

2023 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1107

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1107
1/4/2023

Relating to the regulation of real estate appraisers; and to provide a penalty.

11:10 a.m. Chairman Louser called the meeting to order

Members Present: Chairman Louser, Vice Chairman Ostlie, Representative Boschee, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner, Warrey.
Member absent: Representative Christy

Discussion Topics:

- Definition clarification of appraisal boards
- Permit fees, renewal fees, temporary permit fees

In favor Testimony:

Corey Kost, Chairperson North Dakota Real Estate Appraiser Qualifications and Ethics Board #12440

Additional written testimony:

Mark Schiffman, Executive Director, Real Estate Valuation Advocacy Association ("REVAA") #12280

Chairman Louser adjourned the meeting 11:37

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1107
1/18/2023

Subcommittee

Relating to the regulation of real estate appraisers; and to provide a penalty.

Subcommittee Chairman Koppelman called to order 4:30 PM

Members Present: Subcommittee Chairman Koppelman, Representative Wagner, Representative Christy

Discussion Topics:

- Appraisal review
- Mandatory reporters
- Appraiser opining against another.
- Opinion of value
- Licensed state appraisers
- AMC's
- Out of state appraisers

Joseph Summers, North Dakota Appraisers Association #14075, and proposed amendment #17504

Jamie McLean ND Realtors (no written testimony)

Matthew Schlenvogt ND Appraisers Association (no written testimony)

Lise Kruse Commissioner, Depart of Financial Institutions (no written testimony)

Andrew Reisser, Real Estate Valuations Advocacy ("REVAA") #13911

John Brenan, REVAA #13924

Additional written testimony:

Timothy Kreft, Chief Appraiser, North Dakota Farm Credit Council, #14184

Subcommittee Chairman Koppelman adjourned the meeting 5:53 PM

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1107
1/24/2023

Subcommittee

Relating to the regulation of real estate appraisers; and to provide a penalty.

Subcommittee Chairman Koppelman called to order 4:00 PM

Members Present: Subcommittee Chairman Koppelman, Representative Wagner, Representative Christy

Discussion Topics:

- Banks
- Licenses of the board
- Definition of appraisal
- Rule adopted.

Representative Koppelman presented a proposed amendment #17965

Representative Wagner moved to adopt amendments, seconded Representative Christy. Chairman Koppelman called for a voice vote, it was unanimous, motion passed.

Representative Wagner moved to recommend to the full committee to adopt the amendments and a do pass as amended. Representative Christy seconded. Chairman Koppelman called for a voice vote, it was unanimous, motion passed.

Subcommittee Chairman Koppelman adjourned the meeting 4:58 PM

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1107
1/30/2023

Relating to the regulation of real estate appraisers; and to provide a penalty.

Chairman Louser called to order 2:45 PM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Christy, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner, Warrey.

Discussion Topics:

- Committee action

Subcommittee Chairman Koppelman presented a draft amendment, #17965

Representative Koppelman moved to adopt the amendment 23.8140.01001
Representative Christy second.

Roll call vote:

Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	Y
Representative Josh Boschee	Y
Representative Josh Christy	Y
Representative Hamida Dakane	Y
Representative Jorin Johnson	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Austen Schauer	Y
Representative Paul J. Thomas	Y
Representative Bill Tveit	Y
Representative Scott Wagner	Y
Representative Jonathan Warrey	Y

Motion passed 14-0-0

Representative Koppelman moved a Do Pass as amended.
Representative Dakane seconded.

Roll call vote:

Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	Y
Representative Josh Boschee	Y
Representative Josh Christy	Y
Representative Hamida Dakane	Y
Representative Jorin Johnson	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Austen Schauer	Y
Representative Paul J. Thomas	Y
Representative Bill Tveit	Y
Representative Scott Wagner	Y
Representative Jonathan Warrey	Y

Motion passed 14-0-0

Representative Koppelman will carry the bill.

Chairman Louser adjourned the meeting 2:55 PM

Diane Lillis, Committee Clerk

January 30, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1107

AKA
1-30-23
(1-1)

Page 4, line 25, remove the overstrike over "or"

Page 4, line 25, remove the underscored comma

Page 4, line 26, remove "or perform an appraisal review for a property located in this state."

Page 5, line 2, remove "value or as"

Page 5, after line 5, insert:

"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 institution regulatory agency appraisal exemptions."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1107: Industry, Business and Labor Committee (Rep. Louser, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1107 was placed on the Sixth order on the calendar.

Page 4, line 25, remove the overstrike over "or"

Page 4, line 25, remove the underscored comma

Page 4, line 26, remove "or perform an appraisal review for a property located in this state."

Page 5, line 2, remove "value or as"

Page 5, after line 5, insert:

"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 institution regulatory agency appraisal exemptions."

Renumber accordingly

2023 SENATE WORKFORCE DEVELOPMENT

HB 1107

2023 SENATE STANDING COMMITTEE MINUTES

Workforce Development Committee Fort Lincoln Room, State Capitol

HB 1107
3/3/2023

Relating to the regulation of real estate appraisers; and to provide a penalty.

11:00 AM **Chairman Wobbema** called the hearing to order. **Senators Wobbema, Elkin, Larson, Sickler, Piepkorn** were present. **Senator Axtman** was absent.

