

HOUSE BILL NO. 1107

HOUSE INDUSTRY, BUSINESS AND LABOR COMMITTEE

Testimony

Corey Kost, Chairperson

NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD

January 4, 2023

Mr. Chairman, members of the committee, my name is Corey Kost, and I am Chair of the North Dakota Real Estate Appraiser Qualifications and Ethics Board. I am also a practicing commercial appraiser based in Bismarck. I will refer to this Board throughout my testimony as either the North Dakota Appraiser Board or the Appraiser Board.

It is my pleasure to represent the Appraiser Board this morning on House Bill 1107. This bill updates the statutory language within NDCC 43-23.3.

SECTION 1. AMENDMENT. 43-23.3-01. Definitions.

16. *"Uniform standards of professional appraisal practices" means standards of appraisal promulgated by the appraisal standards board of 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.*
17. *"Valuation" means an estimate of the value of real estate or real property.*
18. *"Appraisal qualifications board" of the appraisal foundation establishes the qualifications for licensing, certification and recertification of appraisers.*
19. *"Appraisal standards board" of the appraisal foundation develops, publishes, interprets and amends the uniform standards of professional appraisal practice on behalf of appraisers and users of appraisal services.*

Page 2, lines 18-20. The language is revised to help clarify that the Appraisal Standards Board of the Appraisal Foundation sets the standards of appraisal practice. The North Dakota Appraiser Board adopts these standards but cannot modify them.

The Appraiser Board would also like to add definitions for the Appraisal Qualifications Board and Appraisal Standards Board are defined to provide an understanding of the purpose of the two

Boards. Upon review, we found the definitions did not make it into this bill but we have verbiage available.

SECTION 2. AMENDMENT. 43-23.3-02. North Dakota real estate appraiser qualifications and ethics board.

3. *Annually the members shall elect a chairman from among the members.*
4. *At least two of the members who are appraiser members must be present in order for a quorum to exist.*
5. *The members are entitled to receive compensation for each day actually engaged in the service of the board and actual and necessary traveling expenses at the rate allowed other state officials, paid from the fees collected by the board.*

Page 3, Lines 13-22. The original #3 paragraph has been broken down to 3, 4 and 5 for an easier read. Unfortunately, the content from #4 and #5 was not deleted in #3 as intended. We ask this repeated verbiage in #3 be deleted.

SECTION 3. AMENDMENT. 43-23.3-03. Powers and duties of the board.

1. *The board, or the board's designated representative, shall:*
 - b. *Establish examination specifications for ~~each category of licensed and certified~~ the apprentice and supervisory appraiser and administer examinations.*

Page 4, lines 1-2. The revised language clarifies that it is the Appraisal Qualifications Board that establishes the specifications for the licensed and certified appraiser national examinations, not the North Dakota Appraiser Board.

To ensure that the apprentice and supervisory appraiser are familiar with the appraiser statute (NDCC 42-23.3) and rules (Title 101), the North Dakota Appraiser Board has developed an open-book jurisprudence examination. This exam is required as part of the apprentice and supervisory appraiser application process.

SECTION 4. AMENDMENT. 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 an apprentice, licensed, or certified appraiser without first obtaining a permit as provided in this chapter.

1. *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, or perform an appraisal review for a property located in this state, without first obtaining a temporary permit under section 43-23.3-11 or a permit under section 43-23.3-04.1.*
2. *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 value or as an appraisal.*
3. *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.*

Page 4, line 26. This change clears up a discrepancy between the appraiser statute and AMC statute. It simply means that an appraiser who performs an appraisal review of a property located in North Dakota needs to hold a North Dakota permit. Obtaining a permit can be easily accomplished through reciprocity. North Dakota is consistent with the minimum reciprocity requirements allowed on the federal level if it is an ongoing practice, or with a temporary practice permit if it is a one-time assignment.

This is an issue because the North Dakota Appraiser Board cannot take action on any complaints against an appraiser, regardless of the severity of the offense, if the review appraiser does not hold a North Dakota permit. If the review appraiser was licensed in another state, say New York, the New York Appraiser Board would likely not take action because the property that is the subject of the appraisal is located in North Dakota. The result is a void in appraiser accountability and state appraiser board responsibility.

SECTION 5. AMENDMENT. 43-23.3-05. Permit process.

An individual who desires to engage in the practice of real estate appraisal shall apply for a permit ~~on forms prescribed by~~ with the board and submit the required fee.

Page 5, line 10. With the implementation of an online application process, forms are no longer required by the Board.

SECTION 6. AMENDMENT. 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.*

Page 5, Line 14. Federal requirements do not allow a licensed appraiser to take on the role of a supervisory appraiser. To be in compliance with federal requirements the Appraisal Subcommittee has directed the Board to remove the licensed level from the ability to supervise.

SECTION 7. AMENDMENT: 43-23.3-07. Examination requirement.

