

State Laws Affecting the Performance of Appraisals/BPOs/CMAs/BOVs

By Real Estate Brokers and Salespersons¹

Unlimited authority – There are no limitations on real estate brokers and sales persons performing price and/or valuation analyses, including appraisals in non-federally related transactions.

AK, IL, IN, IA, MT, NY, OK, SD, TX, VT, WI (11)

Broad authority – Real estate brokers and sales people may perform broker’s price opinions, competitive market analysis, etc. as part of the listing process, and for other purposes. The broker or sales person may, or may not, be permitted to charge a fee for their services.

AR, AZ, CA, CO, FL, KS, LA, ME, MI, MN, MO, MS, NE, NH, NV, OH, SC, WA, VA (19)

Limited authority – A real estate broker or salesperson may only perform a broker’s price opinion, competitive market analysis, etc. as part of the real estate listing process. In some cases, brokers and sales people are prohibited from charging a fee or receiving any form of compensation.

AL, CT, DE, GA, HI, ID, KY, MA, MD, NJ, NC, NM, ND, OR, PA, RI, TN, UT, WV, WY (20)

Alabama - Section 34-27A-3 (c)

Summary: **Limited**

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Except where required by, or where necessary to fully comply with the provisions of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. No. 101-73, as amended, and regulations issued pursuant thereto, this chapter shall not apply to, or preclude, a person who is not a licensed real estate appraiser from performing real estate market analysis, in that person's capacity as a licensed real estate broker or salesperson under this title, and this chapter shall not apply to a licensed real estate broker or salesperson, who in the ordinary course of business, gives an opinion to a potential seller or third party as to the recommended listing price of real estate, or an opinion to a potential purchaser or third party as to the recommended purchase price of real estate; and this chapter shall not apply to any employee, officer, director, partner, or similar person making a valuation, analysis, market study, or other appraisal for his or her employer or principal, including those related to any real estate related financial transactions for or on behalf of a financial institution. The words "employer or principal" as used in this subsection shall include any subsidiary, parent, affiliate, or partner of the direct employer or principal. This chapter shall not require now or in the future any person who lists or otherwise offers property for sale to have an appraisal of that property.

Alaska - Section 08.87.340

Summary: **Unlimited;** Alaska is a voluntary licensing state.

Nothing in this chapter precludes a person who is not certified as a real estate appraiser from appraising real estate for compensation if the person does not hold out to be a certified appraiser and if appraisal by a certified appraiser is not required by federal law.

Arizona - Section 32-3602

Summary: **Broad**

This chapter does not apply to:

1. A real estate broker or salesperson who is licensed in this state and who, when acting as such, gives an opinion as to the price of real estate if this opinion is not referred to as an appraisal.
2. A natural person, a corporation through its officers or a partnership through its partners that gives an opinion of value of that person's or its own property and does not receive special compensation for the transaction if this opinion is not referred to as an appraisal.
3. An attorney in the performance of that person's duties as an attorney.
4. A mortgage banker, mortgage broker or commercial mortgage banker who is licensed in this state and who, when acting as such, prepares a report analyzing real property if the report is not made for the primary purpose of establishing the sale or market value of the property.

Notes: *Guidance from the Arizona Department of Real Estate states that "Real Estate statutes specifically state that a licensee, in this case a salesperson, may receive compensation for real estate*

activity **only** through his/her employing broker. Offering a broker price opinion is considered real estate activity.

Arkansas - Section 17-14-104, 17-42-103 (2011), 17-42-109 (2011)

Summary: **Broad**

17-14-104. Exceptions to Registration, Licensing, or Certification.

(a)(1) This chapter shall not apply to a real estate broker or sales person licensed by this state who:

(A) In the ordinary course of his or her business, gives to a potential seller or third party, a market analysis or broker's price opinion as to the recommended listing price of real estate, or an opinion to a potential purchaser or third party as to the recommended price of real estate; or

(B) Provides testimony regarding an opinion of the value of real property pursuant to Section 28-51-302.

17-42-103, Definitions.

(15) "Broker's price opinion" means an estimate prepared by a licensee that details the probable selling price of real estate and provides a varying level of detail about the real estate's condition, market, and neighborhood, and information about sales of comparable real estate.

17-42-109. Broker's price opinions.

(a) A licensee may prepare, provide, and collect a fee for issuing a broker's price opinion for:

(1) An existing or potential seller for the purposes of listing and selling real estate;

(2) An existing or potential buyer of real estate;

(3) A third party making decisions or performing due diligence related to the potential listing, offering, sale, exchange, option, lease, or acquisition price of real estate; or

(4)(A) An existing or potential lienholder.

(B) However, a broker's price opinion prepared for an existing or potential lienholder in conjunction with the purchase of a buyer's principal residence shall not be used as the primary basis to determine the value of the buyer's principal residence for the purpose of a loan origination of a residential mortgage loan secured by the buyer's principal residence.

(b) The Arkansas Real Estate Commission may prescribe rules for the preparation and issuance of a broker's price opinion.

(c) Licensees shall have the authority to prepare and provide broker price opinions pursuant to this section, notwithstanding the provisions of § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.

(d) A broker's price opinion or market analysis issued by a real estate licensee shall not contain the terms "market value", "appraised value", or "appraisal".

