

**2013 HOUSE JUDICIARY**

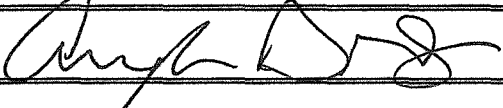
**HB 1389**

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee  
Prairie Room, State Capitol

HB 1389  
February 6, 2013  
Job 18391

Conference Committee



## Explanation or reason for introduction of bill/resolution:

Relating to appraisal management company regulation; relating to criminal history background checks; to provide a penalty; and to provide an effective date.

## Minutes:

Testimony 1

**Chairman Koppelman** opened the hearing.

**Rep. Weiland** introduced the bill.

**Joe Ibach, Chairman of the North Dakota Real Estate Appraiser Qualifications and Ethics Board** (03:30) testified in support of the bill (Testimony 1).

**Rep. Delmore:** How many AMCs are in ND?

**Ibach:** None.

**Rep. Larson:** In regards to the exemptions listed on the bill, who does this apply to?

**Ibach:** It applies to an entity that stands between the lender and the appraiser and facilitates that process. If that firm has 15 or less appraisers on the panel, they are exempted. If they fall under the 15 appraiser limit they don't have to register or do background checks. The appraisers have to have a background check but AMCs do not.

**Chairman:** Are the AMCs operating in ND but from other states regulated by the state they are from?

**Ibach:** It depends on their state law.

**Rep. Klemin:** Why would we want to exempt any of them? Who is looking at the conduct of the AMCs that fall into that exemption?

**Ibach:** As a board, we have consistently modeled our legislation to meet the minimum requirements set by Dodd-Frank.

**Rep. Klemin:** Are there other states that don't have an exemption like this?

**Ibach:** I don't know of any other state that has none. We can do research to find out.

**Chairman:** Is this designed to mirror Dodd-Frank and implement it on a state level?

**Ibach:** Correct. We modified a few things to fit state law.

**Rep. Klemin:** What is the usual length of time it takes to get paid now?

**Ibach:** It's between 30 and 60 days.

**Chairman:** Would federally regulated transactions include anything with an FDIC loan guarantee or loan insurance?

**Ibach:** Correct.

**Rep. Klemin:** Does the board now have the authority to impose fines?

**Ibach:** Yes we have the ability to impose fines on appraisers.

**Chairman:** Is there anything in the bill regulating the appraisers or just the AMCs?

**Ibach:** We already have statute regulating the appraisers.

**Rep. Hanson:** Would this add consumer protection and ease some of the bottlenecking?

**Ibach:** I don't foresee the AMC legislation to help at all because it will not alleviate the bottleneck.

**Rep. Hanson:** Will any of the requirements of the AMC board further the education of out-of-state appraisers to local conditions?

**Ibach:** In theory, it should work. An AMC is not supposed to hire an appraiser that is not competent.

**Rep. Kretschmar:** What steps need to be taken in ND to become an appraiser?

**Ibach:** To become an appraiser, you have to have 75 hours of education to get an apprentice license. You need experience, to take the exam and have your work product reviewed.

**Rep. Kretschmar:** Do you have to pay a license each year or a fee?

**Ibach:** The fee is \$390 each year; \$350 is our fee and \$40 goes to is sent to the national registry.

**Rep. Maragos:** Does an appraisal management company have to have an appraiser in it?

**Ibach:** I don't think there is anything in law that says they need to have an appraiser.

**Claus Lembke, North Dakota Association of Realtors (57:48)** testified in favor of the bill.

**Marilyn Foss, General Counsel for the North Dakota Bankers Association (58:26)** testified in support of the bill.

**Rep, Klemin:** The term client is not defined. Are lenders the sole clients or are there other clients possible?

**Foss:** That is somewhat ambiguous right now.

**Rep. Klemin:** Is there any corresponding requirement on the part of the client to pass on that disclosure to the borrower?

**Foss:** Lenders have very substantial requirements to disclose fees and costs in connection with residential real estate transactions.

**Rep. Hogan:** Do you have any idea how many of the current AMCs that are practicing in ND might have less than 15 appraisers?

**Foss:** My understanding is that it would be virtually none. The AMCs working in ND have more than 25 employees nationally.

