

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

SENATE BILL NO. 2125

(Industry, Business and Labor Committee)

(At the request of the North Dakota Real Estate Appraiser Qualifications and Ethics Board)

AN ACT to amend and reenact section 43-23.3-01, subsection 1 of section 43-23.3-03, sections 43-23.3-04, 43-23.3-06, 43-23.3-07, 43-23.3-08, and 43-23.3-09, subsection 1 of section 43-23.3-11, sections 43-23.3-13, 43-23.3-14, 43-23.3-15, 43-23.3-16, 43-23.3-17, and 43-23.3-18, subsection 2 of section 43-23.3-22, and section 43-23.3-23 of the North Dakota Century Code, relating to real estate appraisers and the practice of real estate appraisal.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-23.3-01 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-01. Definitions. As used in this chapter, unless the context otherwise requires:

1. "Analysis" means a study of real estate other than estimating value.
2. "Appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, real estate. An appraisal may be classified by subject matter into either a valuation or an analysis.
3. "Appraisal assignment" means an engagement for which a person is employed or retained to act, or would be perceived by the public as acting, as a disinterested party in rendering an unbiased supportable appraisal.
4. "Appraisal foundation" means the appraisal foundation incorporated as an Illinois corporation on November 30, 1987.
5. "Appraisal report" means ~~a written~~ any communication of an appraisal.
6. "Appraisal subcommittee" means the appraisal subcommittee of the federal financial institutions examination council.
7. "Appraiser" means a person who engages in appraisal activity for valuable consideration.
8. "Apprentice appraiser" means a person who ~~is in training to obtain a license~~ holds a valid permit as an apprentice appraiser.
9. "Board" means the North Dakota real estate appraiser qualifications and ethics board.
10. "Certified appraiser" means a person who ~~develops and communicates appraisals and who~~ holds a valid permit as a certified residential or general appraiser.
11. "Certified general appraiser" means a person who holds a valid permit as a certified general appraiser.
12. "Certified residential appraiser" means a person who holds a valid permit as a certified residential appraiser.
13. "Licensed appraiser" means a person who holds a valid permit as a licensed appraiser license.

42. 14. "Permit" means the document issued by the board, verifying that the person named on the permit has fulfilled all prerequisites to practice either as an apprentice appraiser, a licensed appraiser, or a certified appraiser.
43. 15. "Real estate" means an identified parcel or tract of land including improvements, and interests, benefits, and rights inherent in the ownership of real estate.
44. 16. "Uniform standards of professional appraisal practices" means standards of appraisal promulgated by the appraisal foundation as adopted and modified by the board. The standards adopted and modified by the board must meet the minimum standards adopted by the appraisal foundation.
45. 17. "Valuation" means an estimate of the value of real estate or real property.

SECTION 2. AMENDMENT. Subsection 1 of section 43-23.3-03 of the North Dakota Century Code is amended and reenacted as follows:

1. The board, or its designated representative, shall:
 - a. Define apprentice appraiser, licensed appraiser, certified residential appraiser, and certified general appraiser, determine the type of educational experience, appraisal experience, and equivalent experience that meet the requirements of this chapter, and establish application procedures.
 - b. Establish examination specifications for each category of licensed and certified appraiser and administer examinations.
 - c. Approve or disapprove applications for ~~licensure and certification~~ permits, issue pocket cards and permits to practice, and maintain a registry of the names and addresses of individuals ~~licensed and certified~~ holding permits.
 - d. Discipline permittees.
 - e. Hold meetings, hearings, and examinations in places and at times as it designates and maintain records of board activities.
 - f. Adopt rules, pursuant to chapter 28-32, necessary to implement this chapter or carry out the requirements imposed by federal law.

SECTION 3. AMENDMENT. Section 43-23.3-04 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-04. Permit required - Exemptions. Except as provided in this section, a person may not directly or indirectly engage in, advertise, conduct the business of, or act in any capacity as ~~a~~ an apprentice, licensed, or certified appraiser without first obtaining a permit as provided in this chapter. An appraiser, apprenticed, licensed, or certified in another state may not engage in, advertise, conduct the business of, or act in any capacity as an appraiser in this state without first obtaining a temporary permit under section 43-23.3-11. 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.