Section 17-42-103 and 17-42-109 were enacted by Act 762 (2011)

California – Section 11302, Business & Professions Code

Summary: **Broad**

The term “appraisal” does not include an opinion given by a real estate licensee or engineer or land surveyor in the ordinary course of his or her business in connection with a function for which a license is required under Chapter 7 (commencing with Section 6700) or Chapter 15 (commencing with Section 8700) of Division 3, or Chapter 3 (commencing with Section 10130) or Chapter 7 (commencing with Section 10500) and the opinion shall not be referred to as an appraisal. This part does not apply to a probate referee acting pursuant to Sections 400 to 408, inclusive, of the Probate Code unless the appraised transaction is federally related.

Colorado - Title 12, Article 61, Part 7, Section 702

Summary: **Broad**

“Real estate appraiser” or “appraiser” means any person who provides for a fee or a salary an estimate of the nature, quality, value, or utility of an interest in, or aspect of, identified real estate and includes one who estimates value and who possesses the necessary qualifications, ability, and experience to execute or direct the appraisal of real property.

(b) “Real estate appraiser” does not include:

(I) Any person who conducts appraisals strictly of personal property;

(II) Any person licensed as a broker or salesperson pursuant to part 1 of this article who provides an opinion of value that is not represented as an appraisal and is not used for purposes of obtaining financing.

Connecticut – Sec. 20-526

Summary: **Limited**

Sec. 20-526. Exceptions. The provisions of sections 20-500 to 20-528, inclusive, concerning the certification, licensing, limited licensing or provisional licensing of real estate appraisers shall not apply to...(2) any licensed real estate broker or real estate salesperson who estimates the value of real estate as part of a market analysis performed for the owner of the real estate or a designee of the owner, on such terms as may be agreed upon between such owner or the owner's designee and the real estate broker or real estate salesperson, for the purpose of (A) a prospective listing or sale of such real estate, (B) providing information to the seller or landlord under a listing agreement, or (C) providing information to a prospective buyer or tenant under a buyer or tenant agency agreement, provided such estimate of value shall not be referred to or be construed as an appraisal.

Delaware – Chapter 40, Title 24, Section 4019

Summary: **Limited**

(a) This chapter shall not apply to any Delaware licensed real estate salesperson or broker, who prepares a competitive market analysis survey used only for the purpose of listing a property for sale or lease, nor to any individual, who prepares real estate appraisals for the licensee's full-time employer for the employer's internal use only, and which is performed in the regular course of employee's position.

Note: Guidance from the Delaware Council on Real Estate Appraisers has stated that “the completion of a Broker Price Opinion by anyone for any purpose other than for a listing presentation is in violation of Chapter 40 of Title 24”

District of Columbia - D.C. Statutes § 47-2853.153

Summary: **Limited**

(g) Nothing herein shall be construed to prohibit a real estate broker or salesperson, in the ordinary course of business, from giving an opinion of the price of real estate for the purpose of a prospective listing or sale, if the opinion of the price does not refer to or cannot be construed as an appraisal.

Florida – Section 475.612

Summary: **Broad**

(2) This section does not preclude a Florida licensed real estate broker, sales associate, or broker associate who is not a Florida certified or licensed real estate appraiser from providing valuation services for compensation. Such persons may continue to provide valuation services for compensation so long as they do not represent themselves as certified, licensed, or registered under this part.

(3) This section does not apply to a real estate broker or sales associate who, in the ordinary course of business, performs a comparative market analysis, gives a price opinion, or gives an opinion of the value of real estate. However, in no event may this comparative market analysis, price opinion, or opinion of value of real estate be referred to or construed as an appraisal.

Georgia - O.C.G.A. § 43-39A-24

Summary: **Limited**

(b) This chapter shall not apply to...

(2) A real estate licensee licensed in accordance with Chapter 40 of this title who, in the ordinary course of real estate brokerage business, gives a broker's price opinion, competitive market analysis, or any other written or oral opinion to a potential seller, purchaser, landlord, tenant, or

third party as to the recommended listing, lease, rental, or purchase price of real estate or real property; provided, however, that this opinion as to the listing, lease, rental, or purchase price shall not be referred to as an appraisal;

Hawaii - HAR Title 16, Chapter, 114, Section 74

Summary: **Limited**

§16-114-74 Nonapplicability to real estate brokers or real estate salespersons. This chapter shall not apply to a real estate broker or salesperson licensed by this State pursuant to chapter 467, HRS, who, in the ordinary course of the real estate broker's or salesperson's business, gives an opinion as to the recommended listing price of real estate or an opinion to a potential purchaser or third party as to the recommended purchase price of real estate, provided:

- (1) The opinion as to the listing price or the purchase price shall not be referred to as an appraisal;
- (2) No compensation, fee, or other consideration is charged for such opinion other than the normal brokerage fee rendered in connection with the sale of the property; and
- (3) No representation is made that the real estate broker or salesperson is a certified or licensed real estate appraiser.

Idaho

Summary: **Limited**

(2) The provisions of this chapter shall not apply to a licensed real estate broker, associate broker or salesperson who, in the ordinary course of his business gives an opinion of the price of real estate for the purpose of a prospective listing or sale, provided that such person does not represent himself as being a state licensed or certified real estate appraiser.

(3) The provisions of this chapter shall not prohibit a real estate broker or associate broker licensed under chapter 20, title 54, Idaho Code, whose license is active and in good standing, from rendering a broker's price opinion, for which the broker may charge a fee, provided the broker's price opinion complies with the following requirements:

- a) The broker's price opinion shall be in writing and contain the following:
 - (i) A statement of the intended purpose of the price opinion;
 - (ii) A brief description of the subject property and property interest to be priced;
 - (iii) The basis of reasoning used to reach the conclusion of the price, including the applicable market data and/or capitalization computation;
 - (iv) Any assumptions or limiting conditions;
 - (v) A disclosure of any existing or contemplated interest of the broker(s) issuing the opinion;

- (vi) The name and signature of the broker(s) issuing the price opinion and the date of its issuance;
- (vii) A disclaimer that, unless the broker is licensed under the Idaho real estate appraisers act, chapter 41, title 54, Idaho Code, the report is not intended to meet the uniform standards of professional appraisal practice;
- (viii) A disclaimer that the broker's price opinion is not intended to be an appraisal of the market value of the property, and that if an appraisal is desired, the services of a licensed or certified appraiser should be obtained.

