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

### **By Real Estate Brokers and Salespersons<sup>1</sup>**

**(as of January 2, 2019)**

**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, IN, IA, MT, NY, OK, SD, VT, WI (9)

**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, HI, IL, KS, LA, ME, MA, MI, MN, MO, MS, NC, NE, NH, NM, NV, OH, PA, SC, TX, WA, WY, VA, USVI (28)

**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, ID, KY, MD, ND, NJ, OR, RI, TN, UT, WV (14)

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<sup>1</sup> © 2019, Appraisal Institute - This list was compiled by the Washington, D.C. office of the Appraisal Institute. For more information, contact Scott DiBiasio, Appraisal Institute, Manager of State & Industry Affairs at (202) 298-5593.

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

**Summary:**      **Limited**

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, 17-42-109

Summary: **Broad**

New Law (Effective July 1, 2009)

**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".

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

(a)(1)(A) Except when an interstate transaction or a federally related transaction is involved, the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq., does not apply to a real estate broker or sales person licensed by this state who:

(i) In the ordinary course of his or her business, gives to a potential seller or third party a written report called a market analysis or a 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

(ii) Provides testimony regarding an opinion of the value of real property under § 28-51-302.

(B) A broker's price opinion or a market analysis issued in this state in connection with an interstate transaction or a federally related transaction shall not contain the term "appraisal" or the term "market value".

(C) The prohibition in subdivision (a)(1)(B) of this section does not apply to an intrastate, nonfederally related broker's price opinion or market analysis.

(2)(A) The listing price, purchase price, market analysis, or broker's price opinion may be treated as an appraisal solely for the purposes of § 28-51-302.

(B) A real estate broker who provides testimony regarding an opinion of the value of real property that may be treated as an appraisal for purposes of § 28-51-302 shall nonetheless be exempt from registration as an appraiser under the Arkansas Appraiser Licensing and Certification Act, § 17-14-101 et seq., § 17-14-201 et seq., and § 17-14-301 et seq.

#### **AR ADC 076.00.1-10. Broker Price Opinions**

1. A "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. A "market analysis" is similar to a broker price opinion but is usually limited to comparison to other real property currently or recently in the market place; whereas, the preparer of a broker price opinion may utilize other basis for the report. In the preparation or issuance of a broker price opinion or market analysis, usage of the terms "market value", "appraised value" or "appraisal", shall be presumed to be in violation of Ark.Code. Ann. § 17-42-110(d) and subject to appropriate sanctions. It is highly recommended that a licensee avoid other general references to "value" of the property when preparing or issuing a broker price opinion or market analysis.

A report in which a broker price opinion is prepared or issued by a real estate licensee must include within the body of the written report or in a separate cover letter the following:

(a) A brief description of the subject property.

(b) The basis used to determine the broker's price opinion to include any applicable market data and with regard to commercial properties, the computation of capitalization, including the capitalization rate;

(c) Any assumptions or limiting conditions used to determine the broker price opinion

(Examples: repairs, items to be removed from property, zoning change, new or different access

other than what is currently available, special financing, hazardous waste, nuisance removal, etc.)

(d) A disclosure of any existing or contemplated interest of every licensee who prepares or provides the broker price opinion, including, without limitation, the possibility of a licensee representing the seller or lessor, or the buyer or lessee;

(e) The names and signatures of the licensee who prepared or issued the broker price opinion and of the principal broker or designated executive broker with whom the licensee is associated;

(f) The name of the real estate firm with whom the licensee who prepared or issued the broker price opinion is licensed; and

(g) The date of issuance of the broker price opinion;

(h) In at least 14-point bold type, the following disclaimer:

Notwithstanding any preprinted language to the contrary, this opinion is not an appraisal of the market value of the property. If an appraisal is desired, the services of a licensed or certified appraiser must be obtained. Pursuant to Ark. Code. Ann. § 17-42-110(d), a broker price opinion or market analysis issued by a real estate licensee shall not contain the terms "market value", "appraised value", or "appraisal".

Any reference in the report to a specific marketing time period is for illustrative purposes only and does not obligate the licensee or broker to sell the property within the stated timeframe or act as a representation or guarantee that the property will be sold within such timeframe.

Unless otherwise indicated, the broker price opinion assumes without investigation a fee simple title ownership interest without any reservation of minerals, subsurface rights, or otherwise.

This broker price opinion report is to be used solely for purposes allowed by state and federal law. If the report is to be used for any purpose not specifically allowed by state and federal law, legal counsel should be consulted.

2. A licensee shall furnish to the Principal Broker or Designated Executive Broker with whom the licensee is associated, copies of all broker price opinion reports, including the cover letter described above, which shall be maintained on file in accordance with the record keeping requirements of this chapter.

3. A licensee may produce or transmit a written broker price opinion electronically to any person entitled to receive it. A broker price opinion that is submitted electronically is subject to any regulations relating to recordkeeping as adopted pursuant to this chapter, including inclusion of the cover letter required in 1 above.

4. A principal broker or designated executive broker is responsible for the preparation and issuance of a broker price opinion by any licensee who is associated with the broker unless the broker price opinion was prepared or issued independently and without permission or authority from the broker. If the principal broker or designated executive broker learns that a licensee has prepared or issued a broker price opinion independently, that broker must comply with Commission Regulation 10.1(a) by immediately notifying the Commission in writing and forwarding such licensee's license to the Commission.

**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 and Title 24, Chapter 29, Sections 2902 & 2931

Summary:       **Limited**

**§ 2902. Definitions.**

(a) As used in this chapter:

(6) ‘Competitive Market Analysis’ or ‘CMA’ means a service provided by a Licensee for the purpose of providing either a potential listing price or use or a potential offering price or use in a Real Estate Services transaction. In this method, Licensees compare properties whose characteristics are similar in location, style, size and amenities to provide an estimated market price or a potential use for a target property or area. The CMA usually consists of an evaluation of similar properties that have recently sold, are currently under agreement to sell and are currently listed or offered for sale. A CMA may also be referred to as a Comparative Market Analysis, a Comparable Market Analysis, a Broker Price Opinion or Broker’s Market Analysis. A CMA is not an appraisal.