Discussion Topics:

- Clarify appraisal standards
- Board powers and duties
- Permit process
- Examination requirements
- Appraisal education requirements
- Apprenticeship process

11:01 AM **Corey Kost, Chair, North Dakota Real Estate Appraisers Qualification and Ethics Board**, testified in favor. #21876

11:21 AM **Shawn Ostlie, Past President of the ND Association of Realtors**, testified in favor. #21938

11:24 AM **Dean Rylander, Chair of the Government Affairs Committee**, testified in favor and proposed amendment LC2381.400.2001. #21920, #21921

11:44 AM **Lise Kruse, Commissioner Department of Financial Institutions**, verbally testified in favor.

11:54 AM **Rick Clayburgh, President/CEO ND Bankers Association**, verbally testified neutral.

11:56 AM **Dana Bohn, Lobbyist Representing ND Farm Credit Services Farm Credit Services**, verbally testified neutral.

11: 58 AM **Barry Haugen, President Independent Community Banks**, verbally testified neutral.

Additional written testimony:

Jill Beck, Chief Executive Officer, North Dakota Association of Realtors in favor #21861.

11: 59 AM **Chairman Wobbema** closed the hearing.

Patricia Lahr, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Workforce Development Committee Fort Lincoln Room, State Capitol

HB 1107
3/17/2023

Relating to the regulation of real estate appraisers; and to provide a penalty.

10:50 AM **Chairman Wobbema** called the meeting to order. **Senators Wobbema, Axtman, Larson, Sickler, Piepkorn** are present. **Senator Elkin** was absent.

Discussion Topics:

- Appraisal review
- Repetitive language
- Error adjustment

Senator Wobbema calls for discussion.

11:00 AM **Kirby Evanger, Chief Credit Officer, Bank of North Dakota**, provided information verbally.

11:08 AM **Dean Rylander, Chair of the Government Affairs Committee, North Dakota Appraisers Association**, provided information verbally.

11:19 AM **Lisa Kruse, Commissioner, North Dakota Financial Institutions**, provided information verbally.

11:30 AM **Dave Campbell, Administrator Appraiser Board**, provided information verbally.

11:32 AM **Kirby Evanger**, provided additional information verbally.

Chairman Wobbema moved to adopt amendment, changing language from appraisal reviews, to review of appraisers. LC 23.8140.02002.

Senator Larson seconded the motion.

Roll call vote.

Senators	Vote
Senator Michael A. Wobbema	Y
Senator Michelle Axtman	Y
Senator Jay Elkin	AB
Senator Diane Larson	Y
Senator Merrill Piepkorn	Y
Senator Jonathan Sickler	Y

The motion passed 5-0-1.

Senator Larson moved **DO PASS** as **AMENDED**.

Senator Axtman seconded the motion.

Roll call vote.

Senators	Vote
Senator Michael A. Wobbema	Y
Senator Michelle Axtman	Y
Senator Jay Elkin	AB
Senator Diane Larson	Y
Senator Merrill Piepkorn	Y
Senator Jonathan Sickler	Y

The motion passed 5-0-1.

Chairman Wobbema will carry HB 1107.

11:40 AM **Chairman Wobbema** closed the meeting.

Patricia Lahr, Committee Clerk

44
3-17-23

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1107

Page 3, line 13, overstrike "At least two"

Page 3, overstrike lines 14 through 17

Page 5, line 6, remove "appraisal"

Page 5, line 6, after "reviews" insert "of appraisals"

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1107, as engrossed: Workforce Development Committee (Sen. Wobbema, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1107 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 3, line 13, overstrike "At least two"

Page 3, overstrike lines 14 through 17

Page 5, line 6, remove "appraisal"

Page 5, line 6, after "reviews" insert "of appraisals"

Renumber accordingly

TESTIMONY

HB 1107



January 3, 2023

The Honorable Scott Louser
 North Dakota House of Representatives
 Chair, Industry, Business and Labor Committee
 1718 Birch Place SW
 Minot, ND 58701-7097

Dear Chairman Louser and Industry, Business and Labor Committee members:

The Real Estate Valuation Advocacy Association (www.revaa.org) is a national trade association whose membership includes Appraisal Management Companies (AMC) and residential real estate valuation providers licensed in North Dakota. REVA members provide residential appraisal management services, many also create innovative technologies and provide other important lender valuation services such as Evaluations, Broker Price Opinions (BPO) and Automated Valuation Models (AVM).

In reviewing proposed legislative bills H.B. 1106 and H.B. 1107 to be heard by the Committee on January 4, 2023, REVA has identified potential concerns from the perspective of Appraisal Management Companies and other stakeholders with the proposed text changes. In addition to providing these comments to the Committee, we have shared them with the North Dakota Realtors Association and appraiser board for consideration. Our aim is to work with stakeholders and the State of North Dakota on responsible public policy.

- **COMMENT 1:** REVA has not participated in any dialogue with the North Dakota Real Estate Appraiser Qualifications and Ethics Board regarding these changes or anticipated impacts before reviewing these draft bills on January 3, 2023.

Respectfully, we request that formal action on H.B. 1106 and H.B. 1107 by the committee be delayed allowing impacted stakeholders (e.g., AMCs, lenders, realtors, etc.) the opportunity to evaluate the intent of the text changes in these bills more thoroughly for unintended consequences that we believe could adversely affect the home valuations industry in North Dakota.