The broker's price opinion permitted under this chapter may not be used as an appraisal, or in lieu of an appraisal, in a federally related transaction.

Illinois – 225 ILCS 458/5-5

Summary: **Unlimited**

(c) The licensing requirements of this Act do not require a real estate broker or salesperson who holds a valid license pursuant to the Real Estate License Act of 2000, to be licensed as a real estate appraiser under this Act, unless the broker or salesperson is providing or attempting to provide an appraisal report, as defined in Section 1-10 of this Act, in connection with a federally-related transaction.

Indiana – IC 25-34.1-3-8

Summary: **Unlimited**

Real estate appraiser licensure and certification program; necessity for licensure or certification
Sec. 8. (a) This section does not preclude a person who:

- (1) is not licensed or certified as a real estate appraiser under this section; and
- (2) is licensed as a broker under this article;

from appraising real estate in Indiana for compensation.

Iowa – Iowa Code 543D.3

Summary: **Unlimited**

2. A person who is not a certified real estate appraiser under this chapter may appraise real estate for compensation if certification is not required by this chapter or by federal or state law, rule, or policy. However, an employee of the state department of transportation whose duties include appraisals of property pursuant to chapter 6B must be a certified real estate appraiser under this chapter or a registered associate real estate appraiser acting under the direct supervision of a certified real estate appraiser.

Kansas – KSA 58-4103

Summary: **Broad**

(f) The provisions of paragraph (1) of subsection (a) shall not preclude an individual licensed as a real estate broker or salesperson pursuant to K.S.A. 58-3034 et seq., and amendments thereto, from performing and providing a comparative market analysis or broker's price opinion to a customer, client or third party for compensation in the ordinary course of business. In no event shall such comparative market analysis or broker's price opinion be referred to as an appraisal nor shall such individual represent such individual's self as a certified or licensed appraiser under this act unless such person is a state certified or licensed appraiser.

Kentucky

Summary: **Limited**

Kentucky does not have any language in its statutes specific to the performance of BPOs. However, guidance from the Kentucky Real Estate Appraisers Board states that "Real estate sales agents and brokers licensed by the Kentucky Real Estate Commission can perform BPOs when acquiring a listing or assisting in a sale of property."

Louisiana – La. R.S. 37:3393

Summary: **Broad**

E. Nothing in this Chapter shall preclude a licensed real estate broker or salesperson from performing a broker price opinion/comparative market analysis in the ordinary course of the practice of real estate, provided that the broker or salesperson does not represent himself as being a state licensed real estate appraiser.

Maine - 32 §14004

Summary: **Broad**

"Real estate appraisal activity does not include...appraisals or opinions of market value prepared by associate brokers or brokers who maintain active licenses pursuant to chapter 114 rendered for purposes other than for federally related transactions...Any opinion or appraisal of market value rendered under this section must contain the following language in bold print in a prominent location: "This opinion or appraisal was prepared solely for the client, for the purpose and function state in this report and is not intended for subsequent use. It was not prepared by a licensed or certified appraiser and may not comply with appraisal standards of the uniform standards of professional appraisal practice."

Maryland - Business & Occupations Article 16-101

Summary: **Limited**

(3) "Appraisal" does not include an opinion to a potential seller or third party by a person licensed under Title 17 of this article about the recommended listing price or recommended purchase price of real estate, provided that the opinion is not referred to as an appraisal.

Massachusetts - Chapter 112: Section 174. Real estate appraiser titles; certification or licensing; opinions

Summary: **Limited**

B.. The provisions of sections one hundred and seventy-three to one hundred and ninety-nine, inclusive, shall not apply to a real estate broker or salesperson or to a certified public accountant or business broker who, in the ordinary course of business, gives an opinion of the price of real estate for the purpose of a prospective listing, purchase, sale, or business valuation, provided, however, that such opinion of the price shall not be referred to as an appraisal.

Michigan – MCLS § 339.2601

Summary: **Broad**

(a) "Appraisal" means an opinion, conclusion, or analysis relating to the value of real property but does not include any of the following:

(i) A market analysis performed by a person licensed under article 25 solely for the purpose of assisting a customer or potential customer in determining the potential sale, purchase, or listing price of real property or the rental rate of real property as long as a fee or any other valuable consideration is not charged for that analysis.

(ii) A market analysis of real property for a fee performed by a broker or associate broker licensed under article 25 which does not involve a federally related transaction if the market analysis is put in writing and it states in boldface print "This is a market analysis, not an appraisal and was prepared by a licensed real estate broker or associate broker, not a licensed appraiser.". Failure to do so results in the individual being subject to the penalties set forth in article 6.

Minnesota – Minnesota Statutes § 82B.035

Summary: **Broad**

This chapter does not apply to a licensed real estate salesperson or broker who, in the ordinary course of the licensee's business, gives a market analysis of the price of real estate, if the market analysis is not referred to or construed as an appraisal.

Mississippi – Miss. Code Ann. § 73-34-5, 73-35-3, and 73-35-4 as modified by HB 990 (2011)

Summary: **Broad**

73-34-5.

