

## **State Carve-Outs to Allow Appraisers to Provide Evaluations**

To level the playing field between appraisers and non-appraisers, some states have adopted, and fully implemented, laws that clarify that appraisers are permitted to perform non-USPAP compliant evaluations for federally regulated financial institutions.

Fourteen states – AL, CT, FL, GA, IL, IN, LA, MN, OR, SD, TN, TX, UT, and VA - have changed their state law to allow state-licensed and state-certified appraisers to perform evaluations in accordance only with the IAEG.

### **Alabama**

Alabama law allows state-licensed appraisers to perform evaluations for federally regulated financial institutions.

#### **§ 34-27A-2, “Definitions”**

(13) EVALUATION. A valuation of real property for a lending institution which is permitted by rules of any federal financial institution regulatory agency for transactions that do not require an appraisal.

#### **§ 34-27A-3. (License required for certain acts; unlawful behavior; violations; assistance with appraisal; evaluations**

(c) 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. ***This chapter also does not apply to a licensed real estate appraiser when preparing an evaluation for a mortgage loan transaction when a financial institution has determined that an appraisal is not required*** or 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. This chapter also does 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.

...

(f)(1) Notwithstanding anything to the contrary in this chapter, a person licensed pursuant to this chapter may perform an evaluation for a financial institution as authorized by federal law.

(2) When performing an evaluation, a person licensed pursuant to this chapter shall not be subject to any provision of this chapter except as provided in this subsection.

(3) The evaluation shall contain a statement that “This is not an appraisal.”

(4) This chapter does not otherwise apply to an evaluation.

(5) Evaluations shall be governed by federal law and rules of federal financial institution regulatory agencies and not the board.

**§ 34-27A-23. Compliance with Uniform Standards of Professional Appraisal Practice.**

A licensed real estate appraiser shall comply with the current Uniform Standards of Professional Appraisal Practice approved by the board ***except when performing an evaluation as defined in this chapter and in the Interagency Appraisal and Evaluation Guidelines published by the federal financial institution regulatory agencies on December 2, 2010, for lending transactions where the amount of the transaction is de minimus and the lending institution has determined that an appraisal is not required, as these guidelines may be amended from time to time or as otherwise provide by federal law.***

**Connecticut – NEW – Effective 9/30/2021**

**Sec. 20-504-2. Standards for the performance of appraisals, content of appraisals and conduct of appraisers**

Every appraiser shall, in performing the acts and services of a real estate appraiser, real estate review appraiser or real estate consultant, conform to the following minimum standards:

(1) The [Uniform Standards of Professional Appraisal Practice (USPAP)] USPAP [adopted by the Appraisal Standards Board of The Appraisal Foundation] in effect at the time the services are performed. A copy of the [The Uniform Standards of Professional Appraisal Practice (USPAP)] USPAP book is available for inspection at the main office of the Department of Consumer Protection during regular business hours. Alternatively, copies may be obtained from [The] the Appraisal Foundation located in Washington, D.C. or from [The] the Appraisal Foundation's website at <http://www.appraisalfoundation.org>.

(2) An appraiser who wishes to enter in or upon any premises or real estate not the subject of appraisal for the purpose of estimating comparable real estate shall obtain permission to enter from the owner or occupier of the premises or real estate, and shall identify himself as an appraiser; [and]

(3) Each appraisal[,] or appraisal review [or consulting report] shall include for each appraiser signing such report: the appraiser's name either printed or typed, the category of licensure held, and license number, the state of issuance and the expiration date of the license[.]; and,

**(4) Pursuant to the rules under Title XI of FIRREA, when an Evaluation of Real Property Collateral is required in lieu of an appraisal, a Connecticut certified appraiser may perform such Evaluation outside the scope of the USPAP by following Section XII (Evaluation Development) and Section XIII (Evaluation Content) of the Interagency Appraisal and Evaluation Guidelines as published in the Federal Register (Vol. 75, No. 237) on December 10, 2010.**