**§ 2931. Competitive Market Analysis (“CMA”).**

A Competitive Market Analysis is not an appraisal. A Licensee may perform a Competitive Market Analysis as part of providing Real Estate Services. However, a Licensee shall not perform a Competitive Market Analysis for the Mortgagee on a property that is the subject of a signed Agreement of Sale. A Competitive Market Analysis as permitted under this Chapter shall meet the following criteria:

(a) A Competitive Market Analysis shall only be prepared for the following purposes:

- (1) An existing or potential seller or owner for the purpose of listing a property for sale or lease;  
or
- (2) An existing or potential buyer or tenant for the purpose of purchasing or leasing a property for sale or lease;

(b) The following disclosure shall appear in at least a 12 point bold face type font and located immediately following the estimated market price: ‘Notwithstanding any language to the contrary contained herein, this Competitive Market Analysis is NOT an appraisal of the market value for property and is not intended to be used for any legal purpose including approval of a mortgage loan, modification of a mortgage loan, divorce/property separation, estate settlement, bankruptcy proceedings or any other purpose where real estate value is needed. If an appraisal is desired, the services of a licensed or certified appraiser must be obtained.’

(c) The Competitive Market Analysis shall comply with the content requirements as provided in the Rules and Regulations.

**Chapter 40, Title 24, Section 4019**

§ 4019 (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”

**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** - HRS 466K-4 & HAR 16-114-74

Summary:      **Broad**

**New Law (Effective 7/11/2011)**

**§466K-4**

(c) This section shall not apply to a real estate broker or real estate salesperson licensed pursuant to chapter 467 who provides an opinion as to the estimated price of real estate, regardless of whether the real estate licensee receives compensation, a fee, or other consideration for providing the opinion; provided that:

- (1) The opinion as to the estimated price of real estate shall state that it is not an appraisal;
- (2) The real estate licensee shall not represent that the licensee is a certified or licensed real estate appraiser; and
- (3) If the real estate licensee receives compensation related to the sale of property, the licensee shall not receive any additional compensation, fee, or other consideration for providing an opinion as to the estimated price of that property.

**HAR §16-114-74** Non-applicability 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; or
- (3) No representation is made that the real estate broker or salesperson is a certified or licensed real estate appraiser.

## Idaho

Summary:      **Limited**

New Law (Effective July 1, 2011)

### **§ 54-2004. Definitions**

As used in this chapter:

(6) "Broker price opinion" means a written price opinion of the estimated price for identified real property prepared or rendered by an actively licensed broker or associate broker, for a purpose other than a prospective listing or sale, and that complies or purports to comply with the requirements and content provision of section 54-4105, Idaho Code.

### **§ 54-2038. Designated broker--General responsibilities--Broker price opinions**

(3) An actively licensed salesperson or broker may, in the ordinary course of business, give an opinion of the price of real estate for the purpose of a prospective listing or sale. Only an actively licensed broker or associate broker may prepare and render a broker price opinion, as defined in this chapter. An associate broker who prepares and renders a broker price opinion shall notify the designated broker and the associate broker may not accept any fee except through the designated broker. Any licensee who renders a price opinion that does not comply with this subsection or with the requirements of section 54-4105, Idaho Code, is subject to discipline by the commission.

### **§ 54-4104. Definitions**

As used in this chapter:

(5) "Broker's price opinion" means a written price opinion of the estimated price for identified real property that is prepared by a real estate broker or associate broker licensed under chapter 20, title 54, Idaho Code, pursuant to the requirements and content provisions for the broker's price opinions contained in this chapter.

### **§ 54-4105. Exceptions**

(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

Summary: **Limited**

New Law (Effective January 1, 2015)

### 225 ILCS 454/1-10

Definitions. In this Act, unless the context otherwise requires:

"Broker" means an individual, partnership, limited liability company, corporation, or registered limited liability partnership other than a real estate salesperson or leasing agent who, whether in person or through any media or technology, for another and for compensation, or with the intention or expectation of receiving compensation, either directly or indirectly:

(12) Prepares or provides a broker price opinion or comparative market analysis as those terms are defined in this Act, pursuant to the provisions of Section 10-45 of this Act.

"Broker price opinion" means an estimate or analysis of the probable selling price of a particular interest in real estate, which may provide a varying level of detail about the property's condition, market, and neighborhood and information on comparable sales. The activities of a real estate broker or managing broker engaging in the ordinary course of business as a broker, as defined in this Section, shall not be considered a broker price opinion if no compensation is paid to the broker or managing broker, other than compensation based upon the sale or rental of real estate.

"Comparative market analysis" is an analysis or opinion regarding pricing, marketing, or financial aspects relating to a specified interest or interests in real estate that may be based upon an analysis of comparative market data, the expertise of the real estate broker or managing broker, and such other factors as the broker or managing broker may deem appropriate in developing or preparing such analysis or opinion. The activities of a real estate broker or managing broker engaging in the ordinary course of business as a broker, as defined in this Section, shall not be considered a comparative market analysis if no compensation is paid to the broker or managing broker, other than compensation based upon the sale or rental of real estate.

### 225 ILCS 454/10-45

Sec. 10-45. Broker price opinions and comparative market analyses.

(a) A broker price opinion or comparative market analysis may be prepared or provided by a real estate broker or managing broker for any of the following:

- (1) an existing or potential buyer or seller of an interest in real estate;
- (2) an existing or potential lessor or lessee of an interest in real estate;
- (3) a third party making decisions or performing due diligence related to the potential listing, offering, sale, option, lease, or acquisition price of an interest in real estate; or

(4) an existing or potential lienholder or other third party for any purpose other than as the primary basis to determine the market value of an interest in real estate for the purpose of a mortgage loan origination by a financial institution secured by such real estate.