(1) Except as otherwise provided for in this section, it shall be unlawful for anyone to engage in real estate appraisal activity in this state without first obtaining one (1) of the four (4) real estate appraiser licenses as provided in this chapter.

....

(5) The provisions of this chapter shall not apply to real estate licensees who are on active status and who perform a broker price opinion pursuant to Section 3 of this act.

73-35-3

(5) The term "automated valuation method" means any computerized model used by mortgage originators and secondary market issuers to determine the collateral worth of a mortgage secured by a consumer's principal dwelling.

(6) The term "broker price opinion" means an estimate prepared by a real estate broker, agent, or salesperson that details the probable selling price of a particular piece of real estate property and provides a varying level of detail about the property's condition, market, and neighborhood, and information on comparable sales, but does not include an automated valuation model.

73-35-4.

(1) A person licensed under this chapter may prepare a broker's price opinion and charge and collect a fee for such opinion if:

- (a) The license of that licensee is active and in good standing; and
- (b) The broker's price opinion meets the requirements of subsections (3) and (4) of this section.

(2) Notwithstanding any provision to the contrary, a person licensed under this chapter may prepare a broker's price opinion for:

- (a) An existing or potential seller for the purposes of listing and selling a parcel of real property;
- (b) An existing or potential buyer of a parcel of real property;
- (c) A third party making decisions or performing due diligence related to the potential listing, offering, sale, exchange, option, lease or acquisition price of a parcel of real property; or
- (d) An existing or potential lienholder or other third party for any purpose other than as the basis to determine the value of a parcel of real property, for a mortgage loan origination, including first and second mortgages, refinances, or equity lines of credit.
- (e) The provisions of this subsection do not preclude the preparation of a broker's price opinion to be used in conjunction with or in addition to an appraisal.

(3) A broker's price opinion prepared under the authority granted in this act shall be in writing and shall conform to the standards and guidelines published by a nationally recognized association of providers of broker price opinions. The Mississippi Real Estate Commission shall promulgate regulations that are consistent with, but not limited to, the standards and guidelines of a nationally recognized association of providers of broker price opinions.

(4) A broker's price opinion shall be in writing and contain the following:

- (a) A statement of the intended purpose of the price opinion;
- (b) A brief description of the subject property and property interest to be priced;
- (c) The basis of reasoning used to reach the conclusion of the price, including the applicable market data and/or capitalization computation;
- (d) Any assumptions or limiting conditions;
- (e) A disclosure of any existing or contemplated interest of the broker or salesperson issuing the opinion;
- (f) The effective date of the price opinion;
- (g) The name and signature of the broker or salesperson issuing the price opinion;
- (h) The name of the real estate brokerage firm for which the broker or salesperson is acting;
- (i) The signature date;
- (j) A disclaimer stating that, "This opinion is not an appraisal of the market value of the property, and may not be used in lieu of an appraisal. If an appraisal is desired, the services of a licensed or certified appraiser must be obtained. This opinion may not be used by any party as the primary basis to determine the value of a parcel of real property for a mortgage loan origination, including first and second mortgages, refinances or equity lines of credit."; and
- (k) A certification that the licensee is covered by errors and omissions insurance, to the extent required by state law, for all liability associated with the preparation of the broker's price opinion.

(5) If a broker's price opinion is submitted electronically or on a form supplied by the requesting party:

- (a) A signature required by paragraph (g) of subsection (4) may be an electronic signature, as defined in Section 75-12-3.
- (b) A signature required by paragraph (g) of subsection (4) and the disclaimer required by paragraph (j) of subsection (4) may be transmitted in a separate attachment if the electronic format or form supplied by the requesting party does not allow additional comments to be written by the licensee. The electronic format or the form supplied by the requesting party must:
 - (i) Reference the existence of a separate attachment; and
 - (ii) Include a statement that the broker's price opinion is not complete without the attachment.

(6) Notwithstanding any provisions to the contrary, a person licensed pursuant to this chapter may not prepare a broker's price opinion for any purpose in lieu of an appraisal when an appraisal is required by

federal or state statute. A broker's price opinion which estimates value or worth of a parcel of real estate rather than sales price shall be deemed to be an appraisal and may not be prepared by a licensed broker or sales agent under the authority of their licensee but may only be prepared by a duly licensed appraiser and must meet the regulations promulgated by the Mississippi Real Estate Appraiser Licensing and Certification Board. A broker's price opinion may not under any circumstances be referred to as a valuation or appraisal.

Missouri - §339.501

Summary: **Broad**

5. The provisions of sections 339.500 to 339.549 shall not be construed to require a license or certificate for...

(2) Any licensed real estate broker or salesperson who prepares a comparative market analysis or a broker price opinion;

Montana - 37-54-201

Summary: **Unlimited**

(3) This chapter does not preclude a person who is not a licensed or certified real estate appraiser from appraising real property for transactions not related to a federal agency or project for compensation if the person does not purport to be a licensed or certified real estate appraiser. A person who purports that the person or the person's company is licensed under this section or certified under 37-54-302 and 37-54-303 without possessing the applicable license or certificate is guilty of a misdemeanor.