**Jeff Olson, Vice President of Advocacy for the Credit Union Association of the Dakotas** (1:16:13) testified in support of the bill.

**Kathy Meyer, Appraiser** (1:17:53) testified in support of the bill.

**Chairman** closed the hearing.

Minutes of the

(HOUSE) (SENATE) BILL NO. <sup>1214</sup> 1389 SUBCOMMITTEE OF THE

sub-Judiciary STANDING COMMITTEE

Meeting location: Prairie Room

Date of meeting: 2/12/13

Time meeting called to order: 9:55 AM CT Chair

Members present: Rep. Hagan, Rep. Steiner,  
Rep. Boehning

Others present (may attach attendance sheet):

Chairman Kim Koppelman  
Rep. Hanson

Topics discussed:

fence building with apprentice requirements  
time of appraisals long length in Williston  
get realtors, builders to give input  
short of appraisers, make ethical standard for  
mentoring, study penalty fines  
Vote

Motion and vote:

none taken

Time of adjournment: 10:40 PM

Note: If a motion is made, a description of the motion must be provided along with the member seconding the motion. A recorded roll call vote must be taken and reported for any nonprocedural motion.

(HOUSE) (SENATE) BILL NO. 1389 SUBCOMMITTEE OF THE

Judiciary sub-STANDING COMMITTEE

Meeting location: Legislator's Study

Date of meeting: 2/12/13

Time meeting called to order: 3 PM

Members present: Rep. Steiner (chair), Rep. Hogan,  
Rep. Boehning

Others present (may attach attendance sheet):

Dave Campbell, Klaus Jumbke, Scott Jaiser, Jodie  
Campbell, Edward Erickson

Topics discussed:

Appraisal board has had 3 formal complaints  
Amc could be forced to tell bankers the appraisal fee  
46 apprentices, appraisers can talk to realtors  
but not on price topic We could use Bank of ND  
to increase apprenticeship Lynn Heider is teaching  
effective classes in Nebraska

Motion and vote:

None taken

Time of adjournment: 4 PM

Note: If a motion is made, a description of the motion must be provided along with the member seconding the motion. A recorded roll call vote must be taken and reported for any nonprocedural motion.

Minutes of the

(HOUSE) (SENATE) BILL NO. \_\_\_\_\_ SUBCOMMITTEE OF THE

Sub - Judiciary STANDING COMMITTEE 1214, 1389

Meeting location: Legislators Study

Date of meeting: 2/13/13

Time meeting called to order: 3:45 PM

Members present: Rep. Steiner, Rep. Bohning, Rep. Hogan

Others present (may attach attendance sheet):  
Jennifer Clark, Scott Lousier, Doreen Riedman, Claus Lemke  
Joe Fbach, Edward Erickson, Jordis Caspell

Topics discussed:  
Which amendments would work - study the \$150 fine  
put appraiser fee on appraisal closing document  
- only new applicants get criminal background  
check

Motion and vote:  
Rep. Kathy Hogan moved, Rep. Bohning moved amendments  
1214 passed

Rep. Bohning, Rep. Hogan moved amendments 1389  
passed

Time of adjournment: 4:20 PM

Note: If a motion is made, a description of the motion must be provided along with the member seconding the motion. A recorded roll call vote must be taken and reported for any nonprocedural motion.

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee  
Prairie Room, State Capitol

HB 1389  
February 18, 2013  
Job 19085

Conference Committee



## Explanation or reason for introduction of bill/resolution:

Relating to appraisal management company regulation; relating to criminal history background checks; to provide a penalty; and to provide an effective date.

## Minutes:

*Attachment 1, 2*

Rep Steiner reviewed the bill and amendments.

The committee discussed amendments and language.

Rep Delmore moved the amendment.

Rep Boehning seconded.

Voice Vote: Motion carried.

Rep Boehning moved a Do Pass as Amended.

Rep Delmore seconded.

## Roll Call Vote:

Yes: 13

No: 0

Absent: 1

Carried by Rep Steiner.