- **COMMENT 2:** In both H.B. 1106 (proposed change to 43-23.5-12. Appraisal review) and H.B. 1107 (proposed change to 43-23.3-04. Permit required – Exemptions, number (3)), the appraisal board is seeking to ensure that an AMC or lender must utilize an appraiser to conduct a Standard 3 or 4 appraisal review that includes a review of the opinion of value.

Based on clarification received from the appraiser board, it does not appear the intent of these bills is to impact AMCs or lenders conducting quality control reviews of appraisals where it does not include a review of the opinion of value.

While we do not oppose the proposed change for the specific purpose of reviewing an appraisal's opinion of value, the proposed text is unclear and can potentially interfere with an AMCs business operations when reviewing an appraisal for purposes other than an opinion of value. As standard procedure, AMCs perform extensive quality control reviews of completed appraisals before they are sent to lenders for use in a North Dakota homebuyer's transaction. These comprehensive reviews ensure compliance with USPAP and other requirements, but they do not include a review of the opinion of value.

Therefore, we are requesting the text in these sections be clarified to match the appraiser board's stated intent. If the appraiser board is looking to only limit reviews with an opinion of value, as it has stated, the clarification AMCs would be looking for could be the simple addition of two words in red below to the following definition in the AMC statute. Otherwise, all the reviews required by 43-23.5-14 (Appraisal management company certification of appraisal review system) appear to require that they be completed by an appraiser licensed by North Dakota.

43-23.5-01. Definitions.

4. "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment related to the appraiser's data collection, analysis, opinions, conclusions, estimate of value, or compliance with the uniform standards of professional appraisal practice. This term does not include:

a. A general examination for grammatical, typographical, or other similar errors.

b. A general examination for completeness, including regulatory client requirements, or both, as specified in the agreement process that does not communicate an opinion **of value**.

- **COMMENT 3:** In H.B. 1107, page 4, section 43-23.3-04. Permit required. Exemptions, section number (2) should be of concern for appraisers and non-AMCs who utilize appraisers for quality control reviews. At issue is the same concern for AMCs as cited in above comment 2 – the lack of clarity that this only applies when an opinion of value is being reviewed.
- **COMMENT 4:** There is a lack of clarity in North Dakota regarding the ability of a non-appraiser (i.e., real estate broker / salesperson or other qualified individual) to perform a federally allowable evaluation for residential real estate transactions that do not require an appraisal. REVAA believes that appraisers, real estate professionals and other qualified professionals should have the ability to perform evaluations in the state.

Based on federal guidance, an evaluation is an opinion of the market value of real property that may be utilized in a real estate-related financial transaction where an appraisal by a state-certified or state-licensed appraiser is not required. An evaluation is limited in its scope and development to the requirements for evaluations as set forth in the federal [Interagency Appraisal and Evaluation Guidelines](#). They are used by lenders for multiple purposes, from internal collateral due diligence review to making a collateral risk decision for certain smaller loans. Because these products are designed to be used for lower-risk transactions, they are typically offered at a lower cost and faster turn-time than an appraisal, to the benefit of borrowers. Federal law explicitly permits such products.


Most states allow evaluations by non-appraisers so long as it is properly documented to reflect that it is not an appraisal. The same is true with other non-appraisal products such as a Broker Price Opinion, which are helping the residential valuation industry modernize its practices in the face of significant changes in the availability of credentialed appraisers. Some states have changed their policies to allow appraisers to perform evaluations outside of USPAP, along with realtors and other qualified professionals, which is something we support.

Therefore, we request the addition of a new section (5) to H.B. 1107, page 4, section 43-23.3-04. Permit required. Exemptions. The following text in red would make it clear that North Dakota is not going to go further than the minimum federal appraisal requirements by prohibiting the use of federally allowable evaluations.

(5) This chapter does not apply to the performance of an evaluation of real property under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.).

Thank you for considering our request. I look forward to discussing these items with the appraiser board, industry stakeholders and North Dakota lawmakers.

Sincerely,



Mark Schiffman
Executive Director
(612) 716-1812
mark.schiffman@revaa.org

HOUSE BILL NO. 1107
HOUSE INDUSTRY, BUSINESS AND LABOR COMMITTEE
Testimony
Corey Kost, Chairperson
NORTH DAKOTA REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD
January 4, 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 commercial 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.

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.*
17. *"Valuation" means an estimate of the value of real estate or real property.*
18. *"Appraisal qualifications board" of the appraisal foundation establishes the qualifications for licensing, certification and recertification of appraisers.*
19. *"Appraisal standards board" of the appraisal foundation develops, publishes, interprets and amends the uniform standards of professional appraisal practice on behalf of appraisers and users of appraisal services.*

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 cannot modify them.

The Appraiser Board would also like to add definitions for the Appraisal Qualifications Board and Appraisal Standards Board are defined to provide an understanding of the purpose of the two

Boards. Upon review, we found the definitions did not make it into this bill but we have verbiage available.

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

3. *Annually the members shall elect a chairman from among the members.*
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.*

Page 3, Lines 13-22. The original #3 paragraph has been broken down to 3, 4 and 5 for an easier read. Unfortunately, the content from #4 and #5 was not deleted in #3 as intended. We ask this repeated verbiage in #3 be deleted.

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.