Nebraska – R.R.S. Neb § 76-2221, § 81-885

Summary: **Broad**

81-885.01 For purposes of the Nebraska Real Estate License Act, unless the context otherwise requires:

(13) Broker's price opinion means an analysis, opinion, or conclusion prepared by a person licensed under the Nebraska Real Estate License Act in the ordinary course of his or her business relating to the price of specified interests in or aspects of identified real estate or identified real property for the purpose of (a) listing, purchase, or sale or (b) originating, extending, renewing, or modifying a loan in a transaction other than a federally related transaction;

(14) Comparative market analysis means an analysis, opinion, or conclusion prepared by a person licensed under the act in the ordinary course of his or her business relating to the price of specified interests in or aspects of identified real estate or identified real property by comparison to other real property currently or recently in the marketplace for the purpose of (a) listing, purchase, or sale or (b) originating, extending, renewing, or modifying a loan in a transaction other than a federally related transaction;

76-2221 The Real Property Appraiser Act shall not apply to:

(2) A person licensed referred to in subsection (1) of section 28 of this act *[LB 931 of 2010]*

Sec. 28. (1) The Real Property Appraiser Act shall not apply to a person licensed under the Nebraska Real Estate License Act who, in the ordinary course of his or her business, gives a broker's price opinion or comparative market analysis, except that such opinion or analysis shall not be referred to as an appraisal.

(2) No compensation, fee, or other consideration shall be charged for a broker's price opinion or comparative market analysis other than a real estate commission or brokerage fee charged or paid for brokerage services rendered in connection with the sale of the real estate involved unless the opinion or analysis is in writing, is signed by the preparer, includes the date on which it was prepared, and contains or has attached thereto the following disclosure in bold fourteen-point type: This opinion or analysis is not an appraisal. It is intended only for the benefit of the addressee for the purpose of assisting buyers or sellers or prospective buyers or sellers in deciding the listing, offering, or sale price of the real property or for lending purposes in a transaction other than a federally related transaction. This opinion or analysis is not governed by the Real Property Appraiser Act.

(3) A broker's price opinion or comparative market analysis prepared for an existing or potential lienholder originating, extending, renewing, or modifying a loan in a transaction other than a federally related transaction may not be used as the sole basis to determine the value of the real estate for the purpose of originating a loan secured by such real estate, and the person giving the opinion or analysis must be engaged directly by the lienholder or its agent. Such person shall have no duty to inquire as to any other basis used to determine such value.

Nevada – NRS 645C.150

Summary: **Broad**

NRS 645C.150 Applicability of chapter. The provisions of this chapter do not apply to:...

4. A person licensed pursuant to chapter 645 or 684A of NRS, or certified pursuant to chapter 645D of NRS, while he is performing an act within the scope of his license or certificate.

New Section of NRS as added by SB 184 (2009)

Section 1. Chapter 645 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person licensed pursuant to this chapter may prepare and provide a broker's price opinion and charge and collect a fee therefore if:

(a) The license of that licensee is active and in good standing; and

(b) The broker's price opinion meets the requirements of subsection 3.

2. A person licensed pursuant to this chapter may prepare a broker's price opinion for:

- (a) An existing or potential seller for the purposes of listing and selling a parcel of real property;
- (b) An existing or potential buyer of a parcel of real property;
- (c) A third party making decisions or performing due diligence related to the potential listing, offering, sale, exchange, option, lease or acquisition price of a parcel of real property; or
- (d) An existing or potential lien holder, except that a broker's price opinion prepared for an existing or potential lien holder may not be used in lieu of an appraisal for the purpose of determining whether to approve a mortgage loan.

New Hampshire - 310-B:3

Summary: **Broad**

II. Paragraph I shall not preclude a person who is not certified or licensed as a real estate appraiser from appraising real estate for non-federally related transactions for compensation.

III. The provisions of this chapter shall not apply to an employee, or an elected or appointed representative of a municipality, or a person under contract by a municipality doing valuation for the sole purpose of ad valorem taxation.

IV. The provisions of this chapter shall not apply to a real estate licensee under RSA 331-A when performing comparative market analyses or broker price opinions pursuant to permitted activities regulated by the New Hampshire real estate commission.

New Jersey - 45:14F-21

Summary: **Limited**

Nothing in P.L.1991, c.68 (C.45:14F-1 et seq.) shall be construed to preclude a person not licensed or certified pursuant to this act from giving or offering to give, for a fee or otherwise, counsel and advice on pricing, listing, selling and use of real property, directly to a property owner or prospective purchaser if the intended use of the counsel or advice is solely for the individual knowledge of or use by the property owner or prospective purchaser.

N.J.A.C. 11:5-6.1(m)(3)

3. "Appraisal" as used herein is given its technical meaning as a study and analysis by an appraiser authorized by law to perform appraisals of New Jersey real estate to ascertain fair market value by using a process in which all factors that would fix price in the market place must be considered. A comparative market analysis or study is not an appraisal as herein defined. Any written comparative market study or analysis (CMA) provided by a licensee to a consumer shall include a statement indicating that the CMA is

not an appraisal and should not be considered the equivalent of an appraisal. The said statement shall appear in print as large as the predominant size print in any writing reporting the results of the CMA.

New Mexico - 61-30-10

Summary: **Limited**

F. The requirement of registration, licensing or certification shall not apply to a real estate broker or salesperson who, in the ordinary course of business, gives an opinion of the price or value of real estate for the purpose of securing a listing, marketing of real property, affecting a sale, lease or exchange, conducting market analyses or rendering specialized services; provided, however, this opinion of the price or value shall not be referred to or construed as an appraisal or appraisal report and no compensation, fee or other consideration is expected or charged for such opinion, other than the real estate brokerage commission or fee for services rendered in connection with the identified real estate or real property.

New York – Executive Law § 160-b

Summary: **Unlimited**; New York is a voluntary licensing state

2. Nothing in this article shall preclude a person who is not a state certified or licensed real estate appraiser or a licensed real estate appraiser assistant from appraising real estate for compensation.