SECTION 4. AMENDMENT. Section 43-23.3-06 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-06. Classes of permits. The board may issue apprentice, license, and certification permits for appraisers.

1. An apprentice appraiser must meet the minimum requirements established by the board for a permit. An apprentice appraiser may only assist a licensed or a certified appraiser in the performance of an appraisal assignment.
2. A licensed appraiser must meet the minimum requirements established by the board for a permit ~~relating to licensed appraisers.~~
3. A certified residential appraiser must meet the ~~appraisal foundation~~ minimum requirements established by the board for a permit ~~relating to the appraisal of all types of real property.~~ The board's requirements may not exceed the appraisal foundation qualification criteria. The board shall review periodically the appraisal foundation appraisal qualification criteria to ensure the board's rules do not exceed the appraisal qualification criteria.
4. A certified general appraiser must meet the minimum requirements established by the board for a permit. The board's requirements may not exceed the appraisal foundation qualification criteria. The board shall review periodically the appraisal foundation appraisal qualification criteria to ensure the board's rules do not exceed the appraisal qualification criteria.

SECTION 5. AMENDMENT. Section 43-23.3-07 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-07. Examination requirement. The board shall issue a permit to practice as a licensed, certified residential, or a certified general appraiser to an individual who has demonstrated the following qualifications through a written examination process:

1. Knowledge of technical terms used in or related to real estate appraising, appraisal report writing, and economic concepts relating to real estate.
2. Understanding of the principles of land economics, appraisal processes, and of problems likely to be encountered in gathering, interpreting, and processing of data in carrying out appraisal disciplines.
3. Understanding of the uniform standards of professional appraisal practices.
4. Knowledge of theories of depreciation, cost estimating, methods of capitalization, the mathematics of real estate appraisal, and other principles and procedures determined by the board to be appropriate for the appreciable classification of permit.
5. Basic understanding of real estate law.
6. Understanding of the types of misconduct for which disciplinary proceedings may be initiated against an appraiser.

SECTION 6. AMENDMENT. Section 43-23.3-08 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-08. Application prerequisites.

- 4- An applicant for a permit as an apprentice, licensed, certified residential, or certified general appraiser must have a high school education or its equivalent and must successfully complete the education requirements established by the board.
- 2- An applicant for a permit to practice as a licensed appraiser must have a high school education or its equivalent. In addition, an applicant must have successfully completed the minimum education requirements established by the appraisal foundation and the board.

- ~~3. An applicant for a permit to practice as a certified appraiser must have a high school education or its equivalent. In addition, an applicant must have successfully completed the minimum education requirements established by the appraisal foundation and the board.~~

SECTION 7. AMENDMENT. Section 43-23.3-09 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-09. Appraisal experience.

4. The board may issue a permit to practice as a licensed, certified residential, or certified general appraiser to an individual who possesses the minimum experience requirements established by ~~the appraisal foundation and the board~~.
- ~~2. The board may issue a permit to practice as a certified appraiser to an individual who possesses the minimum experience requirements established by the appraisal foundation and the board.~~ The board may require an applicant to furnish, under oath, a detailed listing of the appraisal reports or file memoranda for which appraisal experience is claimed by the applicant. Upon request, the applicant shall provide to the board copies of appraisal reports or other documents that the applicant has assisted in preparing.

SECTION 8. AMENDMENT. Subsection 1 of section 43-23.3-11 of the North Dakota Century Code is amended and reenacted as follows:

1. The board may issue a temporary permit to an applicant who is apprenticed, licensed, or certified in good standing by another state. The board may deny a temporary permit to an applicant whose permit, apprenticeship, license, or certification was revoked, suspended, or otherwise subjected to discipline by any state or jurisdiction.