(b) A broker price opinion or comparative market analysis shall be in writing either on paper or electronically and shall include the following provisions:

(1) a statement of the intended purpose of the broker price opinion or comparative market analysis;

(2) a brief description of the interest in real estate that is the subject of the broker price opinion or comparative market analysis;

(3) a brief description of the methodology used to develop the broker price opinion or comparative market analysis;

(4) any assumptions or limiting conditions;

(5) a disclosure of any existing or contemplated interest of the broker or managing broker in the interest in real estate that is the subject of the broker price opinion or comparative market analysis;

(6) the name, license number, and signature of the broker or managing broker that developed the broker price opinion or comparative market analysis;

(7) a statement in substantially the following form: "This is a broker price opinion/comparative market analysis, not an appraisal of the market value of the real estate, and was prepared by a licensed real estate broker or managing broker, not by a State certified real estate appraiser."; and

(8) such other items as the broker or managing broker may deem appropriate.

### **225 ILCS 458/1-5, 1-10, 5-5**

Sec. 1-5. Legislative intent. The intent of the General Assembly in enacting this Act is to evaluate the competency of persons engaged in the appraisal of real estate ~~in connection with a federally related transaction~~ ~~in connection with a federally related transaction~~ and to license and regulate those persons for the protection of the public. Additionally, it is the intent of the General Assembly for this Act to be consistent with the provisions of Title XI of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989. (Source: P.A. 92-180, eff. 7-1-02.) (225 ILCS 458/1-10) (Section scheduled to be repealed on January 1, 2022)

Sec. 1-10. Definitions. As used in this Act, unless the context otherwise requires:

"Broker price opinion" means an estimate or analysis of the probable selling price of a particular interest in real estate, which may provide a varying level of detail about the property's condition, market, and neighborhood and information on comparable sales. The activities of a real estate broker or managing broker engaging in the ordinary course of business as a broker, as defined in this Section, shall not be considered a broker price opinion if no compensation is paid to the broker or managing broker, other than compensation based upon the sale or rental of real estate.

"Comparative market analysis" is an analysis or opinion regarding pricing, marketing, or financial aspects relating to a specified interest or interests in real estate that may be based upon an analysis of comparative market data, the expertise of the real estate broker or managing broker, and such other factors as the broker or managing broker may deem appropriate in developing or preparing such analysis or opinion. The activities of a real estate broker or managing broker engaging in the ordinary course of business as a broker, as defined in this Section, shall not be considered a comparative market analysis if no compensation is paid to the broker or managing broker, other than compensation based upon the sale or rental of real estate.

**Sec. 5-5. Necessity of license; use of title; exemptions.**

(c) This Act does not apply to a person who holds a valid license as a real estate broker or managing broker pursuant to the Real Estate License Act of 2000 who prepares or provides a broker price opinion or comparative market analysis in compliance with Section 10-45 of the Real Estate License Act of 2000. The licensing requirements of this Act do not require a person 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 that person 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. Nothing in this Act shall prohibit a person who holds a valid license under the Real Estate License Act of 2000 from performing a comparative market analysis or broker price opinion for compensation, provided that the person does not hold himself out as being a licensed real estate appraiser. The licensing requirements of this Act do not require a person 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 that person 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. Nothing in this Act shall prohibit a person who holds a valid license under the Real Estate License Act of 2000 from performing a comparative market analysis or broker price opinion for compensation, provided that the person does not hold himself out as being a licensed real estate appraiser.

**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**

LSA-R.S. 37:3392

As used in this Chapter, the following words have the meaning ascribed to them in this Section unless the context clearly indicates otherwise:

(5) “Broker price opinion/comparative market analysis” means an analysis of recent sales of similar properties by a real estate salesperson or broker to derive an indication of the probable sales price of a particular property for the salesperson's or broker's principal.

La. R.S. 37:3393

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:      **Broad**

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 § 82.55, 82.735, 82B.021, 82B.035

Summary:        **Broad**

New Law (Effective August 1, 2011)

§ 82.55

Subd. 1b. Broker price opinion or BPO. For purposes of this chapter, “broker price opinion” or “BPO” means an estimate prepared by a real estate broker, real estate salesperson, or licensed real estate appraiser that details the probable selling price of a particular parcel of real 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.

Originally effective August 1, 2011, Amended & Effective August 1, 2014

**§ 82.735 Subdivision 1. Requirements.** A person licensed under this chapter or chapter 82B may prepare and provide a broker price opinion and a broker may charge and collect a fee for it if the license of that licensee is active and in good standing.

Subd. 2. Duties of licensee. Notwithstanding any provision of the laws of this state to the contrary, a person licensed under this chapter or chapter 82B may prepare a broker price opinion for:

- (1) an existing or potential seller for the purposes of listing and selling a parcel of real property;
- (2) an existing or potential buyer of a parcel of real property;
- (3) 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 when prepared as required by subdivision 3; or (4) an existing or potential lienholder or other third party for any purpose other than as the primary basis to determine the value of a piece of property for the purpose of a loan origination of a residential mortgage loan secured by such piece of property, when done in conjunction with the purchase of a consumer's principal dwelling, when prepared as required by subdivision 3.

Subd. 3. Written report; requirement.