North Carolina – § 93E-1-3, § 93E-1-3

Summary: **Limited**

(7c)"Comparative market analysis" means the analysis of sales of similar recently sold properties in order to derive an indication of the probable sales price of a particular property by a licensed real estate broker.

(c) Nothing in this Chapter shall preclude a real estate broker licensed under Chapter 93A of the General Statutes from performing a comparative market analysis as defined in G.S. 93E-1-4, provided the person does not represent himself or herself as being a registered trainee or a licensed or certified real estate appraiser. A real estate broker may perform a comparative market analysis for compensation or other valuable consideration only for prospective or actual brokerage clients or for real property involved in an employee relocation program.

Notes: *Guidance from the North Carolina Appraisers Board states that "the law specifically exempts a licensed real estate broker or salesperson performing a CMA from mandatory appraiser licensing, provided that the person does not represent himself or herself as being state-licensed or state certified as a real estate appraiser and that the CMA is done for prospective or actual brokerage clients, or for real property involved in an employee relocation program. A CMA cannot be performed for a fee when the client is a lender."*

North Dakota – North Dakota Century Code 43-23.3-04

Summary: **Limited**

...This chapter does not apply to a licensed real estate broker or salesperson who, in the ordinary course of business, gives an opinion to a potential seller or third party as to the recommended listing price of real estate or an opinion to a potential purchaser or third party as to the recommended purchase price of real estate. However, the opinion as to the listing price or the purchase price may not be referred to as an appraisal. This chapter does not apply to a person who, in the ordinary course of business, gives an opinion of the value of real estate to that person's employer.

Ohio – Ohio Revised Code 4763.19

Summary: **Broad**

(A) Subject to division (B) of this section, no person shall perform a real estate appraisal for a mortgage loan if the person is not licensed or certified under this chapter to do the appraisal.

(B) Division (A) of this section does not apply to a lender using a market analysis or price opinion, an internal valuation analysis, or an automated valuation model or report based on an automated valuation model, and any person providing that report to the lender, in performing a valuation for purposes of a loan application, as long as the lender does both of the following:

(1) Gives the consumer loan applicant a copy of any written market analysis or price opinion or valuation report based on an automated valuation model;

(2) Includes a disclaimer on the consumer's copy specifying that the valuation used for purposes of the application was obtained from a market analysis or price opinion or automated valuation model report and not from a person licensed or certified under this chapter.

Notes: *Guidance from the Ohio Division of Real Estate & Professional Licensing states that "BPOs can be performed by both agents and brokers. BPOs can be performed outside of a potential listing and it is permissible to receive compensation."*

Oklahoma

Summary: **Unlimited**

Oklahoma is a voluntary licensing state. There is nothing in state law that would prohibit a broker or sales person from performing a BPO or a CMA for any purpose.

Oregon – 696.294 and 674.100

Summary: **Limited**

(1) As used in this section, “letter opinion” means a document that expresses a real estate licensee’s conclusion regarding a recommended listing, selling or purchase price or a rental or lease consideration of certain real estate and that results from the licensee’s competitive market analysis.

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

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

(7) “Competitive market analysis” means a method or process used by a real estate licensee in pursuing a listing agreement or in formulating an offer to acquire real estate in a transaction for the sale, lease, lease-option or exchange of real estate. The objective of competitive market analysis is a recommended listing, selling or purchase price or a lease or rental consideration. A competitive market analysis may be expressed as an opinion of the value of the real estate in a contemplated transaction. Competitive market analysis may include but is not limited to an analysis of market conditions, public records, past transactions and current listings of real estate.

863-015-0190 Competitive Market Analyses; Letter Opinions; Lending Collateral Analysis; Default Collateral Analysis

(1) Real estate licensees may provide competitive market analyses and letter opinions in the normal course of their business when they are giving an opinion in pursuit of a listing, to assist a potential buyer in formulating an offer, or to provide a broker's price opinion, whether or not done for a fee.

(2) The term “value” as used in a competitive market analysis or letter opinion is the estimated worth of or price for a specific property and is not intended to mean or imply the “value” was arrived at by any method of appraisal.

(3) A competitive market analysis or letter opinion must be in writing and contain at least the following:

(a) A statement of purpose and intent;

(b) A brief property description;

(c) The basis for the value, including the applicable market data and/or capitalization computation;

(d) Any limiting conditions;

(e) A disclosure of any existing or contemplated interest of the licensee in the subject property;

(f) The licensee's signature and the date it was prepared;

(g) A disclaimer that, unless the licensee is also licensed by the Appraiser Certification and Licensure Board, the report is not intended to meet the requirements set out in the Uniform Standards of Appraisal Practice; and

(h) A disclaimer that the competitive market analysis or letter opinion is not intended as an appraisal and that if an appraisal is desired, the services of a competent professional licensed appraiser should be obtained.

(4) Real estate licensees can provide a "lending collateral analysis" or "default collateral analysis," if the analysis is used only for the internal purposes of a financial institution and, in the case of a "lending collateral analysis," that any loan transaction at issue is less than \$250,000.

(a) "Lending collateral analysis" means a real property market analysis where the purpose of the analysis is for use by a lending institution in support of a loan application.

(b) "Default collateral analysis" means a real property market analysis where the purpose of the analysis is for use by a lending institution in considering its actions with respect to a loan in default

(5) If a real estate broker completes a lending collateral analysis or default collateral analysis on a property in which the real estate broker or principal real estate broker has either a current, active listing agreement or is representing the buyer or seller in a pending transaction, the real estate broker must disclose to the buyer and seller the real estate broker's relationships with the lending institution.

