



P.O Box 7521, Rapid City, SD 57709

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**SENATE BILL NO. 2293  
Testimony  
Joe Ibach, MAI  
Government Affairs Chairman  
North Dakota Appraisers Association (NDAA)**

**February 11, 2021**

My name is Joe Ibach, Chairman of the Government Affairs Committee of the North Dakota Appraisers Association (NDAA). As of today, NDAA has about 150 members, representing about 95% of the licensed and certified appraisers living/practicing in North Dakota. (There are about 300 licensed and certified appraisers in North Dakota, but about half do not live in the state.) The NDAA appreciates this opportunity to present the "voice" of North Dakota appraisers.

I am here representing the NDAA in support of Senate Bill No. 2293. As a practicing appraiser with more than 45 years of experience in completing appraisals for virtually all statewide property types, amending Chapter 11-18 will greatly benefit the North Dakota appraisal profession. Currently, this chapter excludes nine different sale transactions that are definitely part of the "market". Attached to this testimony is the November 18, 2020, letter I wrote that was presented to select members of the Legislature to gain support. It details the reasoning for the elimination of all exceptions. Two that are particularly concerning relate to (1) the transfer of property ownership using a quit claim deed and (2) agricultural lands of less than 80 acres. Since the legislature implemented full sale price disclosure in 2013, it has become more prevalent in recent years that a quit claim deed is used as a "loophole" to circumvent the sale price disclosure. Also concerning is the rationale as to why a transaction for agricultural land of less than 80 acre is any different than one having 81 acres. Essentially, *all* market-based sales should not be excluded from being recorded on the deed.

Other exempt transactions include sales of property owned or used by public utilities, estate settlements, most all foreclosures, and sales involving religious, charitable, or nonprofit organizations. In most instances, these exempt sales are reflective of market transactions. Most are properly exposed to the market, many times they are even listed for sale, and most are applicable sales, sales that are currently not available but can be vital in the appraisal process.

The request to pass Senate Bill No. 2293 is amplified by the need for all pertinent information used in the appraisal process, especially when timeliness has been expressed as a concern in the statewide appraisal process. As detailed in the attachment, having *all* available and applicable market sales would greatly assist in providing timely and credible appraisal services. This data is also especially vital in the small, rural markets where data for most all property types is extremely limited. Therefore, the NDAA is requesting your support for Senate Bill No. 2293.



North Dakota Appraisers Association

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November 18, 2020

Re: Proposed Bill – Revisions to Chapter 11-18: "Recorder"

The North Dakota Appraisers Association (NDAA) is requesting an amendment to Chapter 11-18 of the North Dakota Century Code. The amendment relates to Section 11-18-02.2.2 #6. This section of this chapter was copied and is presented below. The revision relates to eliminating all but Subsections b and c, detailed as:

6. This section does not apply to deeds transferring title to the following types of property, or to deeds relating to the following transactions:
  - ~~a. Property owned or used by public utilities.~~
  - b. Property classified as personal property.
  - c. A sale when the grantor and the grantee are of the same family or corporate affiliate, if known.
  - ~~d. A sale that resulted as a settlement of an estate.~~
  - ~~e. All forced sales, mortgage foreclosures, and tax sales.~~
  - ~~f. All sales to or from religious, charitable, or nonprofit organizations.~~
  - ~~g. All sales when there is an indicated change of use by the new owners.~~
  - ~~h. All transfer of ownership of property for which is given a quitclaim deed.~~
  - ~~i. Sales of property not assessable by law.~~
  - ~~j. Agricultural lands of less than eighty acres [32.37 hectares].~~
  - ~~k. A transfer that is pursuant to a judgment.~~

These transactions were most likely excluded as they are not used for assessment purposes. However, they are definitely pertinent to the information needed in the appraisal process, especially when timeliness and fees are concerns in the statewide real estate market. Having *all* available and applicable market transactions would assist greatly in providing timely, credible, and hopefully, more cost efficient appraisal services.

Presently, considerable time and efforts are needed to track exempt sales; sales that are reliable price/value indicators. Eliminating the exceptions would provide greater efficiency and, thereby, hopefully reducing the time needed to complete an appraisal.

A brief summary of the rationale supporting the elimination of these exemptions is detailed as:

- a. *Property owned or used by public utilities:* Public utility companies own considerable real estate throughout the state. Many times they build new facilities and then market their existing facilities. These possible sales are most times arms-length transactions, vital data that can now be exempt.
- d. *A sale that resulted as a settlement of an estate:* Many beneficiaries of estates elect to sell the properties. Typically, an appraisal is secured as the beneficiaries may not always have similar motivations. The properties are then actively advertised through numerous market outlets and achieve market prices. These market exposed transactions/sales are a critical part of the market.

November 18, 2020

- e. *All forced sales, mortgage foreclosures, and tax sales:* The initial reaction would be that this type of data is not reflective of an arms-length transaction. However, appraisers are many times retained to provide an opinion of typical "market value" but also to provide the client an estimate of "liquidation value", a value conclusion used in forced sales and mortgage foreclosures.
- f. *All sales to or from religious, charitable, or nonprofit organizations:* As in the previous public utility owned properties, many religious, charitable, and nonprofit organizations own properties that are sold. They also purchase properties. These market transactions are, for the most part, "at market".
- g. *All sales when there is an indicated change of use by the new owners:* This exemption is confusing as a "change of use" is highly common in the market. For example, a church could be purchased and changed into a daycare. Excluding the reporting of the sale price is not appropriate as it still represents a standard market transaction.
- h. *All transfer of ownership of property for which is given a quitclaim deed:* It has become more prevalent in recent years that quit claim deeds are being used as a "loophole" to circumvent disclosure of the sale price. Simply using a quit claim deed does not create a non-relevant sale. Several examples were conveyed by appraisers around the state in which sellers are using quit claim deeds to preclude the need to disclose the sale price.
- i. *Sales of property not assessable by law:* This exemption relates primarily to nonprofit organizations that own property. Excluding market transactions simply because they are not subject to assessment process is not necessary.
- j. *Agricultural land of less than eighty acres [32.37 hectares]:* The rationale for excluding any transaction of 80 acres or less is difficult to understand. Many 80-acre tracts or even slightly smaller tract sales are common in the marketplace. A good example is an 80-acre tract located next to any particular city that is purchased for future development. Even in the agricultural market, 80-acre tract or less sales are commonplace. These market-based sales should not be excluded.
- k. *A transfer that is pursuant to a judgment:* This exemption correlates to Item e, forced or foreclosures. Many of the sales pursuant to a judgment are "at market" transactions.

Again, the primary goal in eliminating these exemptions is to provide *all* available market data to the state's appraisers, data that is vital in providing more timely and credible appraisals. This data is especially vital in the smaller, rural markets where data for most all property types is extremely limited. The NDAA is then requesting that legislators support this important statute revision.

Should you have any questions or desire additional information, please contact me or any NDAA member.

Sincerely,



Joe Ibach, MAI  
NDAA Past President (2019)  
NDAA Government Affairs Chairman