

23.8140.01000
Sixty-eighth
Legislative Assembly
of North Dakota

Introduced by
Industry, Business and Labor Committee

(At the request of the North Dakota Real Estate Appraiser Qualifications and Ethics Board)
A BILL for an Act to amend and reenact sections 43-23.3-01 and 43-23.3-02, subsection 1 of section 43-23.3-03, sections 43-23.3-04 and 43-23.3-05, subsection 1 of section 43-23.3-06, and sections 43-23.3-07, 43-23.3-08, 43-23.3-09, 43-23.3-10, 43-23.3-11, 43-23.3-13, 43-23.3-17, 43-23.3-18, and 43-23.3-23 of the North Dakota Century Code, relating to the regulation of real estate appraisers; and to provide a penalty.

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 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.

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- a. Each appraiser member of the board must be either a licensed or certified appraiser, but at least two of the appraiser members must be certified appraisers.
 - b. The governor shall appoint the financial industry representative from a list of qualified individuals submitted by the North Dakota bankers associations, the credit union association of the Dakotas, and the North Dakota farm credit system associations. Each of these entities may submit two names of candidates to the governor. The public member of the board may not be engaged in the practice of real estate appraising.
- 2 The term of each member is five years. A member may not serve more than two consecutive five-year terms, after which at least two years must pass before the governor may reappoint that former member to the board. The governor shall appoint members so the terms of no more than two members expire each year. A member of the board continues to hold office until the appointment and qualification of a successor. The governor may remove a board member for cause.
 - 3 Annually the members shall elect a chairman from among the members. At least two of the members who are appraiser members must be present in order for a quorum to exist. 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.
 - 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.

SECTION 3. 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 the board's 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; establish application procedures; and establish standards for approval and disapproval of applications for permits.

3. ~~This chapter does not apply to a licensed real estate broker or salesperson who, in the ordinary course of business, gives an a price opinion to a potential seller or buyer or third party as to the and is referred to a recommended listing price or recommended purchase 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 an appraisal.~~
4. A state licensed real estate broker or licensed sales agent under a broker, may provide an evaluation exclusively to a federally-insured depository institution that is regulated by a federally financial institution regulatory agency "agencies" according to federal guidelines and shall be clearly identified as an "Evaluation" and must clearly and conspicuously state, "An evaluation is not an appraisal, it's intended use is exclusively for financial institutions".
5. 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 and apprentice, licensed or certified appraiser who is employed by a federally-insured depository institution that is regulated by a federally financial institution regulatory agency "agencies" only when providing an evaluation.
6. This chapter does not apply to a person employed by the Bank of North Dakota when providing evaluations for BND participant loans for federally-insured depository institution under federal financial institution regulatory agency appraisal exemptions.

SECTION 5. AMENDMENT. Section 43-23.3-05 of the North Dakota Century Code is amended and reenacted as follows:

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.

SECTION 6. AMENDMENT. Subsection 1 of section 43-23.3-06 of the North Dakota Century Code is amended and reenacted as follows:

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.

SECTION 7. 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 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.~~

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

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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.~~
- 3.2. 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.
- 4.3. 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.

SECTION 12. 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.

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.~~

SECTION 13. AMENDMENT. Section 43-23.3-17 of the North Dakota Century Code is

Evaluation reports must be clearly identified as an "Evaluation" and must contain a disclosure that, "An evaluation is not an appraisal, it's intended use is exclusively for financial Institutions".

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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 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.

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