Except as provided in this section, a person may not directly or indirectly engage in, advertise, conduct the business of, or act in any capacity as an apprentice, licensed, or certified appraiser without first obtaining a permit as provided in this chapter.

1. *An appraiser, apprenticed, licensed, or certified in another state may not engage in, advertise, conduct the business of, or act in any capacity as an appraiser in this state, or perform an appraisal review for a property located in this state, without first obtaining a temporary permit under section 43-23.3-11 or a permit under section 43-23.3-04.1.*
2. *This chapter does not apply to a licensed real estate broker or salesperson who, in the ordinary course of business, gives an opinion to a potential seller or third party as to the recommended listing price of real estate or an opinion to a potential purchaser or third party as to the recommended purchase price of real estate. However, the opinion as to the listing price or the purchase price may not be referred to as value or as an appraisal.*
3. *This chapter does not apply to a person who, in the ordinary course of business, gives an opinion of the value of real estate to that person's employer.*

Page 4, line 26. This change clears up a discrepancy between the appraiser statute and AMC statute. It simply means that an appraiser who performs an appraisal review of a property located in North Dakota needs to hold a North Dakota permit. Obtaining a permit can be easily accomplished through reciprocity. North Dakota is consistent with the minimum reciprocity requirements allowed on the federal level if it is an ongoing practice, or with a temporary practice permit if it is a one-time assignment.

This is an issue because the North Dakota Appraiser Board cannot take action on any complaints against an appraiser, regardless of the severity of the offense, if the review appraiser does not hold a North Dakota permit. If the review appraiser was licensed in another state, say New York, the New York Appraiser Board would likely not take action because the property that is the subject of the appraisal is located in North Dakota. The result is a void in appraiser accountability and state appraiser board responsibility.

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 10. 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 14. 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 20-31 and Page 6, lines 1-4. 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 7. The proposed revision to the title was made for consistency.

Page 6, line 9. 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, lines 16-19. 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 23. 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.~~
32. *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.*
43. *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 6, line 29. 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 3-14. 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 25. 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 7, lines 29-31 and Page 8, lines 1-7. 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 14. 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 21. "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 have either obtain a 1) North Dakota permit or 2) North Dakota temporary permit. Again, obtaining a permit is easily accomplished through the reciprocity and 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. I would be happy to entertain any questions.

Corey Kost

North Dakota Real Estate Appraiser Qualifications and Ethics Board



Memorandum

To: Chair Koppelman, Representative Wagner and Representative Christy
Subcommittee of the Industry, Business and Labor Committee

Cc: Chair Louser, North Dakota Appraiser Board and Industry Stakeholders

From: Real Estate Valuation Advocacy Association (REVAA)

Date: January 17, 2023

Re: REVAA Suggested Revisions for H.B. 1106 and H.B 1107

On behalf of the Real Estate Valuations Advocacy Association (REVAA), thank you for the opportunity to share our perspective and offer solutions that we believe will help the North Dakota Appraiser Board (“Board”) achieve its objectives with H.B. 1106 and H.B. 1107.

REVAA is an industry trade association for Appraisal Management Companies (AMC) and financial services organizations that facilitate residential appraisal services and lender valuation products such as Broker Price Opinions (BPO), evaluations and Automated Valuation Models (AVM). Our member companies are licensed with the Board as AMCs in the State of North Dakota.

Prior to January 2, 2023, neither REVAA nor AMCs had any knowledge of the proposed legislation (H.B. 1106 and H.B. 1107). Nor was there any dialogue with the Board to obtain insight into its intent with its proposed amendments in both bills. Equally concerning is that there is no AMC representation on the Board nor anyone involved in the creation of proposed rules or statutory changes with operational knowledge of how AMCs function.

Regardless, we are committed to trying to find common ground with the Board on these bills.

H.B. 1106 (AMC statutory change)

The Board’s stated goal before the House Industry, Business and Labor Committee and industry stakeholders is to have an appraiser review program on par with that of the approximately 50 percent of states that have a similar regulation.

Unfortunately, we didn’t get an opportunity to work through this with the Board prior to the introduction of legislation. Once we learned of the bill introduction we offered to work with the Board to understand its intent and craft bill text to help achieve the Board’s objectives while ensuring a clear delineation of AMC quality control and business activities.

Now the Board’s stated objective that we had agreed to meet has since changed. The Board now intends to enact appraisal review policy restrictions that go further than other states it had cited as an example despite our objections over the negative operational and financial consequences inflicted on AMCs licensed in the state. As we understand it, the Board’s intent is to require that anyone who provides an opinion of any kind about the general work of a North Dakota appraiser must be licensed as a North Dakota appraiser.

This has created a fundamental impasse between REVAA and the North Dakota Appraiser Board that is keeping us from drafting acceptable text.

Instead of adopting regulation to place the state on par with most of the other states with similar policies, as we have now agreed to, the Board moved the goal post from adding nominal operational and financial burden for AMCs licensed in North Dakota to inflicting significant burden. North Dakota would move beyond “on-par” with 25 or so other states to among the top 2-3 least busy friendly states as most having in place the most burdensome and financially expensive appraisal review mandates, to the detriment of AMC customers such as lender and ultimately borrowers

Further, we believe the real implications of this issue have not been adequately shared with lawmakers. The requirements REVAA is talking about are regarding the concept that all appraisal reviews, pre and post transaction. To our opposition, the Board is proposing to require any employee appraiser of an AMC (and presumably a lender) to have a North Dakota license which will impose greater cost on AMCs and ultimately create delay in the delivery of appraisals (unless we get all staff appraisers licensed in North Dakota).