## Florida

The following two provisions were enacted by the Florida legislature in 2017 as part of HB 927:

### 475.611(q)

*“Evaluation” means a valuation permitted by any federal financial institutions regulatory agency appraisal regulations for transactions that do not require an appraisal, as such valuations qualify for an applicable exemption under federal law. The board shall adopt rules, as necessary, to define the term “evaluation” and the applicable exemptions under federal law.*

### 475.612(7)

*“Notwithstanding any other provision of law, an appraiser may perform an evaluation of real property in connection with a real estate-related financial transaction, as defined by rule of the board, which is regulated by a federal financial institutions regulatory agency. The appraiser shall comply with the standards for evaluations imposed by the federal financial institutions regulatory agency and other standards as prescribed by the board. However, an evaluation may not be referred to or construed as an appraisal.”*

## Georgia

Classified appraisers in Georgia are permitted to provide “evaluation appraisals” and are not required to comply with USPAP when providing those services. An “evaluation appraisal” is defined as an opinion of value that is consistent with the IAEG. A classified appraiser performing an evaluation appraisal must comply with the “Standards for Developing and Reporting an Evaluation Appraisal” which are consistent with the requirements for evaluations in the IAEG.

See <http://rules.sos.ga.gov/gac/539-3?urlRedirected=yes&data=admin&lookingfor=539-3>

## Illinois

The Illinois Real Estate Appraiser Licensing Act contains the following provision:

### **458/5-5. Necessity of license; use of title; exemptions**

g) This Act does not apply to an employee, officer, director, or member of a credit or loan committee of a financial institution or any other person engaged by a financial institution when performing an evaluation of real property for the sole use of the financial institution in a transaction for which the financial institution would not be required to use the services of a State licensed or State certified appraiser pursuant to federal regulations adopted under Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989, nor does this Act apply to the procurement of an automated valuation model.

“Automated valuation model” means an automated system that is used to derive a property value through the use of publicly available property records and various analytic methodologies such as comparable sales prices, home characteristics, and historical home price appreciations.

Guidance issued by the Illinois Department of Financial and Professional Regulation (IDFPR) has issued guidance regarding “Evaluations in Illinois” (see attached) which clarifies that:

- 1) Evaluation are not regulated by IDFPR
- 2) An Illinois licensed, or certified, appraiser is not precluded from performing an evaluation
- 3) An evaluation must not comply with USPAP
- 4) IDFPR does not have guidelines of its own for evaluations.
- 5) Referencing a state appraiser license # on an evaluation is prohibited.
- 6) Appraisers performing evaluations are permitted to reference their appraiser qualifications when performing an appraisal and may reference appraisal-related professional designations.

### **Indiana**

Indiana law (**25-34.1-3-2**) states that no provision of the Indiana appraiser licensing law applies to:

*(13) the performance of an evaluation of real property by an employee, an officer, a director, or a member of a credit or loan committee of a financial institution, **or by any other person engaged by a financial institution**, in a transaction for which the financial institution would not be required to use the services of a state licensed appraiser under regulations adopted under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ([12 U.S.C. 3331 et seq.](#)).*

### **Louisiana**

Louisiana Gov. John Bel Edwards on May 30 signed [HB 340](#), legislation that allows appraisers in the state to provide evaluations for federally insured depository institutions. The law takes effect Aug. 1, 2019.

The legislation states that appraisers are not prohibited by the state's appraiser licensing law from providing evaluations to federally regulated institutions in accordance with "federal law, regulation or the guidance for evaluations established by the federal financial institutions regulatory agency of the depository institution."

