

HOUSE BILL NO. 1107

SENATE WORKFORCE DEVELOPMENT COMMITTEE

Testimony

Corey Kost, Chairperson

NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS & ETHICS BOARD

March 3, 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 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, but was amended in the House at the request of other entities to exempt Bank of North Dakota employees under certain circumstances.

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.~~*

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 the Board cannot modify them.

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

Page 3, Lines 13-22, The Board’s intentions were to breakdown #3 into 3, 4 and 5 by topic for an easier read. The Board did not intend to add or remove any language.

However, Legislative Council confirmed there was an error in leaving number 3 in its entirety, while adding numbers 4 and 5. Numbers 4 and 5 are a repeat of the last two sentences of number 3. To correct this error, the Board asks that the repetitive verbiage in number 3 be removed. With

the corrections made, Section 2 should read as follows:

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. 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.

5. This chapter does not apply to a person employed by the Bank of North Dakota when providing evaluations or appraisal reviews for federally insured depository institutions under federal financial regulatory agency appraisal examinations.

The Appraiser Board did not propose and does not endorse this Section as it is currently written. If it remains, it would allow employees of the Bank of North Dakota the legal authority to

provide market value opinions in the form of evaluations and appraisal reviews for third parties for a fee without any assurances that they would have appropriate education or experience to credibly do so. Further, there would be no avenue for recourse for bad behavior through the Appraiser Board as there would be no permit to act on. No one else has this kind of legal authority. We suggest that, at a minimum, the authority to perform an appraisal review without a permit be limited to a general examination of an appraisal report for compliance and completeness in relation to client requirements including, but not limited to, grammatical, typographical, or other similar errors that do not make a substantive valuation change. We have had some discussion with the Bank of North Dakota regarding possible definitions that would allow us to accomplish this goal.

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 12. 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 16. 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 22-29 and Page 6, lines 1-8. 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 11. The proposed revision to the title was made for consistency.

Page 6, line 13. 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, line 17. The proposed revision to the title was made for consistency.

Page 6, lines 20-23. 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 27. 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.*
- ~~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.

Page 7, line 2. 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 6-17. 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 28. 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 8, lines 2-11. 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 18. 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 25. “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 either obtain a 1) North Dakota permit (\$400) or 2) North Dakota temporary permit (\$250). Again, obtaining a permit is easily accomplished through reciprocity, or 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, with the exception of Section 4 as it currently written. I would be happy to entertain any questions.

Corey Kost

North Dakota Real Estate Appraiser Qualifications and Ethics Board