Some critical points of clarification that have not been adequately communicated:

- The appraisal reviews we are talking about involve less than 1 percent of North Dakota appraisals. They are primarily triggered by a lender (for federal regulatory reasons), a state (for regulatory reasons to mandate AMCs review the work of appraisers) or by an escalation of an appraisal done in a state that requires more intensive review by a state licensed appraiser.
- The other 99% are reviews/examinations are tied to an AMCs day to day quality control (QC) activity as a requirement of the state and its clients. This 99% of an AMCs work does not include a person making an opinion of another appraiser's opinion of value. Simply, AMC quality control requirements do not require a person to opine about an appraisers opinion of value. These reviews are performed by trained non-appraiser staff, but can be escalated to an appraiser who has more experience in evaluation and appraisals compliance with client requirements and can better communicate more nuanced issues with appraisers.
- North Dakota law requires that AMCs pay for an appraisal review process that typically occurs post-transaction - There is zero to at best nominal consumer protection that occurs with these requirements because they are almost always done post transaction, not during a transaction. All the consumer focused activities are included in the 99% of QC work we are doing as outlined. This change by the Board only protects appraisers whose work is called into question.
- There is no danger or immediate concern for consumers with the current system, other than the appraiser shortage as noted. Testimony before the board has been confusing and doesn't accurately portray the scope of the issue. We need to put lawmakers at ease that there is not a crisis or immediate issue that needs to be resolved.

***Summary:** REVA is willing to meet the North Dakota Board's original demand for appraisal review restrictions and drafted suggested legislative changes for H.B. 1106 for consideration. Due to the impacts of the Board's desire to adopt more stringent regulation, we cannot support the additional operational impact and financial burden.*

H.B. 1107 (Appraiser statutory change)

This legislation makes revisions to the appraiser statute. There is a cross-reference to H.B. 1106 that intertwines the two bills and needs to be made consistent depending on the outcome of the discussion on H.B. 1106.

So long as the North Dakota Bankers agrees, the amendment provided by the North Dakota Realtors Association and the appraiser association are welcome additions that we fully support.

***Summary:** If there is consistency with the outcome of H.B. 1107, REVA supports the proposed changes.*

Table of Contents for this Document and Proposed Legislative Revision

We believe important aspects of AMC operations and the impact of the Board's proposed change has not been adequately shared with the legislators. The following document seeks to provide important background and AMCs and their Quality Control/Appraisal Review activities, along with our proposed solutions to help North Dakota achieve its originally stated objective to enhance its appraisal review policies.

- **Section 1:** Background on the federal and state mandated role of AMCs. (Page 3-4)
- **Section 2:** Background on AMC Quality Control and Appraisal Review responsibilities (Page 4 -6)
- **Section 3:** Background on North Dakota's current AMC and appraiser policy (Page 7-8)
- **Section 4:** REVA's proposed revisions to North Dakota AMC and appraiser statutes (Page 9-10)

Section 1: About Appraisal Management Companies (AMC)

AMCs are an Agent of the Lender: AMCs are third party service providers engaged by bank/non-bank lenders to collaborate with appraisers on residential appraisals in compliance with federal appraisal independence requirements. AMCs have existed since the 1960's and were primarily utilized by the largest US financial institutions to reduce consumer costs by outsourcing the expenses that would be incurred through their internal management of the valuation process. AMCs grew in popularity among smaller and mid-size lenders following the 2007-08 financial crisis as their attention to efficiency, compliance and regulatory responsibilities helped ensure consumer protection.

AMCs are Regulated in all 50 States and Washington, D.C.: Per Dodd-Frank, AMCs are licensed in all 50 states and Washington, D.C with federally compliant regulatory oversight to strengthen and ensure consistent appraiser independence and consumer protections across the entire United States. AMCs are also required to be on the National AMC Registry.

AMCs Do Not Have Direct Consumer Contact: While AMCs have contact with appraisers and their lender clients, AMCs do not have direct consumer contact. They are agents of the lender to facilitate the procurement of an appraisal or property valuation. This includes the management of compliant panels of independent fee appraisers, real estate professionals and others performing property valuations.

AMCs Provide Important Consumer Protections: AMCs benefit consumers by ensuring that the residential property they are purchasing, refinancing, or otherwise using as collateral is properly evaluated and that the lender they are working with to secure their residential mortgage transaction will receive a quality, timely appraisal that is reasonably priced based on current market conditions, free from undue influence, and compliant with the *Uniform Standards of Professional Appraisal Practice* (USPAP). Among an AMC's core functions include:

- Maintaining a panel of qualified appraisers ready to execute lender valuation assignments.
- Ensuring appraiser independence by safeguarding against fraud and undue influence.
- Maintaining a process to require that an appraiser comply with USPAP and state law;
- Providing quality assurance processes for appraisal and valuation products to support lender risk.
- Supporting a smooth, timely and responsive mortgage process for consumers and lenders.
- Ensuring lender compliance with federal and state banking and mortgage regulations.