#### **§3410. Standards for the development and communication of real estate appraisals**

(2) Nothing in this Chapter shall prohibit a licensed real estate appraiser from performing an evaluation of real property for a federally insured depository institution if the evaluation is permitted by either federal law, regulation, or the guidelines for evaluations established by the federal financial institutions regulatory agency of the depository institution

### **Minnesota (Effective August 1, 2021)**

#### **82B.021, Subd. 14a. Evaluation.**

"Evaluation" means an estimate of the value of real property, made in accordance with the Interagency Appraisal and Evaluation Guidelines provided to an entity regulated by a federal financial institution's regulatory agency, for use in a real estate-related financial transaction for which an appraisal is not required by federal law.

#### **82B.021, Subd. 16a. Interagency Appraisal and Evaluation Guidelines.**

"Interagency Appraisal and Evaluation Guidelines" means the appraisal and evaluation guidelines provided by a federal financial institution's regulatory agency, as provided by Federal Register, volume 75, page 77450 (2010), as amended.

**82B.03, Subd. 3. Evaluation.**

A licensed real estate appraiser may provide an evaluation. When providing an evaluation, a licensed real estate appraiser is not engaged in real estate appraisal activity and is not subject to this chapter. An evaluation by a licensed real estate appraiser under this subdivision must contain a disclosure that the evaluation is not an appraisal.

**82B.195, Subd. 5. Evaluation.**

When providing an evaluation, a licensed real estate appraiser is not required to comply with the Uniform Standards of Professional Appraisal Practice.

**Oregon**

Oregon Gov. Kate Brown signed [SB 109](#) on May 13, which allows state-licensed and state-certified appraisers to provide evaluations to financial institutions beginning January 1, 2020.

The new law clarifies that a person who is licensed or certified as an appraiser is not engaged in real estate appraisal activity when providing an evaluation that includes a required disclaimer and is not required to, but may choose to, comply with the Uniform Standards of Professional Appraisal Practice when providing evaluation services to financial institutions. Providing evaluations is not considered a real estate appraisal activity, and therefore appraisers are not subject to the jurisdiction of the Oregon Appraiser Certification and Licensure Board.

**674.100.**

(4)(a) A state licensed appraiser or state certified appraiser engaged to perform an evaluation is not engaged in real estate appraisal activity if the evaluation includes a disclaimer that: (A) Is located immediately above the appraiser's signature; and (B) Includes the following language in at least 10-point boldfaced type: "I am a state licensed appraiser or a state certified appraiser. This evaluation was not prepared in my capacity as a real estate appraiser and might not comply with the uniform standards of professional appraisal practice."

(b) As used in this subsection, "evaluation" means an opinion of the market value of real property or real estate provided to a financial institution in conformance with the Interagency Appraisal and Evaluation Guidelines adopted jointly by the federal financial institutions regulatory agencies for use in real estate-related financial transactions that do not require an appraisal.

**South Dakota**

**36-21B-13. Evaluation for federally insured depository institution.**

A certified, licensed, or registered appraiser may provide an evaluation of real estate for a federally insured depository institution if the evaluation is permitted by law, regulation, or regulatory guidance. Any evaluation by an appraiser must be conducted in accordance with federal and state laws and rules, regulatory guidelines, and the most current appraisal and evaluation guidelines established for federally insured depository institutions by one or more federal financial institution regulatory agency.

## Tennessee

Tennessee law states that:

*(d)(1) This chapter does not apply to any evaluation of the value of real estate serving as collateral for a loan made by a federally regulated financial institution or to any evaluation of the value of the assets of a trust held by the institution; provided, that:*

*(A) The applicable federal regulator does not require an appraisal by a state-licensed or state-certified appraiser for the loan or trust;*

*(B) The evaluation is used solely by the financial institutions in their records to document the collateral or asset value;*

*(C) The evaluation shall be labeled on its face “this is not an appraisal”; and*

*(D) Individuals performing these evaluations may be compensated for their services.*

*(2) Nothing in this chapter shall prevent a state-licensed or state-certified appraiser from performing the evaluation.*

A 2010 Attorney General Opinion (10-25) contains the following clarification of Tennessee law:

