

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

HOUSE BILL NO. 1354

Introduced by

Representatives D. Ruby, Swiontek, Wolff, Vetter

Senators Barta, Meyer, Thomas

A BILL for an Act to create and enact a new section to chapter 43-23.3 of the North Dakota Century Code, relating to evaluations conducted by appraisers; and to amend and reenact sections 43-23.3-01, 43-23.3-04, and 43-23.3-18 of the North Dakota Century Code, relating to the definitions of agency and evaluation, an exemption from appraisal permit requirements, and the standards of professional appraisal practice, ~~and appraisal and evaluation guidelines.~~

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. "Agency" means the:

a. Board of governors of the federal reserve system;

b. Consumer financial protection bureau;

c. Farm credit administration;

~~e.d.~~ Federal deposit insurance corporation;

~~d.e.~~ National credit union administration;

~~e.f.~~ Office of the comptroller of the currency; and

~~f.g.~~ State financial regulator.

2. "Analysis" means a study of real estate other than estimating value.

- 1 ~~2-3.~~ "Appraisal" means an analysis, opinion, or conclusion relating to the nature, quality,
2 value, or utility of specified interests in, or aspects of, real estate. An appraisal may be
3 classified by subject matter into either a valuation or an analysis. The term does not
4 include an evaluation.
- 5 ~~3-4.~~ "Appraisal assignment" means an engagement for which a person is employed or
6 retained to act, or would be perceived by the public as acting, as a disinterested party
7 in rendering an unbiased supportable appraisal.
- 8 ~~4-5.~~ "Appraisal foundation" means the appraisal foundation incorporated as an Illinois
9 corporation on November 30, 1987.
- 10 ~~5-6.~~ "Appraisal report" means any communication of an appraisal.
- 11 ~~6-7.~~ "Appraisal subcommittee" means the appraisal subcommittee of the federal financial
12 institutions examination council.
- 13 ~~7-8.~~ "Appraiser" means a person who engages in appraisal activity for valuable
14 consideration.
- 15 ~~8-9.~~ "Apprentice appraiser" means a person who holds a valid permit as an apprentice
16 appraiser.
- 17 ~~9-10.~~ "Board" means the North Dakota real estate appraiser qualifications and ethics board.
- 18 ~~10-11.~~ "Certified appraiser" means a person who holds a valid permit as a certified residential
19 or general appraiser.
- 20 ~~11-12.~~ "Certified general appraiser" means a person who holds a valid permit as a certified
21 general appraiser.
- 22 ~~12-13.~~ "Certified residential appraiser" means a person who holds a valid permit as a certified
23 residential appraiser.
- 24 ~~14.~~ "Evaluation" means an estimate of the value of real property and real estate made in
25 accordance with title XI of the Financial Institutions Reform, Recovery, and
26 Enforcement Act of 1989 [Pub. L. 101-73, 103 Stat. 183] and provided to an entity
27 regulated by an agency for use in a ~~federally-related~~ real estate-related financial
28 transaction for which an appraisal is not required by federal law.
- 29 ~~13-15.~~ "Licensed appraiser" means a person who holds a valid permit as a licensed
30 appraiser.

1 ~~14-16.~~ "Permit" means the document issued by the board, verifying that the person named on
2 the permit has fulfilled all prerequisites to practice either as an apprentice appraiser, a
3 licensed appraiser, or a certified appraiser.

4 ~~15-17.~~ "Real estate" means an identified parcel or tract of land including improvements, ~~and~~
5 ~~interests, benefits, and rights inherent in the ownership of real estate~~ if any.

6 ~~16-18.~~ "Real property" means one or more defined interests, benefits, and rights inherent in
7 the ownership of real estate.

8 19. "Uniform standards of professional appraisal ~~practices~~ practice" means standards of
9 appraisal promulgated by the appraisal standards board of the appraisal foundation as
10 adopted by the board.

11 ~~17-19-20.~~ "Valuation" means an estimate of the value of real estate or real property.

12 **SECTION 2. AMENDMENT.** Section 43-23.3-04 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **43-23.3-04. Permit required - Exemptions.**

- 15 1. Except as provided in this section, a person may not directly or indirectly engage in,
16 advertise, conduct the business of, or act in any capacity as an apprentice, licensed,
17 or certified appraiser without first obtaining a permit as provided in this chapter.
- 18 2. An appraiser, that is apprenticed, licensed, or certified in another state may not
19 engage in, advertise, conduct the business of, or act in any capacity as an appraiser in
20 this state without first obtaining a temporary permit under section 43-23.3-11 or a
21 permit under section 43-23.3-04.1.

- 22 3. This chapter does not apply to ~~a~~:

23 a. A licensed real estate broker or salesperson who, in the ordinary course of
24 business, gives an opinion to a potential seller or third party as to the
25 recommended listing price of real estate or an opinion to a potential purchaser or
26 third party as to the recommended purchase price of real estate. However, the
27 opinion as to the listing price or the purchase price may not be referred to as an
28 appraisal.

- 29 ~~4. This chapter does not apply to a~~

30 b. A person who, in the ordinary course of business, gives an opinion of the value of
31 real estate to that person's employer.

~~5. This chapter does not apply to a~~

~~c. A person employed by the Bank of North Dakota when providing evaluations or reviews of appraisals for federally insured depository institutions under federal financial institution regulatory agency appraisal exemptions.~~

~~d. A person, who is not an apprentice, licensed, or certified appraiser, who prepares or provides an evaluation.~~

SECTION 3. AMENDMENT. Section 43-23.3-18 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-18. Standards of professional appraisal practice - ~~Exception--Appraisal and evaluation guidelines.~~

~~1.~~ An apprentice, licensed, or certified appraiser ~~shall:~~

~~a. 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, ~~except as authorized under subdivision b~~ section 4 of this Act.

~~b. May provide an evaluation to an institution regulated by an agency without complying with the uniform standards of professional appraisal practice. An evaluation must:~~

~~(1) Comply with the most current evaluation guidelines issued by an agency;~~
~~and~~

~~(2) Be conspicuously identified as an evaluation.~~

SECTION 4. A new section to chapter 43-23.3 of the North Dakota Century Code is created and enacted as follows:

Evaluation by appraiser.

1. An apprentice, licensed, or certified appraiser may provide an evaluation if the evaluation is permitted by law, regulation, or regulatory guidelines. An evaluation performed by an appraiser under this section must be conducted in accordance with federal and state laws and rules, regulatory guidelines, and title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [Pub. L. 101-73, 103 Stat.183].

- 1 | 2. An evaluation prepared or provided by an appraiser under this section must be
- 2 | identified conspicuously as an evaluation and not an appraisal.