

ARTICLE 101-05

101-05-01-01. Statutory definitions.

Unless otherwise defined, or made inappropriate by context, all terms defined in North Dakota Century Code chapter 43-23.5.

History: Effective

General Authority: NDCC 43-23.5

Law Implemented: NDCC 43-23.5

101-05-01-02. Registration application requirements.

1. An applicant for registration as an appraisal management company and or an entity that is exempt from the registration requirements pursuant to North Dakota Century Code chapter 43-23.5 must submit a written application on the prescribed form. The application shall include the following information and certifications in addition to the requirements found in North Dakota Century Code chapter 43-23.5:
 - a. The name, business address, telephone number and email address of the person or entity seeking registration.
 - b. Designation of an agent for service of process within the state and an irrevocable uniform consent to service of process.
 - c. If the entity is not a corporation that is domiciled in this state, the name and contact information for the company's agent for service of process in this state.
 - d. The name, address and contact information for any individual or entity owning ten percent or more of the appraisal management company.
 - e. The name, address and contact information for an individual designated as the controlling person.

f. Name and contact information of each individual authorized by the appraisal management company to contract with clients or independent appraisers for performance of appraisals.

g. Certification that the controlling person had never been convicted of a criminal act involving moral turpitude nor had a license or certificate to act as an appraiser refused, revoked or surrendered in lieu of disciplinary action in any state.

h. Certification that the appraisal management company is not more than ten percent owned by an individual or entity that has had an appraiser license, certification or registration denied, revoked or suspended subject to a disciplinary proceeding in any state.

2. An application for registration must be accompanied by the registration fee plus the applicable national registry fee.

History: Effective

General Authority: NDCC 43-23.5

Law Implemented: NDCC 43-23.5

101-05-01-03. Term of registration.

The board shall issue a certificate of registration to an applicant who qualifies in accordance with this article. Any registration issued under this article expires on September 30 of each year, unless otherwise revoked or suspended during said term.

History: Effective:

General Authority: NDCC 43-23.5

Law Implemented: NDCC 43-23.5

101-05-01-04. Surety bond.

The applicant shall provide evidence of a surety bond with one or more corporate sureties authorized to do business in this state or an irrevocable letter of credit issued by an insured institution in the amount of twenty-five thousand dollars at the time of application.

1. The surety bond shall be conditioned that the applicant pays:

- a. All amounts owing to persons who perform real estate appraisal services for the appraisal management company.
 - b. All amounts adjudged against the appraisal management company by reason of negligent or improper real estate appraisal services or appraisal management services or breach of contract in performing real estate appraisal services or appraisal management services.
 - c. Amounts owed to the board for registry fees, federal fees, and any penalties due to the board.
2. The surety bond shall require the surety company to provide written notice to the board by registered or certified mail at least thirty days before the surety company cancels or revokes the bond, and within thirty days after the surety company pays for a loss under the bond.
3. The surety bond required by this section shall be continuously on file with the board in the amount of twenty-five thousand dollars and is for the exclusive purpose of payment of the obligations listed in paragraph 1 of this section. Upon termination or cancellation of the bond or reduction of the bond to less than twenty-five thousand dollars, a registered appraisal management company shall:
 - a. File a replacement bond within the time period established by the board by rule.
 - b. Surrender the company's registration to the board and cease operating as an appraisal management company.
4. Any person damaged by an appraisal management company's failure to pay an obligation listed in subparagraph 1 of this section has a right of action against the bond.
5. Termination or cancellation of the surety bond shall not terminate, cancel or limit the liability of the issuer of the surety bond or letter of credit for any and all claims against the

surety bond to satisfy a final order of a court of competent jurisdiction in an action that was commenced prior to the cancellation of the surety bond.

History: Effective:

General Authority: NDCC 43-23.5

Law Implemented: NDCC 43-23.5

101-05-01-05. Roster of appraisal management companies.

The board shall maintain a roster of appraisal management companies registered under the provisions of this article. The board shall transmit the roster to the appraisal subcommittee.