*“An evaluation of the value of real property...is not an “appraisal” or “appraisal report” because it is expressly exempted... so long as it is used for the limited purposes...and is labeled as “not an appraisal” .... If such an evaluation is not limited in its use ... then it would constitute an “opinion of value” and qualify as an “appraisal” and “appraisal report””*

*“When read together, these two sections clarify when the USPAP and other appraisal standards are applicable to work performed by an appraiser. The standards apply to all appraisals except for...evaluations.”*

In April 2018, the Tennessee Real Estate Appraiser Commission published a Q & A focused on real estate evaluations performed by state-licensed and state-certified appraisers.

The publication clarifies that evaluations performed by licensed and certified appraisers are not required to comply with USPAP, and that an appraiser performing an evaluation is permitted to reference their credentials, including a state appraiser license or certification number and appraisal-related professional designations.

The Q & A also states that evaluations performed by appraisers do not fall within the regulatory purview of the Real Estate Appraiser Commission and they must include a disclaimer stating, “This is not an appraisal.”

Tennessee law allows state-licensed or state-certified appraisers to perform an evaluation for federally regulated financial institutions when a USPAP-compliant appraisal is not required by federal law.

Read the [Tennessee Department of Commerce & Insurance Q&A](#).

## Texas

**Section 1103.003, Occupations Code**

(6-c) "Federally regulated financial institution" means:

- (A) a depository institution as defined by Section 3, Federal Deposit Insurance Act (12 U.S.C. Section 1813) or a subsidiary of a depository institution; or
- (B) a federal credit union or a state credit union as defined by Section 101, Federal Credit Union Act (12 U.S.C. Section 1752), a subsidiary of a credit union, or a credit union service organization.

(7-a) "Non-bank financial institution" means:

- (A) a residential mortgage loan company licensed under Chapter 156, Finance Code;
- (B) a mortgage banker regulated under Chapter 157, Finance Code; or
- (C) a regulated lender licensed under Chapter 342, Finance Code.

**Section 1103.004, Occupations Code, APPLICABILITY OF CHAPTER.**

This chapter does not apply to:

(1) a person who is authorized by law to perform an evaluation of real property for or to provide an evaluation of real property to another person;

(2) a real estate broker licensed under Chapter 1101 or a sales agent acting under the authority of a sponsoring broker who provides to another person 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 given in the ordinary course of the broker's business; and
- (C) is related to the actual or potential acquisition, disposition, encumbrance, or management of an interest in real property;

(3) an appraiser certified by a jurisdiction other than this state who performs an appraisal review of an appraisal performed on real property in this state, if the appraiser does not offer an opinion of value as part of the appraisal review;

(4) an employee of a federally regulated financial institution or any other person engaged by the institution who performs an evaluation of real property for use by the institution in a transaction for which the institution is not required to use the services of a licensed or certified appraiser under federal regulations adopted under Title XI, Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. Section 1833e) or under applicable state law;

(5) an employee of a non-bank financial institution or any other person engaged by the institution who provides an analysis, assessment, opinion, conclusion, notation, or compilation of data concerning the value of an interest in real property for use by the institution; or

(6) the procurement or use of an automated valuation model.

**Section 1103.405, Occupations Code, PROFESSIONAL STANDARDS.**

(a) Except as provided by Subsection (b), a person who holds a certificate, license, or registration issued under this chapter shall comply with:

(1) the most current edition of the Uniform Standards of Professional Appraisal Practice adopted by the Appraisal Standards Board of the Appraisal Foundation; or

(2) other standards provided by board rule that are at least as stringent as the Uniform Standards of Professional Appraisal Practice.

(b) A certified or licensed appraiser is not required to comply with the standards described by Subsection (a) to provide:

(1) an evaluation of real property described by Section 1103.004(4); or

(2) an analysis, assessment, opinion, conclusion, notation, or compilation of data concerning the value of an interest in real property described by Section 1103.004(5) for use by a non-bank financial institution.