# 2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee  
Prairie Room, State Capitol

HB 1389  
February 20, 2013  
Job #19287

Conference Committee

Committee Clerk Signature

*Mary Brueker*

## Explanation or reason for introduction of bill/resolution:

A Bill relating to appraisal management company regulation; relating to criminal history background checks; to provide a penalty; and to provide an effective date.

## Minutes:

*Fiscal note attached.*

**Chairman Koppelman:** We received a late fiscal note from the attorney general's office. I think it has to do with background checks and that is the reason for the cost. Since the bill was not on the floor calendar we have the luxury of being able to bring it back into committee and re-refer it to appropriations rather than just passing it out to the floor. In order to do that we need a motion to reconsider our actions by which we passed HB 1389 and re-refer it again to appropriations.

**Representative Klemin:** Made a motion to reconsider our action whereby we moved a Do Pass on HB 1389.

**Representative Brabandt: Seconded.**

**VOICE VOTE: MOTION CARRIED.**

**Chairman Koppelman:** We have the bill before us.

**Representative Klemin:** Made a motion for a Do Pass as Amended and re-refer it to appropriations.

**Representative Delmore: Seconded.**

**Representative Kretschmar:** Do we have copies of that fiscal note?

**Chairman Koppelman:** It should be in the book. Its \$12,000 in general funds and \$5,800 in other funds. It comes from Kathy Roll in the attorney general's office. It has to do with criminal history background checks.

**Representative Kretschmar:** I may be wrong but I thought that if it has a fiscal note of less than \$50,000 we don't have to go to appropriations.

**Chairman Koppelman:** It's actually \$5,000. If the fiscal effect of the bill is \$50,000 or if a direct expenditure is over \$5,000. We should probably change that in our rules because as they say in this process \$5,000 is decimal dust.

**Representative Steiner:** Don't they charge enough for the background check to make it revenue neutral? It's a service so they pay a fee.

**Chairman Koppelman:** They do pay a fee and to be honest I'm not sure we even need a fiscal note on that. We usually get a fiscal note when they need full time employees because when we passed the legislation a couple years ago calling for broader background checks for a lot of things they needed more people. They do pay a fee that would offset the cost so I'm sure appropriations will review that.

**ROLL CALL VOTE: 11 YES 2 NO 1 ABSENT**

**Representative Steiner will carry this bill.**

This bill was referred to Appropriations during the committee meeting. Although the Standing Committee report was in error and did not reflect this so the House floor made a motion to refer HB 1389 to Appropriations.

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/08/2013**

Bill/Resolution No.: HB 1389

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	\$12,000	\$5,800		
<b>Expenditures</b>	\$0	\$0	\$0	\$5,800		
<b>Appropriations</b>	\$0	\$0	\$0	\$5,800		

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
<b>Counties</b>	\$0	\$0	\$0
<b>Cities</b>	\$0	\$0	\$0
<b>School Districts</b>	\$0	\$0	\$0
<b>Townships</b>	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill requires criminal history record checks for applicants, owners or controlling persons of appraisal management companies. The criminal history record fees are to be paid by the above parties.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 2 is anticipated to have a fiscal impact since NDCC 43-23.5-23 requires applicants to have criminal history record checks. For the 2013-15 biennium, the Office of Attorney General estimates general fund revenues of \$12,000 from applicant fees and revenues/expenses/appropriations of \$5,800 for the \$14.50 fingerprint based record checks, a total of \$5,800 in other funds from applicant fees. It is unknown at this time what 2015-17 biennium revenues, expenditures or appropriations may be needed since the number of appraisal management companies that will do business in North Dakota is uncertain.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

For the 2013-15 biennium, the Office of Attorney General estimates general fund revenues of \$12,000 from applicant fees and \$5,800 in other funds from applicant fees for the \$14.50 fingerprint based record checks. It is unknown at this time what 2015-17 biennium revenues may be since the number of appraisal management companies that will do business in North Dakota is uncertain.

- B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

This bill requires criminal history record checks for applicants, owners, or controlling persons in appraisal management companies. In the 2013-15 biennium, the office estimates expenditures will be \$5,800 to pay the \$14.50 fingerprint check to the FBI. It is unknown at this time what 2015-17 biennium expenditures may be needed since the number of appraisal management companies that will do business in North Dakota is uncertain.