History: Effective:

General Authority: NDCC 43-23.5

Law Implemented: NDCC 43-23.5

101-05-01-06. Notice of change of address.

Each appraisal management company registered under the provisions of this article shall, within thirty calendar days, give written notice of any change of physical and mailing address, change of company name, telephone number, website, facsimile, or email address to the board office.

History: Effective:

General Authority: NDCC 43-23.5

Law Implemented: NDCC 43-23.5

101-05-01-07. Notice of change of designated officer.

Each appraisal management company registered under the provisions of this article shall, within five days, give written notice of change of designated officer of the appraisal management company to the board office.

History: Effective:

General Authority: NDCC 43-23.5

Law Implemented: NDCC 43-23.5

101-05-01-08. Notice of change of controlling person.

Each appraisal management company registered under the provisions of this article shall, within thirty calendar days, give written notice of change of controlling person of the appraisal management company to the secretary.

History: Effective:

General Authority: NDCC 43-23.5

Law Implemented: NDCC 43-23.5

101-05-01-09. Denial of registration.

1. An appraisal management company denied registration shall be notified in writing by the board of such denial and the reasons therefore. Such applicant may request an informal meeting with the board to reconsider such denial at its next scheduled meeting. Such request must be sent to the board office within thirty calendar days of the date of the notice of denial.
2. If an application for registration is denied, the board will notify the applicant of the denial and specify the basis for the denial.

History: Effective:

General Authority: NDCC 43-23.5

Law Implemented: NDCC 43-23.5

101-05-01-10. Registration renewal.

1. To obtain renewal of a registration, the holder of a current, valid registration must make application on the prescribed form no later than ninety calendar days prior to the expiration of the registration.
2. An application for renewal must be accompanied by the registration renewal fee plus the applicable national registry fee.
3. Failure to renew the registration prior to expiration will result in the loss of authority to operate as an appraisal management company in North Dakota until a request for reinstatement has been approved by the board. A late fee per month, or portion thereof, must be paid prior to reinstatement in addition to the registration renewal fees.
4. The applicant may renew the registration at any time prior to three months after its date of expiration by satisfying all of the requirements for renewal, including paying the renewal fee prescribed in section 101-05-01-12, and paying the applicable late renewal fee prescribed in section 101-05-01-12.

5. Payment of the late fee does not excuse a registrant from disciplinary action or criminal penalties for practicing without a license.

History: Effective:

General Authority: NDCC 43-23.5

Law Implemented: NDCC 43-23.5

101-05-01-11. Federal appraiser registry.

Registrants who are qualified for enrollment in the federal roster or registry of appraisal management companies must apply for enrollment or reinstatement of such enrollment in same upon a form approved by the board accompanied by the fee established for that purpose by the appropriate federal agency or instrumentality.

History: Effective:

General Authority: NDCC 43-23.5

Law Implemented: NDCC 43-23.5

101-05-01-12. Filing Fees.

Fees will not be prorated.

1. The following application fees will be charged for an AMC that is subject to registration under North Dakota Century Code ch. 43-23.5:

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| a. <u>Initial registration fee</u> | <u>\$2500 + national registry fee</u> |
| b. <u>Annual Renewal fee</u> | <u>\$2000 + national registry fee</u> |
| c. <u>Late filing fee</u> | <u>\$100 per month</u> |
| d. <u>Change of information</u> | <u>\$25</u> |

2. If the federal government requires the Board to do so, the following fees will be charged for an AMC that is exempt from registration under North Dakota Century Code chapter 43-23.5:

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| a. <u>Administrative fee</u> | <u>\$500 + national registry fee</u> |
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b. Late filing fee \$100 per month

c. Change of information fee \$25

The administrative fee may be waived if the federal government provides funding to the board for this function.

History: Effective:

General Authority: NDCC 43-23.5

Law Implemented: NDCC 43-23.5

101-05-01-13. Refund of fees.

Each fee is nonrefundable.

History: Effective:

General Authority: NDCC 43-23.5

Law Implemented: NDCC 43-23.5

101-05-01-14. Payment of permit fees.