Pennsylvania – Act 15

Summary: **Limited**

"Broker." Any person who, for another and for a fee, commission or other valuable consideration:

...

(5.1) undertakes to perform a comparative market analysis;...

"Comparative market analysis." A written analysis, opinion or conclusion by a contracted buyer's agent, transactional licensee or an actual or potential seller's agent relating to the probable s real estate in an identified real estate market at a specified time, offered either for the purpose of determining the asking/offering price for the property by a specific actual or potential consumer or for the purpose of securing a listing agreement with a seller. (Def. added Nov. 25, 1998, P.L.908, No.112)

Section 608.3. Comparative market analysis disclosure.

A comparative market analysis must contain the following statement printed conspicuously and without change on the first page:

This analysis has not been performed in accordance with the Uniform Standards of Professional Appraisal Practice which require valuers to act as unbiased, disinterested third parties with

impartiality, objectivity and independence and without accommodation of personal interest. It is not to be construed as an appraisal and may not be used as such for any purpose.

A comparative market analysis prepared in accordance with this act shall not be deemed to be an appraisal within the scope of the act of July 10, 1990 (P.L.404, No.98), known as the "Real Estate Appraisers Certification Act."

Notes: *Guidance from the Pennsylvania Real Estate Commission states that a real estate agent or sales person may only perform a CMA as part of the real estate listing process, and may never perform a BPO. Please see the following:*

http://www.dos.state.pa.us/bpoa/lib/bpoa/20/real_estate_comm/real_estate_commission_2007-08.pdf

Rhode Island - § 5-20.7-3

Summary: Limited

(b) This chapter precludes any person who is not certified as a state certified real estate appraiser from appraising real property for compensation under chapter 20.5 of this title; provided, however, that this chapter does not preclude any person who holds a license pursuant to chapter 20.5 of this title and, in the ordinary course of business, from giving a written or oral opinion of value of real estate for the purposes of a prospective listing, purchase, sale, or business valuation; provided, however, that such opinion of value shall not be referred to as an appraisal.

COMMERCIAL LICENSING REGULATION 11

REAL ESTATE BROKERS AND SALESPERSONS - SECTION 27. APPRAISALS PROHIBITED

(A) Licensed real estate brokers and real estate salespersons not certified or licensed as an appraiser pursuant to R.I. Gen. Laws § 5-20.7-1, et seq., are prohibited from describing or referring to any valuation of real estate as an appraisal.

(B) A real estate salesperson or real estate broker licensed under R.I. Gen. Laws § 5-20.5-1, et seq., may provide his or her client with a Broker Price Opinion (BPO) or a Comparative Market Analysis (CMA) if he or she discloses that the BPO or CMA is not an appraisal that conforms to the standards adopted by USPAP and includes on the BPO or CMA the following disclaimer:

This opinion or analysis is not a certified appraisal or an appraisal that conforms to the Uniform Standards of Professional Appraisal Practice (USPAP). It is intended only for the benefit of the addressee for the purpose of assisting buyers or sellers or prospective buyers or sellers in deciding the listing offering, or sale price of the real property and not for any other purpose, including but not limited to, lending purpose excepting that specifically provided under R.I. Gen. Laws § 5-20.7-3.

(C) No person, other than persons licensed or certified in accordance with the provisions of R.I. Gen. Laws § 5-20.7-1, et seq., shall assume or use a title, designation, or abbreviation likely to create the impression of certification as a real estate appraiser by this state.

(D) This section shall not apply to appraisals of real property carried out for the purpose of municipal valuation.

South Carolina - SECTION 40-60-30

Summary: **Broad**

It is unlawful for an individual to assume or use a title, designation, or abbreviation likely to create the impression that the person is a real estate appraiser or to engage in appraisal activity or advertise as an appraiser without a valid license issued by the department. However, nothing in this chapter may be construed to apply to:

(1) a real estate licensee licensed in accordance with Chapter 57 of Title 40 who performs a market analysis or gives an opinion as to the price of real estate on the condition that the market analysis or opinion is not referred to as an appraisal. Before performing a market analysis, the real estate licensee must disclose to the requesting party: "This market analysis may not be used for the purposes of obtaining financing in a federally-related transaction";

South Dakota – 36-21B-8

Summary: **Unlimited**

Unless required by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub.L. No. 101-73, 103 Stat. 183 (1989), 12 U.S.C. § 3310, et seq., this chapter does not apply to the following:

...(3) Any person licensed as a real estate broker under chapter 36-21A when appraising within the scope of the broker's license; or...

Tennessee - 62-39-104

Summary: **Limited**

(a) This chapter does not apply to a real estate broker or salesperson licensed by this state who, in the ordinary course of business, gives an opinion to a potential seller or third party as to the recommended listing price of real estate or an opinion to a potential purchaser or third party as to the recommended purchase price of real estate. This opinion as to the listing price or the purchase price shall not be referred to as an appraisal and no opinion shall be rendered as to the value of the real estate or real property.

Texas § 535.17 and Section 1103.004

Summary: **Unlimited**

Sec. 1103.004. EFFECT OF CHAPTER.

(b) This chapter does not prohibit:

(1) a person authorized by law from performing an evaluation of real property for or providing an evaluation of real property to another person;

(2) a real estate broker or salesperson licensed under Chapter 1101 but not certified or licensed under this chapter from performing an appraisal in a transaction other than a federally related transaction;

(3) the requirement that a person who is not certified or licensed under this chapter be licensed as a real estate broker or salesperson to perform an appraisal in a transaction other than a federally related transaction; or

(4) a real estate broker or salesperson licensed under Chapter 1101 from giving an opinion if the opinion:

(A) is not referred to as an appraisal; and

(B) is given in the ordinary course of the broker's or salesperson's business to:

(i) a potential seller or third party regarding the recommended listing price of real property; or

(ii) a potential purchaser or third party regarding the recommended purchase price of real property.