- C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

For the 2013-15 biennium the office estimates an appropriation of \$5,800 from other funds (applicant fees) will be needed to pay the FBI for fingerprint record checks. It is unknown at this time what 2015-17 biennium appropriations may be needed since the number of appraisal management companies that will do business in North Dakota is uncertain.

**Name:** Kathy Roll

**Agency:** Office of Attorney General

**Telephone:** 701-328-3622

**Date Prepared:** 02/13/2013

February 18, 2013

VK  
2/18/13

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1389

Page 6, line 4, after "investigation" insert "for an initial application or as required by the board"

Page 6, line 25, after "investigation" insert "for an initial application or as required by the board"

Page 6, line 28, replace "sate" with "state"

Page 8, line 28, remove "be required to have a"

Page 8, line 29, remove "system in place to"

Page 9, line 30, after "require" insert "by rule"

Page 9, line 30, replace "by rule" with "of not more than twenty-five thousand dollars"

Page 11, line 23, replace "fine" with "penalty"

Renumber accordingly

Date: 2-18-13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1389

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Delmore Seconded By Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman			Rep. Lois Delmore		
Vice Chairman Lawrence Klemin			Rep. Ben Hanson		
Rep. Randy Boehning			Rep. Kathy Hogan		
Rep. Roger Brabandt					
Rep. Karen Karls					
Rep. William Kretschmar					
Rep. Diane Larson					
Rep. Andrew Maragos					
Rep. Gary Paur					
Rep. Vicky Steiner					
Rep. Nathan Toman					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Voice Vote - Carried

Date: 2-18-13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1389

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Boehning Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman	/		Rep. Lois Delmore	/	
Vice Chairman Lawrence Klemin	/		Rep. Ben Hanson		
Rep. Randy Boehning	/		Rep. Kathy Hogan	/	
Rep. Roger Brabandt	/				
Rep. Karen Karls	/				
Rep. William Kretschmar	/				
Rep. Diane Larson	/				
Rep. Andrew Maragos	/				
Rep. Gary Paur	/				
Rep. Vicky Steiner	/				
Rep. Nathan Toman	/				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Steiner

If the vote is on an amendment, briefly indicate intent:

Date: 2-20-13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1389

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Klemin Seconded By Rep. Brabandt

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman			Rep. Lois Delmore		
Vice Chairman Lawrence Klemin			Rep. Ben Hanson		
Rep. Randy Boehning			Rep. Kathy Hogan		
Rep. Roger Brabandt					
Rep. Karen Karls					
Rep. William Kretschmar					
Rep. Diane Larson					
Rep. Andrew Maragos					
Rep. Gary Paur					
Rep. Vicky Steiner					
Rep. Nathan Toman					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

*Voice Vote  
Motion Carried.*



Date: 2-20-13  
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1389

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Klemin Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman	/		Rep. Lois Delmore	/	
Vice Chairman Lawrence Klemin	/		Rep. Ben Hanson	/	
Rep. Randy Boehning			Rep. Kathy Hogan	/	
Rep. Roger Brabandt	/				
Rep. Karen Karls	/				
Rep. William Kretschmar	/				
Rep. Diane Larson	/				
Rep. Andrew Maragos		/			
Rep. Gary Paur	/				
Rep. Vicky Steiner	/				
Rep. Nathan Toman		/			

Total (Yes) 11 No 2

Absent \_\_\_\_\_

Floor Assignment Rep. Steiner

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1389: Judiciary Committee (Rep. K. Koppelman, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1389 was placed on the Sixth order on the calendar.

Page 6, line 4, after "investigation" insert "for an initial application or as required by the board"

Page 6, line 25, after "investigation" insert "for an initial application or as required by the board"

Page 6, line 28, replace "sate" with "state"

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Page 9, line 30, replace "by rule" with "of not more than twenty-five thousand dollars"

Page 11, line 23, replace "fine" with "penalty"

Renumber accordingly

**2013 SENATE JUDICIARY**

**HB 1389**

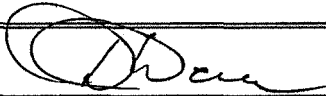
# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee  
Fort Lincoln Room, State Capitol

HB1389  
3/25/2013  
Job #20438

Conference Committee

Committee Clerk Signature



**Minutes:**

*Attached testimony*

**Relating to appraisal management company regulation; relating to criminal history background checks**

**Senator David Hogue - Chairman**

Joe Ibach - ND Real Estate Appraiser Qualifications and Ethics Board - See written testimony (1). Senator Sitte asks Mr. Ibach if this legislation will cut the number of appraisers in the State. Mr. Ibach replies that it will have no impact because this legislates the AMCs. Mr. Ibach explains how many banks use the AMCs. The committee questions Mr. Ibach on AMCs.