(c) A document provided under Section 1103.004(4) or (5) must contain on the first page of the document the following notice: "This is not an appraisal performed in accordance with the Uniform Standards of Professional Appraisal Practice."

**Utah**

Appraisers in Utah can perform evaluations. However, an appraiser must comply with USPAP's Ethics, Competency, Recordkeeping, and Scope of Work Rules.

**§ 61-2g-102. Definitions**

(l) "Evaluation" means an opinion on the market value of real property or real estate that:

(i) is made in accordance with the Interagency Appraisal and Evaluation Guidelines; and

(ii) is provided to a financial institution for use in a real estate related transaction for which the regulations of the federal financial institutions regulatory agencies do not require an appraisal.

**§ 61-2g-205. Duties of board**

(c)(i) The board may by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and Section 61-2g-403, and with the concurrence of the division, provide for an exemption from a provision of the Uniform Standards of Professional Appraisal Practice for:

(A) an activity engaged in on behalf of a governmental entity; or

(B) the act of an individual licensed or certified in accordance with this chapter providing an evaluation.

(ii) In providing an exemption as described in Subsection (5)(c)(i)(B), the board may not exempt an individual from the following provisions of the Uniform Standards of Professional Appraisal Practice:

- (A) the Ethics Rule;
- (B) the Record Keeping Rule;
- (C) the Competency Rule; and
- (D) the Scope of Work Rule.

**§ 61–2g–301. License or certification required**

(5) Subject to rules made in accordance with Section 61–2g–205, a person licensed or certified under this chapter may provide an evaluation.

**Virginia**

Virginia state-licensed and certified appraisers are permitted to provide evaluations for financial institutions in accordance only with the IAEG. An evaluation prepared by an appraiser must contain a disclaimer.

Virginia law (**§ 54.1-2010**) states that no provision of the Virginia appraiser licensing law applies to:

*5. Any person, including (i) a licensed residential real estate appraiser, certified residential real estate appraiser, or certified general real estate appraiser or (ii) an employee of a financial institution or lender, who provides an evaluation of real estate or real property in connection with a real estate-related financial transaction where an appraisal by a state-certified or state-licensed appraiser is not required by the state or federal financial institution's regulatory agency engaging in, contracting for or regulating such real estate-related financial transaction or regulating the financial institution or lender engaged in or about to engage in such real estate-related financial transaction. The evaluations provided by such persons shall comply with any standards imposed by the state or federal financial institution's or lender's regulatory agencies for evaluations prepared by nonstate-certified or nonstate-licensed appraisers.*

An evaluation is defined in **§ 54.1-2009** as:

*“An opinion of the market value of real property or real estate that may be utilized in connection with a real estate-related financial transaction where an appraisal by a state-certified or state-licensed appraiser is not required by the state or federal financial institution's regulatory agency engaging in, contracting for, or regulating such real estate-related financial transaction or regulating the financial institution or lender engaged in or about to engage in such real estate-related financial transaction. An evaluation is limited in its scope and development to the requirements for evaluations as set forth in the Interagency Appraisal and Evaluation Guidelines promulgated by the Office of the Comptroller of the Currency et al. (75 F.R. 77450).*

**Section 54.1-2017.1** requires that:

*A. Any evaluation, as defined in [§ 54.1-2009](#), shall contain the statement: “This is not an appraisal performed in accordance with the Uniform Standards of Professional Appraisal Practice.”*

*B. The evaluation report may be prepared in any reporting format, provided that (i) the reporting format meets the requirements as set forth in the [Interagency Appraisal and Evaluation Guidelines promulgated by the Office of the Comptroller of the Currency et al. \(75 F.R. 77450\)](#) and (ii) the evaluation report contains sufficient information in clear and understandable language to allow a person to understand the opinion of the market value of real property or real estate.*