SECTION 9. AMENDMENT. Section 43-23.3-13 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-13. Principal place of business. ~~An appraiser~~ A permittee shall notify the board of the address of the ~~appraiser's~~ permittee's place of business. Within twenty days of a change in the address of the place of business, the ~~appraiser~~ permittee shall give written notification of the change to the board and pay the change of address fee.

SECTION 10. AMENDMENT. Section 43-23.3-14 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-14. Permit number displayed with signature. ~~An appraiser~~ A permittee shall place the ~~appraiser's~~ permittee's permit number adjacent to the ~~appraiser's~~ permittee's signature on an appraisal report, contract, or other writing used by the ~~appraiser~~ permittee in conducting appraisal activities.

SECTION 11. AMENDMENT. Section 43-23.3-15 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-15. Use of designation. The terms "apprentice appraiser", "licensed appraiser", "certified residential appraiser", "certified general appraiser", and "certified appraiser" may only be used to refer to an individual who holds a permit under this chapter and may not be used following or immediately in connection with the name or signature of any other individual or person or in a manner that might be interpreted as referring to any other individual or person other than the individual who holds the permit. This section does not prohibit a licensed or certified appraiser from signing an appraisal report on behalf of a corporation, limited liability company, partnership, or firm.

SECTION 12. AMENDMENT. Section 43-23.3-16 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-16. Action for fee. No claim for relief may be instituted in any court of this state for compensation for an act done or service rendered as ~~either a~~ an apprentice, licensed, or a certified appraiser unless the appraiser held a permit to practice under this chapter at the time of offering to perform the act or service or procuring a promise to contract for the payment of compensation for a contemplated act or service as a an apprentice, licensed, or a certified appraiser.

SECTION 13. AMENDMENT. Section 43-23.3-17 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-17. Retention of records. A An apprentice, licensed, or certified appraiser shall retain, for at least five years, originals or copies of all written contracts engaging the ~~appraiser's permittee's~~ services for appraisal work and all reports and supporting data assembled and formulated by the ~~appraiser permittee~~ in preparing the reports. The period for retention of records applies to each engagement of the services of the ~~appraiser permittee~~ and commences upon the date of the submission of the appraisal to the client unless, within that period, the ~~appraiser permittee~~ is notified that the appraisal report is involved in litigation, in which event the period for the retention of records commences on the date of the final disposition of the litigation. The ~~appraiser permittee~~ shall make available for inspection and copying by the board on reasonable notice all records required to be maintained.

SECTION 14. AMENDMENT. Section 43-23.3-18 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-18. Standards of professional appraisal practice. A An apprentice, licensed ~~and~~, or certified appraiser shall comply with the standards of professional appraisal practice and ethical rules specified by the uniform standards of professional appraisal practice and all other standards and ethical requirements adopted by the appraisal foundation.

SECTION 15. AMENDMENT. Subsection 2 of section 43-23.3-22 of the North Dakota Century Code is amended and reenacted as follows:

2. In a disciplinary proceeding based upon a civil judgment, the ~~appraiser permittee~~ must be afforded an opportunity to present matters in mitigation and extenuation, but may not collaterally attack the civil judgment.

SECTION 16. AMENDMENT. Section 43-23.3-23 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-23. Penalties. A person acting or purporting to act as a an apprentice, licensed, or a certified appraiser without holding a permit to practice is guilty of a class A misdemeanor. An appraiser, apprenticed, licensed, or certified in another state, who engages in, advertises, conducts the business of, or acts in any capacity as an appraiser without first obtaining a temporary permit is guilty of a class A misdemeanor. In addition to any other penalty, a person receiving any money or other compensation in violation of this chapter is subject to a penalty of not less than the amount of the sum of money received and not more than three times the sum in the discretion of the court.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2125.

Senate Vote: Yeas 45 Nays 0 Absent 2

House Vote: Yeas 92 Nays 2 Absent 0

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,

at _____ o'clock _____ M.

Secretary of State