(a) Unless the party requesting the opinion requires a specific report, a broker price opinion prepared for a party under subdivision 2, clause (3) or (4), must be in writing and contain the following:

- (1) a statement of the intended purpose of the broker price opinion;
- (2) a brief description of the subject property and property interest to be priced;
- (3) the basis of reasoning used to reach the opinion on the price, including the applicable market data;
- (4) any assumptions or limiting conditions;
- (5) a disclosure of any existing or contemplated interest of the broker or salesperson issuing the opinion;

(6) the name of the broker or salesperson issuing the price opinion;  
(7) the name of the real estate brokerage that the broker or salesperson is acting on behalf of;  
(8) the date of the price opinion; and (9) a disclaimer stating, "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." (b) A copy of the broker price opinion report required under this subdivision together with any supporting materials and documents used in its preparation shall be retained as required under section 82.72, subdivisions 3 and 4.

(c) A licensee may produce or transmit a broker price opinion report electronically to any person entitled to receive it.

### **§ 82B.021**

Subd. 19. Market analysis; broker price opinion. "Market analysis" or "broker price opinion" means a price opinion prepared by a licensed real estate salesperson ~~or, broker, for marketing purposes, or real estate appraiser~~ in accordance with section 82.735.

### **§ 82B.035**

Subd. 1a. Broker price opinion.

(a) This chapter does not apply to a licensed real estate salesperson, broker, or real estate appraiser who prepares a broker price opinion in accordance with section 82.735. In connection with the purchase of a consumer's principal dwelling, a broker price opinion may not be used as the primary basis to determine the value of a parcel of property for the purpose of a loan origination of a residential mortgage loan secured by the parcel of property.

(b) An appraiser preparing a broker price opinion shall disclose that the appraiser is not acting as an appraiser in preparing the broker price opinion and that the broker price opinion is not an appraisal or appraisal assignment and, therefore, is not subject to USPAP.

**Mississippi** – Miss. Code Ann. § 73-35-4, § 73-34-5, § 73-35-3

Summary:      **Broad**

New Law (Effective July 1, 2011)

**73-34-5**

(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**

339.503. Definitions

(14) “Broker price opinion”, an opinion of value, prepared by a real estate licensee for a fee, that includes, but is not limited to, analysis of competing properties, comparable sold properties, recommended repairs and costs or suggested marketing techniques. A broker price opinion is not an appraisal and shall specifically state it is not an appraisal;

(19) “Comparative market analysis”, the analysis of sales of similar recently sold properties in order to derive an indication of the probable sales price of a particular property undertaken by a licensed real estate broker or agent, for his or her principal. A comparative market analysis is not an appraisal and shall specifically state it is not an appraisal;

339.501

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

Summary:        **Broad**

New Law (Effective 2011); As Modified in 2015 (LB 375)

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

(2) A person referred to in subsection (1) of section 28 of this act {codified as 81-885.16};

81-885.01

(2) Broker means any person who...gives a broker's price opinion or comparative market analysis

(15) 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, (b) originating, extending, renewing, or modifying a loan in a transaction other than a federally related transaction, or (c) real property tax appeals;

(16) 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, (b) originating, extending, renewing, or modifying a loan in a transaction other than a federally related transaction, or (c) real property tax appeals;

81-885.16. Real Property Appraiser Act; applicability; broker's price opinion or comparative market analysis; requirements

(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, or for real property tax appeal purposes. 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 Law (Effective July 1, 2009)**

**NRS 645.2515**

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.

3. A broker's price opinion must include, without limitation:

(a) A statement of the intended purpose of the broker's price opinion;

(b) A brief description of the real property and the interest in the real property for which the broker's price opinion is being prepared;

(c) The basis used to determine the broker's price opinion, including, without limitation, any applicable market data and the computation of capitalization;

(d) Any assumptions or limiting conditions used to determine the broker's price opinion;

(e) The date of issuance of the broker's price opinion;

(f) A disclosure of any existing or contemplated interest of every licensee who prepares or provides the broker's price opinion, including, without limitation, the possibility of a licensee representing the seller or purchaser;

(g) The license number, name and signature of every licensee who prepares or provides the broker's price opinion;

(h) If a licensee who prepares or provides the broker's price opinion is a real estate salesperson or a real estate broker-salesperson, the name of the real estate broker with whom the licensee is associated; and

(i) In at least 14-point bold type, the following disclaimer:

*Notwithstanding any preprinted language to the contrary, this opinion is not an appraisal of the market value of the property. If an appraisal is desired, the services of a licensed or certified appraiser must be obtained.*

4. 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 3 may be an electronic signature, as defined by NRS 719.100.

(b) A signature required by paragraph (g) of subsection 3 and the disclaimer required by paragraph (i) of subsection 3 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:

(1) Reference the existence of a separate attachment; and

(2) Include a statement that the broker's price opinion is not complete without the attachment.

5. A broker's price opinion that is submitted electronically is subject to any regulations relating to recordkeeping as adopted pursuant to this chapter.

6. A broker is responsible for all activities of a licensee who is associated with the broker and with the preparation of a broker's price opinion.



**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** – N.J.S.A. 45:14F-21, N.J.A.C. 11:5-6.1(m)(3)

**Summary:**      **Limited**

N.J.S. A. 45:14F-21

c. Except as otherwise provided in subsection f. of this section, no person other than a State licensed real estate appraiser, a State certified real estate appraiser or a person who assists in the preparation of an appraisal under the direct supervision of a State licensed or certified appraiser shall perform or offer to perform an appraisal assignment in regard to real estate located in this State including, but not limited to, any transaction involving a third party, person, government or quasi-governmental body, court, quasi-judicial body or financial institution.

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.

f. A State or federally chartered bank, savings bank or savings and loan association may obtain and use appraisals made by a person who is not certified or licensed pursuant to the provisions of P.L.1991, c. 68 (C.45:14F-1 et seq.) in any circumstance where the underlying transaction is a federally related transaction for which federal law and regulation do not require that a certified or licensed appraiser be used. For the purposes of this subsection, “federal law” means Title XI of Pub. L.101-73 (12 U.S.C. s. 3331 et seq.); and “federally related transaction” has the meaning as set forth in section 1121 of Title XI of Pub. L. 101-73 (12 U.S.C. s. 3350).