AMCs Provide Valuable Services to Lenders: Lenders, mortgage companies, investors, government-sponsored entities and others seek different levels of service from a valuation company for several reasons, including:

- Valuation companies are experts in real estate property data. Customers seek to collaborate with companies that have expertise in all real estate collateral risk concepts.
- From a vendor management perspective, customers demand to work with one business that can support many needs, as opposed to working with an AMC, a valuation company, and data company. This helps banks and other regulated institutions more effectively provide oversight of their vendors.
- Valuation companies invest heavily in technology, product development tools, vendor panels to be able to adapt to shifts in the marketplace, which provides economies of scale and efficiencies to support customer needs for different transaction types.

Under federal law and regulation, lender clients may be held responsible for the actions or inactions of their third-party vendors, including AMCs. Therefore, AMCs are under continuous, vigorous, and extensive scrutiny by their lender clients through the lender client third-party oversight programs. AMCs are required to regularly submit to client audits to ensure compliance with federal banking regulations and lender policies and procedures. In addition, lender transactions with AMCs are regulated by state and federal banking regulators.

AMCs are Pioneering New Technologies and Innovation: AMCs invest significantly in technology to support the above functions, including but not limited to developing proprietary ordering processes that can integrate with appraisal form providers and other real estate technology solutions and implementing automated quality control rule sets. It is important to underscore that the AMC's lender customer sets the expectations for how an AMC must manage its appraisal orders – this is critical as there is a misunderstanding amongst appraisers that AMCs set appraisal order turn times, delivery requirements, and other obligations.

AMCs play a critical role in developing and supporting innovation that allows non-traditional valuation services to augment traditional appraisals. New and emerging technology places mobile tools in the hands of both appraisers and non-appraisers to perform onsite data collection, including obtaining photographs, video, floor plans, square footage calculations, 3D scanning, virtual property tours to obtain digital GLA measurements.

AMCs Often Manage More Valuations Than Only Appraisal: Many AMCs are more appropriately described as valuation providers that offer customers with a variety of valuation-related products and management services, including but not limited to evaluations, broker price opinions, automated valuation models, property data collection products, post-disaster property reviews, and data analytics. While a business may meet the definition of an AMC, they often provide many other services - this business model is beneficial to customers, borrowers, and helps to support a more healthy and cohesive process.

Section 2: AMC Appraisal Review and Quality Control

AMCs have robust Quality Control (QC) programs in place to examine appraisal reports after the initial delivery by the appraiser. These programs involve reviews that are done to ensure compliance before the appraisal report or valuation is delivered to the lender and are not used to determine a lending decision. Such programs may involve automated quality control rules and technology, trained non-appraiser staff, and appraisers.

Any AMC QC process must comply with two important components of appraiser independence under the Truth in Lending Act:

1. Complying with federal and state appraiser independence requirements, including not attempting to directly or indirectly causing an opinion of value to be influenced based on any factor other than the independent judgment of the person preparing the valuation.
2. Performing quality assurance review in compliance with appraiser independence – federal and state law explicitly permits an AMC (whether an appraiser or non-appraiser) to ask an appraiser to:
 - a. Consider additional, appropriate property information, including the consideration of additional comparable properties to make or support a valuation.
 - b. Provide further detail, substantiation, or explanation for the valuation provider's value conclusion.
 - c. Correct errors in the appraisal report.

Lender Quality Control Requirements: Federal Interagency Appraisal and Evaluation Guidelines mandate that lenders are responsible for safety and soundness of property valuations.

Most lender clients outline requirements for the AMCs they have hired to perform QC as part of the overall services performed on their behalf. These requirements vary by lender client and can range from nominal review to intensive review. In addition, some lenders have their own QC programs beyond or in lieu of what may be provided by the AMC. So while AMCs may have a base set of QC processes, they can be enhanced or changed by customers - most AMCs typically do not have the same QC process for all customers.

AMC QC Requirements Under Federal Law: Federal law imposes requirements on lenders to implement controls to review appraisals, and AMCs as service providers work with lender customers to ensure their requirements are met.

AMC QC Requirements Under State Law: State laws vary, but most have a requirement that AMCs must audit the work of appraisers on their panel, although the details of how many appraisals must be reviewed or the extent of the review can vary. Typically, AMCs are required to provide a general review for compliance with USPAP. Approximately 50% of states have more restrictive requirements that require a detailed opinion of an appraisers opinion of value in compliance with Standards 3 and 4 in USPAP. Only a small number of states extend these restrictions further, which adds burden on AMC operations (e.g., operational, financial, trouble finding enough appraisers to fulfill review orders, etc.).

AMC QC Review of Independent Appraisers: AMCs review their panel of independent fee appraisers to grade appraiser performance on past assignments, research state boards to determine if there is any disciplinary history, require background checks to determine if there is any criminal history. Their work is reviewed for quality, on-time delivery, customer service and professionalism, conformance with appraiser independence requirements, and USPAP compliance. Independent appraisers also need to agree to terms of use/agreement/code of conduct which outline specific expectations of the relationship, including compliance with applicable laws (i.e. fair lending requirements), and individual assignments include a letter of engagement that outlines assignment-specific criteria required by a client.

