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# HOT TOPIC ALERT

Prepared for NAR by Legal Research Center, Inc.

## Broker Price Opinions

Different real estate valuation products are needed in different situations. REALTORS® are often asked to provide a comparative market analysis prior to listing a property, typically as a complimentary service to the client. Obtaining a mortgage to buy a property requires an appraisal, which is typically paid for by the home buyer. And then there are other situations in which an owner or a financial institution requires a professional estimate of property value but not a full appraisal. This is called a Broker Price Opinion, or BPO. Institutional owners and lenders typically request a BPO for transactions such as foreclosure, short sale, or home equity loan, or for their REO listings. BPOs are prepared for a fee and real estate brokers may offer BPO services as an additional revenue source.

In almost every U.S. jurisdiction, real estate brokers are allowed to give opinions about the price of real estate without being licensed as appraisers (for a list of valuation products, see table 1). Mortgage lenders may order a specific type of valuation method for borrowers before the loan is approved. It is important to know state laws and/or federal regulations prior to providing any valuation service.

Broker price opinions are defined by federal law (12 U.S.C. § 3355, enacted as a part of the Dodd-Frank Wall Street Reform and Consumer Protection Act) as

*an estimate prepared by a real estate broker, agent, or sales person 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 . . .*

The definition in the law is broad. BPOs are not an estimation of a property's value by a neighbor or long-time resident of the community. The operative term defined in the federal law, however, is "prepared." Broker price opinions are more than just off-the-cuff "guesstimates" of selling prices—they are carefully prepared analyses.

There are two main types of opinions regarding the price of property that are prepared by real estate brokers or agents. A BPO looks at the characteristics of the property itself, and is an opinion on the price that could probably be received if the property were sold in a regular arms-length transaction. The laws in some states do not distinguish broker price opinions from comparative market analyses. A [comparative market analysis](#) looks at the prices obtained for comparable real estate in the same area. And the value is based on comparisons with similar properties.

Agents complete BPOs either through a drive-by or internal viewing of the property. A drive-by BPO is more detailed than its name would imply, and involves estimates of a number of things about the property, including the number of rooms, room sizes, and square footage. An internal BPO requires all of the information in a BPO, plus verification of the number of rooms and measurements of the square footage. Photographs of the interior of the property are also required.

In most states, "allowing" broker price opinions merely means that the state does not prohibit BPOs. In thirty-eight jurisdictions, there is minimal state regulation of BPOs beyond a distinction that real estate brokers are exempt from the laws requiring licensure as an appraiser. Additionally no training is required beyond the normal educational requirements for a real estate license. A real estate

**Table 1. Valuation Products**

An **Appraisal** is an opinion of value performed by a professional state-licensed or -certified appraiser. It complies with the *Uniform Standards of Professional Appraisal Practice (USPAP)*, which requires appraisers to be independent, objective, and impartial. An appraiser must remain unbiased and produce an opinion of value that is credible, or worthy of belief. An appraisal by a competent professional appraiser is the most reliable of all valuation products.

An **Automated Valuation Model (AVM)** is a computer-generated estimate of a property's value that a lender might use in some circumstances to assist in evaluating the collateral for a mortgage. The output of an AVM is heavily dependent on the quantity and quality of the data input. With proper use, an AVM can help support the findings of an appraisal, but when used alone its output may not be credible.

A **Broker Price Opinion (BPO)** is typically prepared by a real estate broker and is another tool a lender might use to evaluate the collateral for a loan. A BPO, as originally intended, does not comply with USPAP, and real estate brokers are not obligated to comply with USPAP and its corresponding appraiser independence requirements. BPOs were designed for brokers to assist home buyers and sellers in arriving at a list or purchase price.

A **Comparative Market Analysis (CMA)** is similar to a BPO and is commonly prepared by a real estate agent to help decide on an asking or offering price. Like a BPO, a CMA does not comply with USPAP and real estate agents are not required to comply with USPAP.

Defined by the Appraisal Foundation:  
[www.appraisalfoundation.org](http://www.appraisalfoundation.org)

broker or salesperson is not required to get any certification or governmental approval before issuing a BPO.