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

(m) Except as herein provided, licensees may include offers of free, discounted or other services or products in advertisements or promotional material. No offering of free, discounted or other services or products, including the offering of a free appraisal, shall be made by a real estate licensee in any advertisement or promotional material or otherwise where the promotion or offering involves a lottery, a contest, a game or a drawing, or the offering of a lot or parcel or lots or parcels, or where the consumer is required to enter into a sale, listing or other real estate contract as a condition of the promotion or offer.

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.

**Note:** *The New Jersey Real Estate Appraiser Board has issued an Advisory Opinion that indicates that a broker price opinion or comparative market analysis prepared for any purpose other than as part of a purchase or sales transaction or for a state or federally regulated institution where an appraisal is not required under federal law is an appraisal and may only be prepared by a licensed or certified appraiser. A copy of the Advisory Opinion is available at <http://www.njconsumeraffairs.gov/real/realbpo.pdf>.*

## New Mexico

Summary:      **Broad**

### § 61-30-10 (as amended by SB 205, effective June 14, 2013)

E. The requirement of registration, licensing or certification shall not apply to a qualifying or associate broker, as defined under the provisions of Chapter 61, Article 29 NMSA 1978, who gives an opinion of the price of real estate for the purpose of marketing, selling, purchasing, leasing or exchanging such real estate or any interest therein or for the purpose of providing a financial institution with a collateral assessment of any real estate in which the financial institution has an existing or potential security interest. The opinion of the price shall not be referred to or construed as an appraisal or appraisal report and shall not be used as the primary basis to determine the value of real estate for the purpose of loan origination.

### 16.62.1 NMAC (Effective June 1, 2015)

**DEFINITIONS:** The following rules and regulations are for the purpose of implementing the provisions of the New Mexico Real Estate Appraisers Act.

B. Terms starting with the letter 'B' are defined as follows: "Broker price opinion" means: an opinion by a qualifying or associate broker of the price of real estate for the purpose of marketing, selling, purchasing, leasing or exchanging the real estate or any interest therein or for the purposes of providing a financial institution with a collateral assessment of any real estate in which the financial institution has an existing or potential security interest; provided that the opinion of the price shall not be referred to or construed as an appraisal or appraisal report and shall not be used as the primary basis to determine the value of real estate for the purpose of loan origination.

**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** – § 93A-82, 93A-83, 93E-1-3, 93E-1-12, 21 NCAC 58A.2201-2202

Summary:      **Broad**

New Law (as added by SB 521, effective October 1, 2012)

**§ 93A-82. Definitions.**

As used in this Article, the terms "broker price opinion" and "comparative market analysis" mean an estimate prepared by a licensed real estate broker that details the probable selling price or leasing price of a particular parcel of or interest in property and provides a varying level of detail about the property's condition, market, and neighborhood, and information on comparable properties, but does not include an automated valuation model.

**§ 93A-83. Broker price opinions and comparative market analyses for a fee.**

(a) Authorized. – A person licensed under this Chapter, other than a provisional broker, may prepare a broker price opinion or comparative market analysis and charge and collect a fee for the opinion if:

- (1) The license of that licensee is active and in good standing; and
- (2) The broker price opinion or comparative market analysis meets the requirements of subsection (c) of this section.
- (3) The requirements of this Article shall not apply to any broker price opinion or comparative market analysis performed by a licensee for no fee or consideration.

(b) For Whom Opinion May Be Prepared. – Notwithstanding any provision to the contrary, a person licensed under this Chapter may prepare a broker price opinion or comparative market analysis for any of the following:

- (1) An existing or potential seller of a parcel of real property.
- (2) An existing or potential buyer of a parcel of real property.
- (3) An existing or potential lessor of a parcel of or interest in real property.
- (4) An existing or potential lessee of a parcel of or interest in real property.
- (5) A third party making decisions or performing due diligence related to the potential listing, offering, sale, option, lease, or acquisition price of a parcel of or interest in real property.
- (6) 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 or interest in property, for a mortgage loan origination, including first and second mortgages, refinances, or equity lines of credit.
- (7) The provisions of this subsection do not preclude the preparation of a broker price opinion or comparative market analysis to be used in conjunction with or in addition to an appraisal.

(c) Required Contents of a Broker Price Opinion or Comparative Market Analysis. – A broker price opinion or comparative market analysis shall be in writing and conform to the standards provided in this Article that shall include, but are not limited to, the following:

- (1) A statement of the intended purpose of the broker price opinion or comparative market analysis.
- (2) A brief description of the subject property and property interest to be priced.
- (3) The basis of reasoning used to reach the conclusion of the price, including the applicable market data or capitalization computation.
- (4) Any assumptions or limiting conditions.
- (5) A disclosure of any existing or contemplated interest of the broker issuing the broker price opinion, including the possibility of representing the landlord/tenant or seller/buyer.
- (6) The effective date of the broker price opinion.
- (7) The name and signature of the broker issuing the broker price opinion and broker license number.
- (8) The name of the real estate brokerage firm for which the broker is acting.
- (9) The signature date.
- (10) 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 shall be obtained. This opinion may not be used by any party as the primary basis to determine the value of a parcel of or interest in real property for a mortgage loan origination, including first and second mortgages, refinances, or equity lines of credit."
- (11) A copy of the assignment request for the broker price opinion or comparative market analysis.

(d) Rules. – The North Carolina Real Estate Commission shall have the power to adopt rules that are not inconsistent with the provisions in this Article.

(e) Additional Requirements for Electronic or Form Submission. – In addition to the requirement of subsection (c) of this section, if a broker price opinion is submitted electronically or on a form supplied by the requesting party, the following provisions apply:

- (1) A signature required by subdivision (7) of subsection (c) of this section may be an electronic signature, as defined in G.S. 47-16.2.
- (2) A signature required by subdivision (7) of subsection (c) of this section and the disclaimer required by subdivision (10) of subsection (c) of this section 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 form supplied by the requesting party shall do the following:
  - a. Reference the existence of a separate attachment.
  - b. Include a statement that the broker price opinion or comparative market analysis is not complete without the attachment.

