

Advisory Bulletin



Hawai'i Association of REALTORS®
May 18, 2009

Hawai'i's Appraisal Rules for Real Estate Brokers and Salespersons

A Broker Price Opinion (BPO) is performed for a lending institution, mortgage broker, or an asset manager instead of for a home buyer or seller. With the state of the economies, late payments and defaults are on the rise, requiring more BPOs and appraisers on foreclosed properties.

BPOs require as little as some field work and gathering some comps on a property, but they can also require more investigation and some out of pocket expenses. Generally, a lending institution, mortgage broker, or an asset manager may call for a BPO in lieu of asking an appraiser to do an appraisal or in addition to an appraisal.

Rules and laws regulating appraisers are covered in Hawai'i Revised Statutes §466K and Hawai'i Administrative Rules §16-114. Although several amendments to the rules were enacted in January 2009, applicable rules regarding BPOs have not changed.

Hawai'i Administrative Rules

§16-114-74 Nonapplicability to real estate brokers or real estate salespersons.

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

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

Pursuant to §16-114-73, requirements under this part only applies to appraisers in real-estate financial transactions where the value of property is below levels established by FDIC and other government agencies. This part does not apply to real estate brokers or salespersons nor does it exempt them.

§16-114-73 **Real estate-related financial transactions not requiring appraisal by a licensed or certified appraiser.** An appraisal performed by a state licensed or certified appraiser is not required for any real estate-related financial transaction in which:

- (1) The transaction value is at or below the de minimus level established by a federal financial institutions regulatory agency;
- (2) The services of a state licensed or certified appraiser are not required by a federal financial institutions regulatory agency.

According to the Hawai'i Real Estate Appraisal division, they consider that if a real estate broker or salesperson is performing a BPO that is not related to a 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 receiving compensation other than the normal brokerage fee rendered in connection with the sale of the property, they may be performing an appraisal without a license.

Should you have any questions or concerns about this advisory bulletin, please call the Real Estate Appraisal division at (808) 586-2701 or Myoung Oh at the Hawai'i Association of REALTORS® at (808) 733-7060 ext. 104.