The standards for a BPO are also defined less clearly than the standards for an appraisal. BPOs and comparative market analyses are not appraisals. The [National Association of Broker Price Opinion Professionals](#) (NABPOP), a professional trade association of real estate brokers and agents who perform professional BPOs, has established [standards](#) for its members to follow, but those standards are not legally binding. Real estate professionals who are licensed as both a broker and an appraiser face the additional concern of whether any BPOs performed will have to conform to the Uniform Standards of Professional Appraisal Practice (USPAP).

According to the [Appraisal Standards Board](#), the answer depends on how the person performing the BPO presents him/herself to the client. If a client contacts a

*BPOs are common in refinance transactions. They are also often ordered for properties about to go into foreclosure.*

*The [National Association of Broker Price Opinion Professionals](#) talks about another scenario in which a Wall Street investment firm buys a portfolio of home loans as an investment and then orders BPOs on all of the properties.*

*One of the attractions of BPOs for lenders is that they are far less expensive than other valuation methods such as an appraisal.*

*In many communities, a BPO may cost as little as \$40 per property. They also tend to be completed more quickly than appraisals.*

licensee to provide services as a real estate broker, the BPO is not subject to USPAP. If he/she is hired to act as an appraiser, then any report must be prepared according to USPAP. Theoretically this standard seems like it would be fairly easy to apply, but some states have different requirements. The California Bureau of Real Estate Appraisers, for example, has issued a [statement](#) that requires all opinions regarding value are appraisals regardless of the format used, and licensed appraisers must comply with USPAP.

There has been a movement in recent years towards greater regulation of BPOs. Greater regulation has not included requirements for certification or separate licensure, or detailed requirements that set a standard of practice for BPOs. Rather recent BPO state legislation has tended to make explicit the legal ability of brokers or agents to perform BPOs without being licensed as appraisers. One bill pending in the Illinois Legislature, [H 4709](#), would add to the definition of “broker” a person who prepares or provides price opinions or comparative market analyses of real estate.

In addition to the basic licensing issues, new legislation and laws give some attention to the content of BPOs, but the focus is on the format of the opinion presented to the customer. The laws enacted in 2011 in [Minnesota](#) and Mississippi, and the 2012 [North Carolina](#) law, all require that a BPO be in writing and explained. The opinion must also set out the “existing or contemplated interest” of the person issuing the opinion. Significantly, the statues also require that the opinion say explicitly that the opinion is not an appraisal. This last disclosure is important because an “appraisal” is required by federal law (the Financial Institutions Reform, Recovery and Enforcement Act, or FIRREA, PL 101-73) to originate a mortgage loan.

The legislative interest in regulating BPOs may have reached a plateau. In 2013, New Jersey Governor Chris Christie vetoed two bills that would have expanded the ability of real estate brokers to offer BPOs. In his [veto message](#) for [S 2551](#), dated August 19, 2013, the Governor stated that he thought that allowing broker price opinions would “introduce confusion” into the home-buying process “at a time when New Jersey’s residential home sales are rebounding”. A later, similar bill, [S 3058](#), passed both houses of the legislature unanimously, but was vetoed when the Governor failed to take action on the bill after the end of the session.

So far there has been minimal activity on BPO state legislation in 2014. The bills that have been introduced tend to address technical matters. The Illinois bill noted above adds an additional definition for the term “real estate broker.” A bill in Pennsylvania, [S 869](#), modifies the definition of “comparative market analysis” to include a written analysis, “which may be referred to as a comparative market analysis or a broker price opinion”. As of April 2014, neither the Illinois bill nor the Pennsylvania measures have moved significantly through the legislative process. At the same time, the 2014 legislative sessions in many states are meant to be short, often dealing principally with budget or fiscal issues, rather than policy matters. New legislatures in 2015 may show a willingness to address BPOs further.

For more information visit the NAR [State Issues Tracker](#) (member login required).

*The National Association of REALTORS® offers a [Broker Price Opinion Resource or BPOR certification](#) to advance education on the valuation process of real estate.*

**Contact for NAR Hot Topic Alerts or State Issues Tracker**

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