§ 535.17

(a) A salesperson may make, sign, and present real estate appraisals for the salesperson's sponsoring broker, but the salesperson must submit appraisals in the broker's name and the broker is responsible for the appraisals.

(b) Texas Occupations Code, Chapter 1101 (the Act) does not apply to appraisals performed by the employees of a financial institution or investment firm in connection with a contemplated loan or investment by their employers.

(c) Except as provided by this section, appraisals of real property performed in this state by Texas real estate licensees must be conducted in accordance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation in effect at the time the appraisal is performed. If a real estate licensee, for a separate fee, provides an opinion of value or comparative market analysis which does not conform with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation, the

licensee shall also provide the person for whom the opinion or analysis is prepared with a written statement containing the following language: "THIS IS AN OPINION OF VALUE OR COMPARATIVE MARKET ANALYSIS AND SHOULD NOT BE CONSIDERED AN APPRAISAL. In making any decision that relies upon my work, you should know that I have *not* followed the guidelines for development of an appraisal or analysis contained in the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation."

(d) The statement required by subsection (c) of this section must be made part of any written opinion or analysis report and must be reproduced verbatim.

(e) The exception allowed by subsection (c) of this section does not apply to a transaction in which the Resolution Trust Corporation or a federal financial institutions regulatory agency has required compliance with the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation.

Sec. 1103.405. PROFESSIONAL STANDARDS. A person who holds a license, certificate, or approval issued under this chapter shall comply with:

- (1) the most current edition of the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation; or
- (2) other standards provided by board rule that are at least as stringent as the Uniform Standards of Professional Appraisal Practice.

Note: A broker or salesperson that performs an appraisal in a non-federally related transaction must comply with USPAP and may not refer to the opinion of value as an appraisal.

Utah - 61-2b-3

Summary: **Limited**

(2) This section does not apply to:

- (a) a real estate broker or sales agent as defined by Section **61-2-2** licensed by this state who, in the ordinary course of the real estate broker's or sales agent's business, gives an opinion:
 - (i) regarding the value of real estate;
 - (ii) to a potential seller or third party recommending a listing price of real estate; or
 - (iii) to a potential buyer or third party recommending a purchase price of real estate;

Vermont

Summary: **Unlimited**

Notes: *There is no mention of broker's price opinions or comparative market analysis in the Vermont statutes. Guidance from the Vermont Board of Real Estate Appraisers states that "BPO's and CMA's can*

be performed by licensees and non-licensees alike, they are not governed by the Real Estate Appraiser Board or the Real Estate Commission.

Virginia - § 54.1-2010

Summary: **Broad**

A. The provisions of this chapter shall not apply to:

1. A real estate broker or salesperson licensed in the Commonwealth who, in the ordinary course of business, provides a valuation or analysis of real estate for a fee; however, such person shall not hold himself out as a real estate appraiser, and the valuation shall not be referred to as an appraisal and shall not be used in lieu of an appraisal performed by a licensed appraiser.

Washington - RCW 18.140.020

Summary: **Broad**

(6) This chapter does not preclude an individual person licensed by the state of Washington as a real estate broker or as a real estate salesperson from issuing a brokers price opinion. However, if the brokers price opinion is written, or given as evidence in any legal proceeding, and is issued to a person who is not a prospective seller, buyer, lessor, or lessee as the only intended user, then the brokers price opinion shall contain a statement, in an obvious location within the written document or specifically and affirmatively in spoken testimony, that substantially states: "This brokers price opinion is not an appraisal as defined in chapter [18.140](#) RCW and has been prepared by a real estate licensee, licensed under chapter [18.85](#) RCW, who (is/is not) also state-certified or state-licensed as a real estate appraiser under chapter [18.140](#) RCW." However, the brokers price opinion issued under this subsection may not be used as an appraisal in conjunction with a federally related transaction.

West Virginia - 30-38-1

Summary: **Limited**

c) This article does not apply to:

(1) A real estate broker or salesperson licensed by this state who, in the ordinary course of his or her business, gives an opinion to a potential seller or third party as to the recommended listing price of real estate or an opinion to a potential purchaser or third party as to the recommended purchase price of real estate, when this opinion as to the listing price or the purchase price is not to be referred to as an appraisal, no opinion is rendered as to the value of the real estate and no fee is charged;

Notes: *Guidance from the West Virginia Real Estate Commission states that "A BPO is the rendering of an estimate of the value of real property for compensation...unless you hold a license issued by the Appraiser Board, you may not lawfully issue a broker's price opinion for compensation."*

Wisconsin - 458.02

Summary: **Unlimited**

Nothing in this chapter shall be construed to prohibit a person who is not a certified appraiser or licensed appraiser from appraising real estate or from cosigning an appraisal report with a certified appraiser or licensed appraiser if the person complies with s. 458.055.

Wyoming – Chapter 1, Section 3 of the Rules of the Certified Appraiser Board

Summary: **Limited**

(a) These Rules and Regulations shall not apply to a real estate broker, associate broker or salesman who, in the ordinary course of business, gives an opinion of the price of real estate for the purpose of a prospective listing or sale, provided, however, this opinion of the price shall not be referred to as or construed to be an appraisal.