Claus Lembke - ND Association of Realtors - In support. He relays that this bill is dictated by federal legislation and we must have this.

Kathy Meier - Appraiser - Ms. Meier says this is a federal mandate and is fortunately something that will protect the public.

Opposition - none

Neutral - none

Close the hearing on 1389

# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee  
Fort Lincoln Room, State Capitol

HB1389  
3/27/2013  
Job #20608

Conference Committee

Committee Clerk Signature



**Minutes:**

Vote

**Senator David Hogue - Chairman**

Committee work

Senator Hogue explains the bill. He says it does not affect the appraisers; this is about regulating the AMCs. His concern is putting these AMCs under the jurisdiction supervision of the Appraisal Board. Senator Sitte states this is a federal mandate.

Senator Armstrong moves a do pass  
Senator Sitte seconded

Vote - 7 yes, 0 no  
Motion passes

Senator Grabinger will carry

Date: 3/27/13  
 Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1389**

Senate JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By S. Armstrong Seconded By S. Sitte

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue	X		Senator Carolyn Nelson	X	
Vice Chairman Margaret Sitte	X		Senator John Grabinger	X	
Senator Stanley Lyson	X				
Senator Spencer Berry	X				
Senator Kelly Armstrong	X				

Total (Yes) 7 No 0

Absent \_\_\_\_\_

Floor Assignment S. Grabinger

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1389, as engrossed: Judiciary Committee (Sen. Hogue, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1389 was rereferred to the Appropriations Committee.**

**2013 TESTIMONY**

**HB 1389**



**Testimony of Joe Ibach, Chairman of the  
North Dakota Real Appraiser Qualifications and Ethics Board**

**February 6, 2013**

Good morning. My name is Joe Ibach, Chairman of the North Dakota Real Estate Appraiser Qualifications and Ethics Board. I will refer to this Board throughout my testimony as either the ND Appraiser Board or the Appraiser Board.

On July 21, 2010, President Obama signed H.R. 4173, the Dodd-Frank Wall Street Reform and Consumer Protection Act, into law. Section 1124 of Dodd-Frank requires the registration and supervision of appraisal management companies (AMCs) by State appraiser licensing and certifying agencies. In ND, this task falls under the purview of the Appraiser Board. Hence, the drafting of this legislation provides the Board the authority to register and regulate appraisal management companies.

Appraisal management companies (AMC's) offer a service to lenders by acting as a liaison between lenders and appraisers. Specifically, an AMC contracts with a lender and then contracts separately with an independent appraiser to fulfill a real estate appraisal assignment. In essence, the AMC serves as a "middleman" between loan production and the required appraiser independence mandate as expressed in the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Dodd-Frank establishes specific minimum requirements States must follow in regulating AMCs.

*".....Such requirements shall include a requirement that such companies-*

*(1) register with and be subject to supervision by a State appraiser certifying and licensing agency in each State in which company operates;*

*(2) verify that only licensed or certified appraisers are used for federally related transactions;*

*(3) require that appraisals coordinated by an appraisal management company comply with the Uniform Standards of Professional Appraisal Practice; and*

*(4) require that appraisals are conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established under section 129E of the Truth in Lending Act..."*

The ND Appraiser Board formed an AMC Task Force to assist in carrying out the task of drafting legislation. The Appraiser Board reached out to various affected industries that have dealings with real estate appraisers/appraisals. Representatives from the ND Association of Realtors, ND Real Estate Commission, the ND Bankers Association, AMC companies, independent appraisers and the ND Appraiser Board volunteered their services with the Board's legal counsel assisting in the final draft. To facilitate the process of drafting language for this legislation, the Task Force looked not only to Dodd-Frank and the Truth and Lending Act, but also to other states who have AMC legislation in place and to a "model bill" that was specifically written to help States in the drafting of AMC legislation.