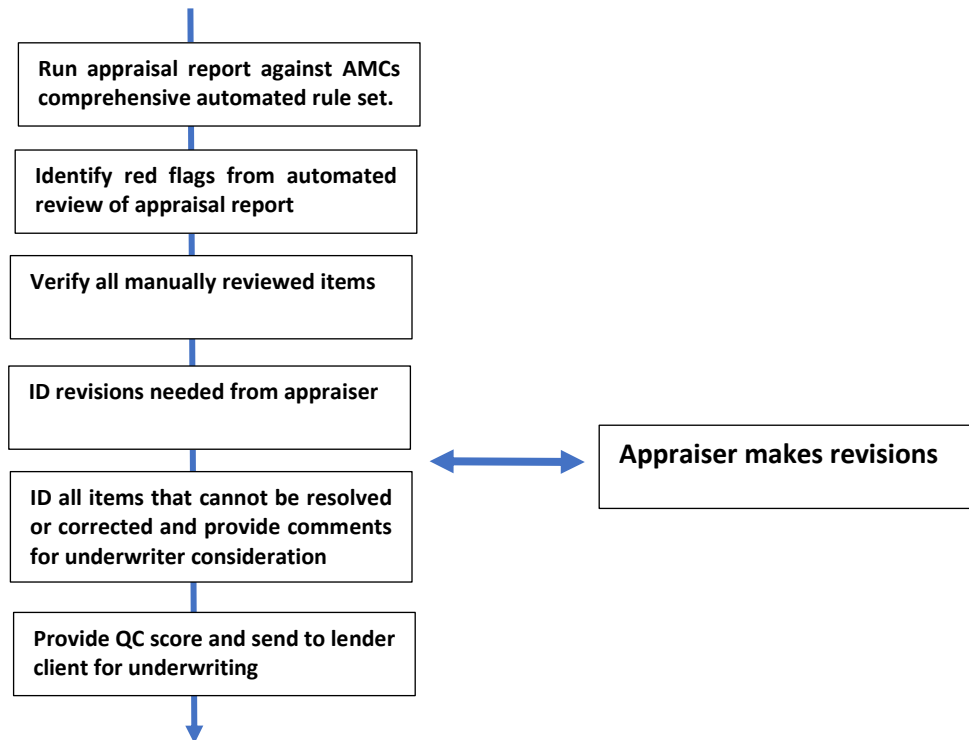
There are Different Levels of AMC QC Reviews: Each AMC has its own QC process that is largely dependent on the unique QC review requirements of its lender clients. Lender contracts with AMCs dictate the level of QC and specific guidelines for what is to be reviewed by the AMC.

AMCs review all appraisal reports for a base level of items as dictated by state and/or lender requirements.

- **Detailed Appraisal Review** = >1% of reviews (USPAP Standards 3 and 4 full review of an appraisers work including opinion of value). In most cases, a detailed review by an AMC would treat this like an appraisal assignment and use their appraiser panel to identify a geographically competent appraiser in the market in question to perform the review of another appraisers opinion of value.
 - ❖ There are some states that require AMCs to review a percentage (e.g. 2%) of appraisals each month that were performed in the state for quality control purposes. Typically, this requires a general review for compliance with USPAP. However, there are a few states that do require this review to be a more detailed Standards 3 and 4 review, which is a full review of the appraisal and its opinion of value of another appraiser.
- **Other Day to Day AMC QC Reviews/Examinations** = 99% of reviews (QC for correct names, address, use of proper forms, report completion, compliance with standards such as Uniform Standards of Professional Appraisal Practice (USPAP), Uniform Appraisal Dataset (UAD), the Uniform Collateral Data Portal (UCDP)). There is no review of the appraisers opinion of value. These reviews ensure compliance before the appraisal report or valuation is delivered to the lender and are not used to determine a lending decision.
 - ❖ Automated reviews utilize logic software with defined business rules to review text used in the appraisal report. The number of business rules used varies from AMC to AMC based on lender client or state requirements (e.g., 100+ including USPAP, UAD, UCDP, FHA, USDA, etc. and lender-specific overlays). In addition, for some AMCs this may include a key word search to identify those words shared by Fannie Mae, Freddie Mac and other institutions which can be perceived as bias or discriminatory in nature. Flagged words would be sent back to the appraiser for removal.

Lenders may request additional information after an appraisal has been submitted for a lending decision. The AMC would facilitate the information request with the appraiser who performed the assignment, within the guidelines of federal appraisal independence requirements.

Overview of the General AMC QC Process (99% of the examination work AMCs perform)



Escalation. If a red flag is identified through an automated or manual review of an appraisal, the concern is escalated to a more intensive review based on severity, including one or all the tools outlined below. Any questions or issues identified are addressed directly with the appraiser who completed the appraisal.

- Manual desk reviews are performed as required by AMC lender client contracts. It allows the consideration of unique attributes to the property and its potential impact on value.
- AMCs may seek to evaluate an opinion of value via an automated valuation model (AVM) or other valuation tool) to determine if over or under value.
- AMCs must manage complaints related to appraisal bias or discrimination. These complaints come from homebuyers through the lender, there is no direct contact between the consumer and AMC.
- Reconsideration of value at the request of lender or borrower. Any questions or issues identified are addressed with the appraiser who completed the appraisal. It is important to note again that reconsiderations are routed through the lender because they have conducted other QC or review for that file that the AMC has not been exposed to. A lender may opt not to forward a ROV to an AMC if they believe it doesn't have merit. An AMCs responsibility in the ROV process is to communicate the request to the appraiser, review the response to confirm it addresses the request, determine if there are any outstanding QC issues, and return to the lender for its review.