Checks given the board in payment of fees which are returned unpaid may be considered cause for denial, suspension or revocation.

History: Effective:

General Authority: NDCC 43-23.5

Law Implemented: NDCC 43-23.5

101-05-01-15. Responsibilities and duties.

An appraisal management company registered under the provisions of this article shall:

1. Have a system in place to verify that utilized appraisers are licensed or certified and in good standing by this state.
2. Require each utilized appraiser who performs appraisals in this state to certify in writing the area of geographic competency and the specific appraisal assignments competent to appraise.

3. Have a system in place to review the work of utilized appraisers who perform appraisal services to validate that the services were conducted in conformity with the uniform standards of professional appraisal practice.
4. Have a system in place to verify that any employee of, or independent contractor to, the appraisal management company that is utilized to perform an appraisal review, of the work of utilized appraisers who perform an appraisal assignment for a property located in North Dakota, be licensed or certified and in good standing in any state.
5. File a referral with the board if there is evidence that a utilized appraiser is in violation of the laws, rules, or uniform standards of professional appraisal practice including grounds for disciplinary action as prescribed in North Dakota Century Code section 43-23.5-22.
6. Authorize a designated officer, who will be responsible for accepting the responsibilities for compliance with North Dakota Century Code chapter 43-23-5 and the provisions of this article, and notify the department, within fifteen calendar days, of any change in its designated officer.
7. Maintain with the department the name and address of a registered agent for service of process; and notify the department, within fifteen calendar days, of any change to the information on file.
8. Disclose to its client the actual fees paid to an appraiser for appraisal services, separate from any other fees or charges for appraisal management services, and make the information available to the department upon request.
9. Disclose its certificate of registration number within its engagement document with each utilized appraiser.

History: Effective:

General Authority: NDCC 43-23.5

Law Implemented: NDCC 43-23.5

101-05-01-16. Retention of records.

An appraisal management company registered under the provisions of this article shall retain the following records:

1. A detailed record of each service request that it receives for appraisals of real property located in North Dakota, which shall include, the following:
 - a. Letter of engagement with the utilized appraiser.
 - b. Appraisal report received from the utilized appraiser, including the original report, any revised reports, and any addenda or other material furnished subsequent to the delivery of the original report.
 - c. Any and all material assignment related correspondence sent to and received from the utilized appraiser.
 - d. Letter of engagement with the utilized reviewing appraiser for the purpose of reviewing the requested appraisal, if applicable.
 - e. Review of the requested appraisal, if applicable, including the original review report, any and all correspondence sent to and received from the utilized reviewing appraiser, and each subsequent revised review report.
 - f. Requests received from the client, all documentation supplied to that client, and any and all material correspondence sent to and received from the client.
 - g. Fees paid to utilized appraisers and the fees received from the client.
2. The appraiser fee schedules, with beginning and ending effective dates, which is developed, maintained, and is currently being used.
3. Records must be retained for a minimum of five years. However, if, within the five-year period, an appraisal or report is involved in an investigation, litigation, or state or federal

review, the five-year period for the retention of the records begins on the date of the final disposition of that investigation, litigation, or state or federal review. Records may be retained as a photocopy or electronic copy type of media.

History: Effective:

General Authority: NDCC 43-23.5

Law Implemented: NDCC 43-23.5

101-05-01-17. Inspection and copying.

An appraisal management company registered under the provisions of this article shall make all records required to be maintained or records deemed to be pertinent to an investigation of a complaint under this article available for inspection and copying upon request of the board. It is the duty of the registrant to provide requested records at no expense to the board.

History: Effective:

General Authority: NDCC 43-23.5

Law Implemented: NDCC 43-23.5

101-05-01-18. Complaints and investigations.

The board shall upon written and signed complaint or referral, or may, upon the board's own motion, initiate an investigation of any registration holder or applicant for registration.

History: Effective:

General Authority: NDCC 43-23.5

Law Implemented: NDCC 43-23.5