The fundamental purpose of registration and regulation of appraisal management companies (AMCs) is essentially the same as that of licensure and certification of real estate appraisers. It is to protect the public.

With this brief over view, I will direct my testimony to the specific AMC legislation now being considered.

**Section 1: Amendment.**

Amends SB 2110 to give the Board the authority to require registrants, owners and controlling persons undergo a background check.

**Section 2: Chapter 43-23.5 of the North Dakota Century Code is created and enacted as follows.**

**43-23.5-01 Definitions.**

Provides definitions.

**43-23.5-02 Rulemaking authority.**

Gives the ND Appraiser Board the authority to adopt rules to register and regulate AMCs.

**43-23.5-03 Registration required.**

Requires AMCs operating in ND to register with the ND Appraiser Board.

**43-23.5-04 Registration process.**

**43-23.5-05 Consent to service**

**43-23.5-06 Expiration of registration.**

04, 05 and 06 detail the process for AMC to register and renew with the Board.

**43-23.5-07 Exemptions.**

Defines firms or financial institutions that are exempt from registering as an AMC.

**43-23.5-08 Owner requirements.**

Details the requirements of the owners of an AMC. These requirements include prohibiting an AMC from being owned by individuals who have had an appraiser license or certification denied, refused, cancelled or revoked or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently granted or reinstated.

**43-23.5-09 Controlling person.**

Details the requirements of the controlling person of an AMC. Requires the AMC provide the Board a "controlling person" who will serve as the main point of contact for the Board. The "controlling person" is not required to hold an appraiser license or certification. However, if the "controlling person" is licensed or certified in any state, this individual may have never had their license or certification denied, refused, cancelled or revoked or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently granted or reinstated.

**43-23.5-10 Employee requirements.**

Addresses employee requirements. An AMC may not knowingly employ a person, enter into an arrangement with an independent contractor or enter any contract, agreement or business relationship with any person that has had an appraiser license or certification denied, refused, cancelled or revoked or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently granted or reinstated.

**43-23.5.11 Appraiser engagement.**

Requires that the AMC verify that an appraiser holds a ND permit and is in good standing prior to placing an assignment with the appraiser.

**43-23.5.12 Appraisal review.**

Requires that an employee or independent contractor hired by the AMC to complete an appraisal review for a property located in ND must be a licensed or certified appraiser in good standing.

**43-23.5.13 Verification of licensure or certification.**

Requires an AMC registered in ND or renewing registration in ND must have a system in place to verify that their panel of appraisers are in good standing.

**43-23.5-14 Appraisal management company certification of appraisal review system.**

Requires the AMC to have a process in place to review a portion of the work (for compliance with the Uniform Standards of Professional Appraisal Practice) of all appraisers that are performing appraisals for the AMC in the state to determine if they are in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP). Should the AMC find the work product to be substantially noncompliant with USPAP, the results must be forwarded to the Board.

**43-23.5-15 Retention of records.**

Requires the AMC to maintain a record of each appraisal request the company receives for a minimum of five years. It further requires the records be available for Board inspection.

**43-23.5-16 Fee disclosure system requirement.**

Relates to full disclosure of all appraisal related fees. Requires the AMC have a system in place to disclose to its clients (1) fees paid for AMC services and (2) fees paid to the independent appraiser. Furthermore, the AMC cannot prohibit the independent appraiser from recording the fee paid to the appraiser on the appraisal.

**43-23.5-17 Requirement of appraisal management company's payment to appraiser.**

Requires the AMC (1) make payment to the appraiser for the completion of an appraisal within forty-five days unless there is another agreed upon date, (2) certify that the AMC will require appraisal be conducted independently according to 129E of the Truth and Lending Act, and (3) pay reasonable and customary fees. (Proper fees allow appraisers to spend sufficient time in their analysis of the properties being appraised.)

**43-23.5-18 Appraisal management company registration numbers.**

Requires the Board issue a registration number and maintain a list of AMCs registered in ND. In addition, it details where AMC's registered in ND must place their registration number.

