

January 3, 2023

The Honorable Scott Louser
North Dakota House of Representatives
Chair, Industry, Business and Labor Committee
1718 Birch Place SW
Minot, ND 58701-7097



Dear Chairman Louser and Industry, Business and Labor Committee members:

The Real Estate Valuation Advocacy Association (www.revaa.org) is a national trade association whose membership includes Appraisal Management Companies (AMC) and residential real estate valuation providers licensed in North Dakota. REVA members provide residential appraisal management services, many also create innovative technologies and provide other important lender valuation services such as Evaluations, Broker Price Opinions (BPO) and Automated Valuation Models (AVM).

In reviewing proposed legislative bills H.B. 1106 and H.B. 1107 to be heard by the Committee on January 4, 2023, REVA has identified potential concerns from the perspective of Appraisal Management Companies and other stakeholders with the proposed text changes. In addition to providing these comments to the Committee, we have shared them with the North Dakota Realtors Association and appraiser board for consideration. Our aim is to work with stakeholders and the State of North Dakota on responsible public policy.

- **COMMENT 1:** REVA has not participated in any dialogue with the North Dakota Real Estate Appraiser Qualifications and Ethics Board regarding these changes or anticipated impacts before reviewing these draft bills on January 3, 2023.

Respectfully, we request that formal action on H.B. 1106 and H.B. 1107 by the committee be delayed allowing impacted stakeholders (e.g., AMCs, lenders, realtors, etc.) the opportunity to evaluate the intent of the text changes in these bills more thoroughly for unintended consequences that we believe could adversely affect the home valuations industry in North Dakota.

- **COMMENT 2:** In both H.B. 1106 (proposed change to 43-23.5-12. Appraisal review) and H.B. 1107 (proposed change to 43-23.3-04. Permit required – Exemptions, number (3)), the appraisal board is seeking to ensure that an AMC or lender must utilize an appraiser to conduct a Standard 3 or 4 appraisal review that includes a review of the opinion of value.

Based on clarification received from the appraiser board, it does not appear the intent of these bills is to impact AMCs or lenders conducting quality control reviews of appraisals where it does not include a review of the opinion of value.

While we do not oppose the proposed change for the specific purpose of reviewing an appraisal's opinion of value, the proposed text is unclear and can potentially interfere with an AMCs business operations when reviewing an appraisal for purposes other than an opinion of value. As standard procedure, AMCs perform extensive quality control reviews of completed appraisals before they are sent to lenders for use in a North Dakota homebuyer's transaction. These comprehensive reviews ensure compliance with USPAP and other requirements, but they do not include a review of the opinion of value.

Therefore, we are requesting the text in these sections be clarified to match the appraiser board's stated intent. If the appraiser board is looking to only limit reviews with an opinion of value, as it has stated, the clarification AMCs would be looking for could be the simple addition of two words in red below to the following definition in the AMC statute. Otherwise, all the reviews required by 43-23.5-14 (Appraisal management company certification of appraisal review system) appear to require that they be completed by an appraiser licensed by North Dakota.

43-23.5-01. Definitions.

4. "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment related to the appraiser's data collection, analysis, opinions, conclusions, estimate of value, or compliance with the uniform standards of professional appraisal practice. This term does not include:

a. A general examination for grammatical, typographical, or other similar errors.

b. A general examination for completeness, including regulatory client requirements, or both, as specified in the agreement process that does not communicate an opinion **of value**.

- **COMMENT 3:** In H.B. 1107, page 4, section 43-23.3-04. Permit required. Exemptions, section number (2) should be of concern for appraisers and non-AMCs who utilize appraisers for quality control reviews. At issue is the same concern for AMCs as cited in above comment 2 – the lack of clarity that this only applies when an opinion of value is being reviewed.
- **COMMENT 4:** There is a lack of clarity in North Dakota regarding the ability of a non-appraiser (i.e., real estate broker / salesperson or other qualified individual) to perform a federally allowable evaluation for residential real estate transactions that do not require an appraisal. REVAA believes that appraisers, real estate professionals and other qualified professionals should have the ability to perform evaluations in the state.

Based on federal guidance, an evaluation is an opinion of the market value of real property that may be utilized in a real estate-related financial transaction where an appraisal by a state-certified or state-licensed appraiser is not required. An evaluation is limited in its scope and development to the requirements for evaluations as set forth in the federal [Interagency Appraisal and Evaluation Guidelines](#). They are used by lenders for multiple purposes, from internal collateral due diligence review to making a collateral risk decision for certain smaller loans. Because these products are designed to be used for lower-risk transactions, they are typically offered at a lower cost and faster turn-time than an appraisal, to the benefit of borrowers. Federal law explicitly permits such products.


Most states allow evaluations by non-appraisers so long as it is properly documented to reflect that it is not an appraisal. The same is true with other non-appraisal products such as a Broker Price Opinion, which are helping the residential valuation industry modernize its practices in the face of significant changes in the availability of credentialed appraisers. Some states have changed their policies to allow appraisers to perform evaluations outside of USPAP, along with realtors and other qualified professionals, which is something we support.

Therefore, we request the addition of a new section (5) to H.B. 1107, page 4, section 43-23.3-04. Permit required. Exemptions. The following text in red would make it clear that North Dakota is not going to go further than the minimum federal appraisal requirements by prohibiting the use of federally allowable evaluations.

(5) This chapter does not apply to the performance of an evaluation of real property under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.).

Thank you for considering our request. I look forward to discussing these items with the appraiser board, industry stakeholders and North Dakota lawmakers.

Sincerely,



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