(f) Restrictions. – Notwithstanding any provisions to the contrary, a person licensed pursuant to this Chapter may not knowingly prepare a broker price opinion or comparative market analysis for any purpose in lieu of an appraisal when an appraisal is required by federal or State law. A broker price opinion or comparative market analysis that estimates the value of or worth a parcel of or interest in

real estate rather than sales or leasing price shall be deemed to be an appraisal and may not be prepared by a licensed broker under the authority of this Article, but may only be prepared by a duly licensed or certified appraiser, and shall meet the regulations adopted by the North Carolina Appraisal Board. A broker price opinion or comparative market analysis shall not under any circumstances be referred to as a valuation or appraisal.

(g) No Report of Predetermined Result. – A broker price opinion or comparative market analysis shall not include the reporting of a predetermined result."

**§ 93E-1-3.** When registration, license, or certificate not required.

(c) Nothing in this Chapter shall preclude a real estate broker licensed under Chapter 93A of the General Statutes from performing a broker price opinion or 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. appraiser, and provided they follow the standards set forth in Article 6 of Chapter 93A.

(f) A trainee registration, license, or certificate is not required under this Chapter for:

(6) A person who performs ad valorem tax appraisals and is certified by the Department of Revenue under G.S. 105-294 or G.S. 105-296; however, any person who is registered, licensed, or certified under this Chapter and who performs any of the activities set forth in subdivisions (1) through (5) of this subsection must comply with all of the provisions of this Chapter. The provisions of this Chapter shall not apply to certified real estate appraisers who perform a broker price opinion or comparative market analysis pursuant to G.S. 93E-1-3(c), as long as the appraiser is licensed as a real estate broker by the North Carolina Real Estate Commission and does not refer to himself or herself as an appraiser in the broker price opinion or comparative market analysis.

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. **§ 93E-1-4. Definitions.**

(7c) "Comparative market analysis" and "broker price opinion" mean 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 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. an estimate prepared by a licensed real estate broker that details the probable selling price or leasing price of a particular parcel of or interest in property and provides a varying level of detail about the property's condition, market, and neighborhood, and information on comparable properties, but does not include an automated valuation model.



**§ 93E-1-12**

**(e) No appraiser shall be disciplined for completing an appraisal that includes a reduced scope of work or reporting level as long as it is appropriate for the intended use and is performed in accordance with the Uniform Standards of Professional Appraisal Practice.**

**21 NCAC 58A.2201**

This Section applies to broker price opinions and comparative market analyses provided for a fee by a real estate broker whose license is not on provisional status pursuant to Article 6, Chapter 93A of the General Statutes.

**21 NCAC 58A.2202**

(a) A broker performing a broker price opinion or comparative market analysis for a fee shall comply with all the requirements in G.S. 93A-83 and in this Rule.

(b) A broker shall only accept an assignment to provide a broker price opinion or comparative market analysis for a property if the broker has knowledge of the real estate market, direct access to real estate market sales or leasing data, and brokerage or appraisal experience in the subject property's geographic location.

(c) A broker shall not provide a broker price opinion or comparative market analysis for a property unless the broker can exercise objective, independent judgment free of any influence from any interested party in the performance of his or her analysis of the facts relevant to determination of a probable selling or leasing price.

(d) A broker shall not provide a broker price opinion or comparative market analysis for a property unless the broker has personally inspected the exterior and interior of that property, provided, however, that an inspection of the exterior or interior is not required if this is waived in writing by the party for whom the opinion or analysis is being performed.

(e) When developing a broker price opinion or comparative market analysis for a property or interest therein, a broker shall utilize methodology such as analysis of sales or income of sold or leased properties comparable to the subject property or capitalization as is appropriate for the assignment and type of subject property.

(f) When analyzing sales or income of properties comparable to the property that is the subject of a broker price opinion or comparative market analysis assignment, a broker shall comply with the following standards:

(1) The broker shall select from reliable information sources a minimum of three sold or leased comparable properties for use in his or her analysis that are similar to the subject property with regard to characteristics such as property type, use, location, age, size, design, physical features, amenities, utility, property condition and conditions of sale. The comparable properties selected

shall reflect the prevailing factors or market conditions influencing the sale or lease prices of similar properties in the subject property's local market; and

(2) The broker shall make adjustments to the selling or leasing price of selected comparable properties for differences between the characteristics of the comparable properties and the subject property as necessary to produce a credible estimate of the probable selling or leasing price. Adjustments shall be considered for differences in property characteristics such as location, age, size, design, physical features, amenities, utility, condition, economic or functional obsolescence and conditions of sale. The amounts of adjustments shall reflect the values that the local real estate market places on the differences in the characteristics in question.

(g) A broker price opinion or comparative market analysis provided to the party for whom the opinion or analysis is being performed shall address, in addition to matters required to be addressed by G.S. 93A-83 and other provisions of this Rule, the following items:

(1) a description of the comparable properties used in the analysis (including any unsold properties listed for sale or rent that were used as comparable properties);

(2) the adjustments made to the selling or leasing prices of comparable properties;

(3) local real estate market conditions;

(4) if the date on which the sale or lease of a comparable property became final is more than six months prior to the effective date of the broker price opinion or comparative market analysis, an explanation of why the comparable property was used in the analysis and a description of the market conditions affecting the comparable property at the time the sale or lease became final; and

(5) each method used in deriving the estimate of probable selling or leasing price.