**43-23.5-19 Fees-Bonds.**

Gives the Board the authority to charge a registration fee to help offset costs of operating the Board. It further gives the Board the authority to require a surety bond.

**43-23.5-20 Mandatory Reporting.**

Requires the AMC to refer an appraiser to the Board should the AMC find the appraiser has failed to comply with ND Statute or Rules or has substantially violated the Uniform Standards of Professional Appraisal Practice.

**43-23.5-21 Prohibited conduct.**

Provides grounds for disciplinary action against an AMC. Among the grounds for disciplinary action, the AMC may not (1) improperly influence or attempt to improperly influence the appraiser through intimidation, coercion, extortion, bribery or any other manner, (2) prohibit communications between the appraiser and any other person who the appraiser believes possesses information that would be relevant to the appraisal.

**43-23.5-22 Disciplinary proceedings.**

Details the types of disciplinary action the Board may take against an AMC (deny, suspend, revoke, impose a monetary fine, issue a letter of reprimand refuse to issue or renew the registration of an AMC or other disciplinary action) and specifies the violations the Board may consider when doing so.

**43-23.5-23 Criminal history background checks.**

Requires owner(s) and controlling persons of AMCs to undergo a criminal history background check.

**43-23.5-24 Penalty.**

An AMC performing services in ND without a permit to do so is guilty of a class A misdemeanor.

**Section 3 Effective date.**

Provides an effective date for this legislation of January 1, 2014.

Currently, ND statute does not give the ND Appraiser Board the authority to register and regulate appraisal management companies. To meet the minimum national requirements set forth in Section 1124 of H.R. 4173, the Dodd-Frank Wall Street Reform and Consumer Protection Act, a change in ND Statute is required and is now being introduced by the ND Appraiser Board, HB 1389.

The North Dakota Appraiser Board recommends a "Do Pass" of House Bill 1389.

February 18, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1389

Page 6, line 4, after "investigation" insert "for an initial application or as required by the board"

Page 6, line 25, after "investigation" insert "for an initial application or as required by the board"

Page 6, line 28, replace "sate" with "state"

Page 8, line 28, remove "be required to have a"

Page 8, line 29, remove "system in place to"

Page 9, line 30, after "bond" insert "of not more than twenty-five thousand dollars"

Page 11, line 23, replace "fine" with "penalty"

Renumber accordingly

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13.0585.01002  
Title.02000

Adopted by the Judiciary Committee

February 19, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1215

Page 1, line 10, replace "44-09-19.2" with "44-04-19.2"

Page 2, line 10; after "valid" insert "class one"

Page 2, line 13, after "school" insert ". If a school authorizes an individual to carry a concealed  
weapon, local law enforcement must be informed of the name of the authorized  
individual"

Renumber accordingly

HOUSE BILL NO. 1389

Testimony of Joe Ibach, Chairman of the  
North Dakota Real Appraiser Qualifications and Ethics Board

March 25, 2013

Good morning. My name is Joe Ibach, Chairman of the North Dakota Real Estate Appraiser Qualifications and Ethics Board. I will refer to this Board throughout my testimony as either the ND Appraiser Board or the Appraiser Board.

On July 21, 2010, President Obama signed H.R. 4173, the Dodd-Frank Wall Street Reform and Consumer Protection Act, into law. Section 1124 of Dodd-Frank requires the registration and supervision of appraisal management companies (AMCs) by State appraiser licensing and certifying agencies. In ND, this task then falls under the purview of the Appraiser Board. Hence, the drafting of this legislation provides the Board the authority to register and regulate appraisal management companies.

