

Sixty-ninth
Legislative Assembly
of North Dakota

**HOUSE BILL NO. 1354
with Senate Amendments**

HOUSE BILL NO. 1354

Introduced by

Representatives D. Ruby, Swiontek, Wolff, Vetter

Senators Barta, Meyer, Thomas

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

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 43-23.3-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **43-23.3-01. Definitions.**

10 As used in this chapter, unless the context otherwise requires:

- 11 1. "Agency" means the:
- 12 a. Board of governors of the federal reserve system;
 - 13 b. Consumer financial protection bureau;
 - 14 c. Farm credit administration;
 - 15 d. Federal deposit insurance corporation;
 - 16 e. National credit union administration;
 - 17 f. Office of the comptroller of the currency; and
 - 18 g. State financial regulator.
- 19 2. "Analysis" means a study of real estate other than estimating value.
- 20 ~~2.3.~~ "Appraisal" means an analysis, opinion, or conclusion relating to the nature, quality,
21 value, or utility of specified interests in, or aspects of, real estate. An appraisal may be

1 classified by subject matter into either a valuation or an analysis. The term does not
2 include an evaluation.

3 ~~3.4.~~ "Appraisal assignment" means an engagement for which a person is employed or
4 retained to act, or would be perceived by the public as acting, as a disinterested party
5 in rendering an unbiased supportable appraisal.

6 ~~4.5.~~ "Appraisal foundation" means the appraisal foundation incorporated as an Illinois
7 corporation on November 30, 1987.

8 ~~5.6.~~ "Appraisal report" means any communication of an appraisal.

9 ~~6.7.~~ "Appraisal subcommittee" means the appraisal subcommittee of the federal financial
10 institutions examination council.

11 ~~7.8.~~ "Appraiser" means a person who engages in appraisal activity for valuable
12 consideration.

13 ~~8.9.~~ "Apprentice appraiser" means a person who holds a valid permit as an apprentice
14 appraiser.

15 ~~9.10.~~ "Board" means the North Dakota real estate appraiser qualifications and ethics board.

16 ~~10.11.~~ "Certified appraiser" means a person who holds a valid permit as a certified residential
17 or general appraiser.

18 ~~11.12.~~ "Certified general appraiser" means a person who holds a valid permit as a certified
19 general appraiser.

20 ~~12.13.~~ "Certified residential appraiser" means a person who holds a valid permit as a certified
21 residential appraiser.

22 ~~14.~~ "Evaluation" means an estimate of the value of real property and real estate made in
23 accordance with title XI of the Financial Institutions Reform, Recovery, and
24 Enforcement Act of 1989 [Pub. L. 101-73, 103 Stat. 183] and provided to an entity
25 regulated by an agency for use in a real estate-related financial transaction for which
26 an appraisal is not required by federal law.

27 ~~13.15.~~ "Licensed appraiser" means a person who holds a valid permit as a licensed
28 appraiser.

29 ~~14.16.~~ "Permit" means the document issued by the board, verifying that the person named on
30 the permit has fulfilled all prerequisites to practice either as an apprentice appraiser, a
31 licensed appraiser, or a certified appraiser.

1 ~~15-17.~~ "Real estate" means an identified parcel or tract of land including improvements, and-
2 interests, benefits, and rights inherent in the ownership of real estate if any.

3 ~~16-18.~~ "Real property" means one or more defined interests, benefits, and rights inherent in
4 the ownership of real estate.

5 19. "Uniform standards of professional appraisal ~~practices~~practice" means standards of
6 appraisal promulgated by the appraisal standards board of the appraisal foundation as
7 adopted by the board.

8 ~~17-20.~~ "Valuation" means an estimate of the value of real estate or real property.

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

11 **43-23.3-04. Permit required - Exemptions.**

- 12 1. Except as provided in this section, a person may not directly or indirectly engage in,
13 advertise, conduct the business of, or act in any capacity as an apprentice, licensed,
14 or certified appraiser without first obtaining a permit as provided in this chapter.
- 15 2. An appraiser, that is apprenticed, licensed, or certified in another state may not
16 engage in, advertise, conduct the business of, or act in any capacity as an appraiser in
17 this state without first obtaining a temporary permit under section 43-23.3-11 or a
18 permit under section 43-23.3-04.1.
- 19 3. This chapter does not apply to a:
- 20 a. A licensed real estate broker or salesperson who, in the ordinary course of
21 business, gives an opinion to a potential seller or third party as to the
22 recommended listing price of real estate or an opinion to a potential purchaser or
23 third party as to the recommended purchase price of real estate. However, the
24 opinion as to the listing price or the purchase price may not be referred to as an
25 appraisal.
- 26 ~~4. This chapter does not apply to a~~
- 27 b. A person who, in the ordinary course of business, gives an opinion of the value of
28 real estate to that person's employer.
- 29 ~~5. This chapter does not apply to a~~

- 1 c. A person employed by the Bank of North Dakota when providing evaluations or
2 reviews of appraisals for federally insured depository institutions under federal
3 financial institution regulatory agency appraisal exemptions.
- 4 d. A person, who is not an apprentice, licensed, or certified appraiser, who prepares
5 or provides an evaluation.

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

8 **43-23.3-18. Standards of professional appraisal practice - Exception.**

9 An apprentice, licensed, or certified appraiser shall comply with the standards of
10 professional appraisal practice and ethical rules specified by the uniform standards of
11 professional appraisal practice and all other standards and ethical requirements adopted by the
12 appraisal standards board of the appraisal foundation, except as authorized under section 4 of
13 this Act.

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

16 **Evaluation by appraiser.**

- 17 1. An apprentice, licensed, or certified appraiser may provide an evaluation if the
18 evaluation is permitted by law, regulation, or regulatory guidelines. An evaluation
19 performed by an appraiser under this section must be conducted in accordance with
20 federal and state laws and rules, regulatory guidelines, and title XI of the Financial
21 Institutions Reform, Recovery, and Enforcement Act of 1989 [Pub. L. 101-73, 103
22 Stat.183].
- 23 2. An evaluation prepared or provided by an appraiser under this section must be
24 identified conspicuously as an evaluation and not an appraisal.