(h) In connection with a broker price opinion or comparative market analysis, an estimated probable leasing price may be reported by a broker as a lease rate and an estimated probable selling or leasing price may be reported by a broker either as a single figure or as a price range. When the estimated probable selling or leasing price is stated as a price range and the higher figure exceeds the lower figure by more than 10 percent, the broker shall include an explanation of why the higher figure exceeds the lower figure by more than 10 percent.

**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**

**Summary: Limited**

### O.R.S. § 674.100. Persons required to be certified or licensed; exclusions; violations

(3)(a) Real estate appraisal activity does not include an analysis, evaluation, opinion, conclusion, notation or compilation of data prepared by a financial institution or affiliate, a consumer finance company licensed under ORS chapter 725 or an insurance company or affiliate, made for internal use only by the financial institution or affiliate, consumer finance company or the insurance company or affiliate, concerning an interest in real estate for ownership or collateral purposes by the financial institution or affiliate, the consumer finance company licensed under ORS chapter 725 or the insurance company or affiliate. Nothing in this subsection shall be construed to excuse a financial institution or affiliate from complying with the provisions of Title XI of the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. 3310 et seq.).

(b) As used in this subsection, "evaluation" means a study of the nature, quality or utility of a parcel of real estate or interests in, or aspects of, real property in which a value estimate is not necessarily required.

### O.R.S. § 696.010, Definitions

(5) "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.

(9) "Letter opinion" has the meaning given that term in ORS 696.294.

### 696.294. Opinion letter

(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) The Real Estate Commissioner by rule shall specify the minimum contents of a letter opinion, including but not limited to the distinction between a letter opinion and a real estate appraisal.

OAR 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** – 63 P.S. § 455.201, 63 P.S. § 455.608c, 63 P.S. § 455.608f

Effective August 28, 2018

Summary:      **Broad**

63 P.S. § 455.201, Definitions

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

...

**“Broker price opinion.”** An estimate prepared by a broker, associate broker or salesperson that details the probable selling price of a particular parcel of real 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 as defined in section 1125(d) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ([Public Law 101-73](#), [12 U.S.C. 3354\(d\)](#)).

**“Comparative market analysis.”** A written analysis, opinion or conclusion by a broker, associate broker or salesperson relating to the probable sale or rental price of a specified parcel of real property in an identified real estate market at a specified time, which is prepared for any of the following:

- (1) An existing or potential seller, buyer, lessor or lessee of the parcel of real property.
- (2) A person making decisions or performing due diligence related to the potential listing, offering, sale, option, lease or acquisition price of the parcel of real property.

**“Short sale.”** A sale of real property in which the seller's proceeds are less than the amount required to pay off all liens secured by the property.

63 P.S. § 455.608c, Comparative market analysis disclosure

(a) 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.*

(b) 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),<sup>1</sup> known as the “Real Estate Appraisers Certification Act.”

(c) Any fees charged for a comparative market analysis shall be paid to the broker.



63 P.S. § 455.608f, Broker price opinion

(a) A broker price opinion must contain the following statement displayed conspicuously and without change:

*This analysis has not been prepared 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.*

(b) A broker price opinion prepared in accordance with this act shall:

(1) Not be deemed to be an appraisal within the scope of the act of July 10, 1990 (P.L. 404, No. 98),<sup>1</sup> known as the "Real Estate Appraisers Certification Act," or a valuation of real estate for purposes of section 8(b)(1) of the act of February 2, 2012 (P.L. 30, No. 4),<sup>2</sup> known as the "Appraisal Management Company Registration Act."

(2) Be deemed to be a comparative market analysis for the purposes of the "Appraisal Management Company Registration Act."

(c) A broker price opinion must be signed manually or electronically by the person who prepared it and must contain all of the following information:

- (1) An identification of the intended users and intended uses of the broker price opinion, if known.
- (2) A brief description of the subject property and the property interest to be priced.
- (3) The basis for the conclusion as to the price, including applicable market data or capitalization computation.
- (4) Any assumption or limiting condition.
- (5) Any existing or contemplated interest of the licensee who prepared the broker price opinion.
- (6) The effective date of the broker price opinion and the date that the document is signed.
- (7) The real estate license number of the preparer.

(d) Any fees charged for a broker price opinion shall be paid to the broker.

(e) A broker price opinion may be prepared by a broker, associate broker or salesperson only for use in conjunction with:

- (1) a property owned by a lender after an unsuccessful sale at a foreclosure auction;
- (2) a modification of a first or junior mortgage or equity line of credit;
- (3) a short sale of a property; or
- (4) an evaluation or monitoring of a portfolio of properties.

(f) A broker price opinion may not be prepared by a broker, associate broker or salesperson for use:

- (1) as the basis to determine the value of a parcel of real property for a mortgage loan origination, including a first or junior mortgage, refinancing or equity line of credit; or

(2) in connection with:

- (i) an eminent domain proceeding;
- (ii) a Federal, State or local tax appeal;
- (iii) a bankruptcy or insolvency proceeding;
- (iv) an action or proceeding involving divorce or equitable distribution of property;
- (v) any other action or proceeding before a court of record; or
- (vi) the distribution of a decedent's estate.

(g) The provisions of this section shall not preclude the preparation of a broker price opinion to be used in conjunction with or in addition to an appraisal.

(h) A registered appraisal management company may recruit, engage and negotiate fees with a broker to prepare broker price opinions and may receive orders for and submit broker price opinions to clients.

(i) A broker, associate broker or salesperson may not prepare a broker price opinion, and a broker or associate broker may not sign a broker price opinion under subsection (j), unless the broker, associate broker or salesperson:

- (1) has satisfied the requirements prescribed by the rules of the commission to obtain education in the preparation of broker price opinions; and
- (2) has completed at least three hours of continuing education during the current or immediately preceding two-year license period in broker price opinion topics prescribed by the rules of the commission.

(j) In addition to the requirements under subsection (i), a salesperson may not prepare a broker price opinion unless the salesperson has held an active license for the three years immediately preceding the effective date of the broker price opinion. A broker price opinion prepared by a salesperson must be signed by the broker or an associate broker designated by the broker in addition to the salesperson.