Appraisal management companies (AMC's) offer a service to lenders by acting as a liaison between lenders and appraisers. Specifically, an AMC contracts with a lender and then contracts separately with an independent appraiser to fulfill a real estate appraisal assignment. In essence, the AMC serves as a "middleman" between loan production and the required appraiser independence mandate as expressed in the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Dodd-Frank establishes specific minimum requirements States must follow in regulating AMCs.  
*".....Such requirements shall include a requirement that such companies-*

*(1) register with and be subject to supervision by a State appraiser certifying and licensing agency in each State in which company operates;*

*(2) verify that only licensed or certified appraisers are used for federally related transactions;*

*(3) require that appraisals coordinated by an appraisal management company comply with the Uniform Standards of Professional Appraisal Practice; and*

*(4) require that appraisals are conducted independently and free from inappropriate influence and coercion pursuant to the appraisal independence standards established under section 129E of the Truth in Lending Act..."*



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The ND Appraiser Board formed an AMC Task Force to assist in carrying out the task of drafting legislation. The Appraiser Board reached out to various affected industries that have dealings with real estate appraisers/appraisals. Representatives from the ND Association of Realtors, ND Real Estate Commission, the ND Bankers Association, AMC companies, independent appraisers and the ND Appraiser Board volunteered their services with the Board's legal counsel assisting in the final draft. To facilitate the process of drafting language for this legislation, the Task Force looked not only to Dodd-Frank and the Truth and Lending Act, but also to other states who have AMC legislation in place and to a "model bill" that was specifically written to help States in the drafting of AMC legislation.

The fundamental purpose of registration and regulation of appraisal management companies (AMCs) is essentially the same as that of licensure and certification of real estate appraisers. It is to protect the public.

With this brief over view, I will direct my testimony to the specific AMC legislation now being considered.

**Section 1: Amendment.**

Amended SB 2110 gives the Board the authority to require registrants, owners and controlling persons undergo a background check.

**Section 2: Chapter 43-23.5 of the North Dakota Century Code is created and enacted as follows.**

**43-23.5-01 Definitions.**

Provides definitions.

**43-23.5-02 Rulemaking authority.**

Gives the ND Appraiser Board the authority to adopt rules to register and regulate AMCs.

**43-23.5-03 Registration required.**

Requires AMCs operating in ND to register with the ND Appraiser Board.

**43-23.5-04 Registration process.**

**43-23.5-05 Consent to service**

**43-23.5-06 Expiration of registration.**

04, 05 and 06 detail the process for AMC to register and renew with the Board.

**43-23.5-07 Exemptions.**

Defines firms or financial institutions that are exempt from registering as an AMC.

**43-23.5-08 Owner requirements.**

Details the requirements of the owners of an AMC. These requirements include prohibiting an AMC from being owned by individuals who have had an appraiser license or certification denied, refused, cancelled or revoked or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently granted or reinstated.

**43-23.5-09 Controlling person.**

Details the requirements of the controlling person of an AMC. Requires the AMC provide the Board a "controlling person" who will serve as the main point of contact for the Board. The "controlling person" is not required to hold an appraiser license or certification. However, if the "controlling person" is licensed or certified in any state, this individual may have never had their license or certification denied, refused, cancelled or revoked or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently granted or reinstated.

**43-23.5-10 Employee requirements.**

Addresses employee requirements. An AMC may not knowingly employ a person, enter into an arrangement with an independent contractor or enter any contract, agreement or business relationship with any person that has had an appraiser license or certification denied, refused, cancelled or revoked or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently granted or reinstated.

**43-23.5.11 Appraiser engagement.**

Requires that the AMC verify that an appraiser holds a ND permit and is in good standing prior to placing an assignment with the appraiser.

**43-23.5.12 Appraisal review.**

Requires that an employee or independent contractor hired by the AMC to complete an appraisal review for a property located in ND must be a licensed or certified appraiser in good standing.

**43-23.5.13 Verification of licensure or certification.**

Requires an AMC registered in ND or renewing registration in ND must have a system in place to verify that their panel of appraisers are in good standing.

- 43-23.5-14 Appraisal management company certification of appraisal review system.**  
Requires the AMC to have a process in place to review a portion of the work (for compliance with the Uniform Standards of Professional Appraisal Practice) of all appraisers that are performing appraisals for the AMC in the state to determine if they are in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP). Should the AMC find the work product to be substantially noncompliant with USPAP, the results must be forwarded to the Board.
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- 43-23.5-19 Fees-Bonds.**  
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**43-23.5-20 Mandatory Reporting.**

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**Section 3 Effective date.**

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The North Dakota Appraiser Board recommends a "Do Pass" of House Bill 1389.