistant

Terry Connolly
Administrator

EXHIBIT SUMMARY

A -HB 2627, Preliminary Staff Measure Summary, staff B -HB 2627, prepared statement and proposed amendments, Frank Brawner C -Memo proposing amendments, Steve Hawes