(k) In order to facilitate the prompt implementation of this section, regulations promulgated by the commission shall be deemed temporary regulations which shall expire no later than three years following the effective date of this section. The commission may promulgate temporary regulations which shall not be subject to:

- (1) Sections 201, 202 and 203 of the act of July 31, 1968 (P.L. 769, No. 240),<sup>3</sup> referred to as the "Commonwealth Documents Law."
- (2) The act of June 25, 1982 (P.L. 633, No. 181),<sup>4</sup> known as the "Regulatory Review Act."

(l) The authority provided to the commission to adopt temporary regulations under subsection (k) shall expire three years from the effective date of this section. Regulations adopted after that date shall be promulgated as provided by law.

**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.

**11-4-11:27. 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** – 36-21A-3, 36-21A-6, 36-21A-12, 36-21B-8

Summary:       **Unlimited**

**36-21A-3.** For the purposes of this chapter, an appraisal is the act or process of developing an opinion of the value of real estate for another and for compensation.

New Law (as amended by SB 64 effective July 1, 2013)

**36-21A-6.** For the purposes of this chapter, a broker or a real estate broker is any person who does any of the following:

(8) Appraises, offers, attempts or agrees to appraise real property unless licensed or certified to appraise under some other provision of South Dakota law. Any person performing an appraisal pursuant to this subdivision shall comply with the uniform standards established by the secretary pursuant to

(9) For another and for compensation or consideration or with the intention or expectation of receiving compensation or consideration, directly or indirectly, prepares or offer to prepare a broker price opinion or a comparative market analysis.

New Law (as amended by SB 66, effective July 1, 2013)

**36-21A-12.** For the purposes of this chapter, a real estate salesperson is any person who for compensation or consideration is associated with a real-estate responsible broker, to sell or offer to sell, or to buy or offer to buy, or to negotiate the purchase, sale, lease, rental, or exchange of real property, or of the property's improvements, or any business opportunity or business, or its goodwill, inventory, or fixtures, or any interest therein, or to sell or offer to sell, or to buy or offer to buy, or to negotiate the purchase, sale, lease, rental, or exchange of a mobile or manufactured home which has been registered under the provisions of chapters 32-3 to 32-5B, inclusive. A salesperson may give opinions of value perform a broker price opinion or comparative market analysis for purposes of purchase, sale, lease, rental, or exchange of real property.

**36-21A-12.2. Broker price opinion and comparative market analysis defined**

For the purposes of this chapter, the terms, broker price opinion and comparative market analysis, mean an estimate prepared by a licensed broker or salesperson that details the probable selling price or leasing price of a particular parcel of or interest in real property and provides a varying level of detail about the property's condition, market and neighborhood, and information on comparable properties, but does not include an automated valuation model. A broker price opinion or a comparative market analysis is not an appraisal.

**36-21B-8**

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;

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 1101.02, Occupations Code, and 22 TAC 535.17

Summary:      **Broad**

1101.02, Occupations Code

(1) "Broker":

(A) means a person who, in exchange for a commission or other valuable consideration or with the expectation of receiving a commission or other valuable consideration, performs for another person one of the following acts:

(xi) provides a written analysis, opinion, or conclusion relating to the estimated price of real property if the analysis, opinion, or conclusion:

(a) is not referred to as an appraisal;

(b) is provided in the ordinary course of the person's business; and

(c) is related to the actual or potential management, acquisition, disposition, or encumbrance of an interest in real property; and

22 TAC 535.17 Broker Price Opinion or Comparative Market Analysis

(a) A real estate licensee may not perform an appraisal of real property unless the licensee is licensed or certified under Texas Occupations Code, Chapter 1103.

(b) If a real estate licensee, provides a broker price opinion or comparative market analysis under §1101.002(1)(A)(xi) of the Act, 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 A BROKER PRICE OPINION 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."

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

(d) A salesperson may prepare, sign, and present a broker price opinion or comparative market analysis for the salesperson's sponsoring broker, but the salesperson must submit the broker price opinion or comparative market analysis in the broker's name and the broker is responsible for it.



**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.

**Virgin Islands**

Summary:      **Broad**

**27 V.I.C. § 449 - Prohibitions; penalties**

(c) This chapter shall not apply to:

(2) a real estate salesman or broker licensed in accordance with Title 27, Virgin Islands Code, 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;

**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 broker's price opinion of 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

Summary:      **Broad**

New Law (Effective July 1, 2012)

### **33-28-102. Definitions.**

(b) As used in this act:

(xiv) "Real estate activity" occurs when an individual for another and for compensation performs any one or more of the following:

(M) Assists or directs in the negotiation of any transaction calculated or intended to result in the sale, exchange, lease or rental of real estate; ~~or~~

(N) Deals in time shares; ~~or~~

(O) Provides a broker's price opinion as provided in W.S. 33-28-125.

(ixii) "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;

~~(ixii)~~

### **33-28-125. Broker's price opinions.**

(a) A licensee may prepare a broker's price opinion:

(i) To a potential seller or third party, recommending a listing price of real estate;

(ii) To a potential buyer or third party, recommending a purchase price of real estate; or

(iii) To any third party, for any purpose permitted by law.

(b) Every printed or electronic broker's price opinion prepared as provided in subsection (a) of this section shall include the statement: "This is an opinion of price and is not a certified appraisal of the market value of the property. If such an appraisal is desired, the service of a certified appraiser must be obtained."

### **33-39-103. Exemptions.**

(a) Except as provided in subsection (b) of this section, this act does not apply to any person who does not hold himself out as, or offer to perform services as, a certified real estate appraiser.

(b) Any licensed real estate licensee shall only provide an opinion as to the price of real estate as provided in W.S. 33-28-125.