

HOUSE BILL NO. 1080

SENATE INDUSTRY AND BUSINESS COMMITTEE

Testimony

Joe Sheehan, Public Member

NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD

February 17, 2025

Mr. Chairman, members of the committee, my name is Joe Sheehan, and I serve as Public Member on the North Dakota Real Estate Appraiser Qualifications and Ethics Board. It is my pleasure to represent the Appraiser Board this afternoon on House Bill 1080. I will refer to this Board throughout my testimony as either the North Dakota Appraiser Board or the Appraiser Board.

HB 1080 updates the statutory language within the appraisal management company (AMC) statute to bring the statute into compliance with Title XI of FIRREA as amended by Dodd Frank and the AMC Rule. The AMC Rule is the federal interagency final rule on minimum requirements for State registration and supervision of AMCs.

All State Board Appraiser Management Company (AMC) Programs are monitored at the federal level by the Appraisal Subcommittee (ASC). The Appraisal Subcommittee conducts periodic Compliance Reviews of each State Appraiser and AMC Regulatory Program to determine compliance with Title XI and the AMC Rule. In the most recent ASC State Review of the North Dakota Appraiser Board's AMC Program, the ASC found three areas of noncompliance within the AMC statute, NDCC 43-23.5.

The Board and Staff collaborated with the Appraiser Board's ASC Policy Manager, as well as Mark Schiffman, Executive Director of REVAA (Real Estate Valuation Advocacy Association) and David Cherner of ClearCapital.com in drafting the proposed language to NDCC 43-23.5 to bring it into compliance with Title XI and the AMC Rule.

**SECTION 1. AMENDMENT. 43-23.5-01. Definitions.**

**Page 3, lines 22 - 26:** An amendment to 43-23.5-07 Exemptions relates to federally regulated appraisal management companies. Therefore, the Board decided it was necessary to provide a definition for a federally regulated appraisal management company.

**SECTION 2. AMENDMENT. 43-23.5-07. Exemptions.**

*ASC Issue No. 1: The State's exemption for federally regulated AMCs does not comply with Title XI. States shall not require an AMC that is a subsidiary owned and controlled by a financial institution regulated by a federal financial institution regulatory agency to register with a State.*

**Page 4, line 11.** Federally regulated AMCs are not required to register with States.

Therefore, the Board included "a federally regulated appraisal management company" as an exemption to ensure compliance in this area.

**SECTION 3. AMENDMENT. 43-23.5-08. Ownership Requirements.**

*ASC Issue No. 2: North Dakota does not determine whether any owner of the AMC has had their appraiser credential refused, denied, canceled, revoked, or surrendered for a substantive cause.*

**Page 4, lines 28 - 31, Page 5, lines 1 - 25.** The House passed HB 1080 as proposed by the Board. The amendments specific to 43-23.5-08 Ownership Requirements were made to align with ASC Policy Statement 8 and AMC Rule CFR §34-214, stating that States shall not register or renew an AMC if it is owned by an individual who has had their license or certificate denied, canceled, surrendered in lieu of revocation, or revoked in any State for substantive reasons, as determined by the Board.

While the original language in HB 1080 addressed noncompliance with Title XI and AMC Rule, upon further review, the amendments specific to 43-23.5-08 Ownership Requirements were found to be confusing.

Chairman Kost and staff consulted with ASC Compliance Manager John Brenan and ASC Policy Managers Kristi Klemet and Allison Nespore to clarify the current language. The ASC recommended amending 43-23.5-08 Ownership Requirements to mirror that of AMC Rule CFR §34-214.

Based on the ASC's recommendation, the Board proposes additional amendments to HB 1080 as follows:

**43-23.5-08. Ownership Requirements.**

1. *An appraisal management company applying for, holding, or renewing a registration under this chapter may not be, in whole or in part, directly or indirectly, owned by:*
  - a. *An an individual who has had an appraiser license or certification in this state or in any*

~~other state refused, denied, canceled, surrendered in lieu of revocation, or revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently granted or reinstated for a substantive cause, as determined by the board, and the license or certificate was subsequently granted or reinstated.~~

- ~~b. An entity that is owned by any individual who has had an appraiser license or certification in this state or any other state refused, denied, canceled, surrendered in lieu of revocation, or revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently granted or reinstated for a substantive cause, as determined by the board, and the license or certificate was subsequently granted or reinstated.~~

An appraisal management company is not barred from being registered if the license or certificate of the appraiser with an ownership interest was not revoked for a substantive cause and has been reinstated by the jurisdiction in which the appraiser was licensed or certified.

2. Each person that owns more than ten percent of an appraisal management company applying for, holding, or renewing a registration under this chapter:
  - a. Must be of good moral character.
  - b. Shall submit to a criminal background investigation for an initial application or as required by the board.
3. Each appraisal management company applying for a registration or for renewal of a registration under this chapter shall certify to the board on a form prescribed by the board that the company has reviewed each entity that owns the appraisal management company and that no entity that owns the appraisal management company is owned by ~~any person~~ an individual that has had an appraiser license or certification in this state or any other state refused, denied, canceled, surrendered in lieu of revocation, or revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently granted or reinstated for a substantive cause, as determined by the board, and the license or certificate was subsequently granted or reinstated.

The proposed language to HB 1080 has the same intent as the original language passed by the House but offers greater clarity.

**SECTION 4. AMENDMENT. 43-23.5-15 Retention of records.**

**Page 6, line 10.** The current wording allows the AMC to choose whether to provide records upon the Board's request. The Board is revising the language in this section to mandate that the AMC must submit the requested records when asked by the Board.

**SECTION 5. AMENDMENT. 43-23.5-21.**

**ASC issue No. 3:** *North Dakota must impose requirements on State-registered AMCs to provide written notice when removing appraisers from the Panel consistent with AMC Rule. ND allows an AMC to remove an appraiser from the panel without notice, within the first 90 days after the appraiser is first added to the panel, when there is no such grace period in the AMC rule.*

**Page 6, lines 14-15.** To bring this area into compliance, the language has been revised to prohibit anyone acting on behalf of an AMC from removing an appraiser from its panel without first providing written notice.

This concludes my testimony.

On behalf of the North Dakota Appraiser Board, I respectfully recommend a "Do Pass" of House Bill 1080.

I would be happy to entertain any questions.

Joe Sheehan, Public Member  
North Dakota Real Estate Appraiser Qualifications and Ethics Board