The board shall issue a permit to practice as a licensed, certified residential, or 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.*~~

successfully completed the appropriate national examination as required by the appraisal foundation appraisal qualification board criteria.

Page 5, lines 20-31 and Page 6, lines 1-4. These proposed amendments to Section 7 do not affect the current examination requirements. The revised language is for an easier read.

SECTION 8. AMENDMENT. 43-23.3-08. ~~Application prerequisites~~ Appraisal education requirements.

An applicant for a permit as an apprentice, licensed, certified residential, or certified general appraiser ~~must~~ shall successfully complete the education requirements established by the board.

Page 6, line 7. The proposed revision to the title was made for consistency.

Page 6, line 9. This is a recommended revision for consistency.

SECTION 9. AMENDMENT. 43-23.3-09. Appraisal experience requirements.

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 board. ~~The board shall 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.~~

Page 6, lines 16-19. The language being removed is addressed in Rules (Title 101). Therefore, it is unnecessary in Statute.

SECTION 10. AMENDMENT. 43-23.3-10. Expiration of permit.

Permits expire biannually on December thirty-first of each year. The expiration date of the permit must appear on the permit and no other notice of its expiration need be given to the permittee.

Page 6, line 23. The Board is proposing to move to a two-year renewal period, which appears to be consistent with surrounding States and reduces burdens on appraisers.

SECTION 11. AMENDMENT. 43-23.3-11. Temporary permit.

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.*
- ~~2. An applicant for a temporary permit shall file with the board a designation in writing which appoints the chairman of the board to act as the applicant's licensed agent upon whom all judicial and other process or legal notices directed to the applicant may be served. Copies of the appointment, certified by the chairman of the board, may be received in evidence in any proceeding and must be given the same effect as the original. In the written designation, the applicant shall agree that any lawful process against that individual which is served upon the agent is of the same legal force as if served upon the applicant, and that the authority of the agent continues in force as long as any liability of the applicant remains outstanding in this state. Upon the receipt of any process or notice, the chairman shall mail a copy of the process or notice by certified mail, return receipt requested, to the last known business address of the applicant.~~
- ~~32. The board may issue a temporary permit to an applicant if the applicant agrees in writing to abide by this chapter and to submit to the jurisdiction of the board.~~
- ~~43. The board shall issue a temporary permit to an applicant who has complied with this section. The board may require the applicant to pay a fee. The board shall determine the amount of the fee and the duration of the temporary permit.~~

Page 6, line 29. The removal of "apprenticed" from Section 11 is based on federal requirements. A temporary permit cannot be issued to an apprentice appraiser. The Appraisal Subcommittee has directed "apprentice" be removed to maintain federal compliance.

Page 7, lines 3-14. The language is obsolete and therefore is being removed.

SECTION 12. AMENDMENT. 43-23.3-13. Principal place of business.

A permittee shall notify the board of the address of the permittee's place of business. Within twenty days of a change in the address of the place of business, the permittee shall give written notification of the change to the board and pay the change of address fee.

Page 7, line 25. The Board is proposing to remove the fees associated with a request for a change of address.

SECTION 13. AMENDMENT. 43-23.3-17. Retention of records.

An apprentice, licensed, or certified appraiser shall ~~retain, for at least five years, originals or copies of all written contracts engaging the permittee's services for appraisal work and all reports and supporting data assembled and formulated by the permittee in preparing the reports. The period for retention of records applies to each engagement of the services of the permittee and commences upon the date of the submission of the appraisal to the client unless, within that period, the 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 permittee shall make available for inspection and copying by the board on reasonable notice all records required to be maintained~~ comply with the record keeping rule as specified in the uniform standards of professional appraisal practice.

Page 7, lines 29-31 and Page 8, lines 1-7. The language is being removed as the "Uniform Standards of Professional Appraisal Practice" (USPAP) address the requirements for retention of records. Apprenticed, licensed and certified appraisers must adhere to USPAP requirements.

SECTION 14. AMENDMENT. 43-23.3-18. Standards of professional appraisal practice.

An apprentice, licensed, 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 standards board of the appraisal foundation.

Page 8, line 14. This revision provides clarification that it is the Appraisal Standards Board of the Appraisal Foundation that adopts the "*Uniform Standards of Professional Appraisal Practice*", not the Appraisal Foundation.

SECTION 15. AMENDMENT. 43-23.3-23. Penalties.

A person acting or purporting to act as an apprentice, licensed, or 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.

Page 8, line 21. "Temporary" has been removed. An appraiser who holds an apprentice, licensed or certified permit in another state and wishes to practice in North Dakota can have either obtain a 1) North Dakota permit or 2) North Dakota temporary permit. Again, obtaining a permit is easily accomplished through the reciprocity and a temporary permit can be obtained in as little as five days.

This concludes my testimony.

The North Dakota Appraiser Board respectfully recommends a "Do Pass" of House Bill 1107. I would be happy to entertain any questions.

Corey Kost

North Dakota Real Estate Appraiser Qualifications and Ethics Board