Section 3: Overview of Current North Dakota AMC and Appraiser Policy

North Dakota Appraiser Statute and Rules Already Allow an Exemption for Non-AMCs

North Dakota's existing appraiser statute requires a person to obtain an appraiser permit or temporary permit to conduct the business of or otherwise act as an appraiser in North Dakota. However, the entire appraiser chapter does not apply to a person who, in the ordinary course of business, gives an "opinion of value" of real estate to that person's employer.

Specifically, the last sentence of current Section 43-23.301, highlighted in yellow below, provides exceptions to its licensing statute. Given this existing precedent for an exemption contrasted against the Board's sudden need to adopt more stringent regulation on AMCs is confusing. Shouldn't the Board seek the same standard be in place for persons who opine about another appraiser's opinion of value when they do not work AMCs?

Unlike the North Dakota AMC statute, the appraiser statute does not include use of the term "appraisal review." Conversely, while "appraisal" is defined in the appraiser statute, it is not defined in the AMC statute.

This inconsistency in standards regarding an exemption should be resolved as we believe it unfairly targets the business operations of AMCs over non-AMCs who may perform the same type of appraisal review function.

Following are appraiser statutory citations:

43-23.3-01. Definitions.

1. "Appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, real estate. An appraisal may be classified by subject matter into either a valuation or an analysis.

...

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

43-23.3-04. Permit required - Exemptions.

Except as provided in this section, a person may not directly or indirectly engage in, advertise, conduct the business of, or act in any capacity as an apprentice, licensed, or certified appraiser without first obtaining a permit as provided in this chapter. An appraiser, apprenticed, licensed, or certified in another state may not engage in, advertise, conduct the business of, or act in any capacity as an appraiser in this state without first obtaining a temporary permit under section 43-23.3-11 or a permit under section 43-23.3-04.1. This chapter does not apply to a licensed real estate broker or salesperson who, in the ordinary course of business, gives an opinion to a potential seller or third party as to the recommended listing price of real estate or an opinion to a potential purchaser or third party as to the recommended purchase price of real estate. However, the opinion as to the listing price or the purchase price may not be referred to as an appraisal. This chapter does not apply to a person who, in the ordinary course of business, gives an opinion of the value of real estate to that person's employer.

North Dakota AMC Statute and Regulations are Conflicting

Current North Dakota Appraisal Management Company law permits an appraiser credentialed in any state to perform an appraisal review for a North Dakota property, regardless of whether any opinion of value is provided and regardless of the purpose of the appraisal review.

This is the section of the AMC law that the appraiser board is seeking to amend and where we are at an impasse.

While there is a definition of "appraisal review," in the AMC statute, there is no matching definition in the appraiser statute. And although "appraisal" is defined in the appraiser statute it is not in the AMC statute. Further, the Board's AMC regulation around "appraisal review" currently conflicts with, and is therefore superseded by, state law.

We believe these inconsistencies in definitions, and between statute and rules, should be resolved to provide maximum clarity and consistency for licensees.

Following are AMC statutory and regulatory citations:

43-23.5-01. Definitions.

3. "Appraisal management services" means to, directly or indirectly, perform any of the following functions on behalf of a lender, financial institution, client, or any other person in conjunction with a consumer credit transaction that is secured by a consumer's primary dwelling:
...
 - d. Contract with appraisers to perform appraisal assignments
 - ...
 - h. Conduct an appraisal review or other quality control of a completed appraisal prior to the delivery of the appraisal to the person that ordered the appraisal.
4. "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment related to the appraiser's data collection, analysis, opinions, conclusions, estimate of value, or compliance with the uniform standards of professional appraisal practice. This term does not include:
 - a. A general examination for grammatical, typographical, or other similar errors.
 - b. A general examination for completeness, including regulatory client requirements, or both, as specified in the agreement process that does not communicate an opinion.

43-23.5-12. Appraisal review.

Any employee of, or independent contractor to, the appraisal management company that performs an appraisal review for a property located in this state must be:

1. A certified or licensed appraiser in good standing in this state; or
2. A certified or licensed appraiser in good standing in another state.

43-23.5-13. Verification of licensure or certification.

1. An appraisal management company registered in this state may not enter any contract or agreement with an appraiser for the performance of appraisals unless the company verifies that the appraiser is licensed or certified in good standing in this state.
2. An appraisal management company seeking to be registered in this state or to renew a registration in this state shall certify to the board on a form prescribed by the board that the company has a system and process in place to verify that an individual being added to the appraiser panel of the company for appraisal services holds a permit in good standing in this state.

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

Each appraisal management company seeking to be registered or to renew a registration in this state shall certify to the board on a form prescribed by the board that the company has a system in place to perform an appraisal review of the work product of a statistically significant number of appraisal reports submitted by independent appraisers performing appraisals for the appraisal management company on a periodic basis to validate that the appraisals are being conducted in accordance with the uniform standards of professional appraisal practice, and chapter 43-23.3, and the rules adopted under this chapter. An appraisal management company shall report to the board the results of any appraisal reviews in which an appraisal is found to be substantially noncompliant with the uniform standards of professional appraisal practice.

[REGULATION] 101-05-01-15. Responsibilities and duties.

An appraisal management company registered under the provisions of this article shall:

...

Have a system in place to verify that any employee or independent contractor the appraisal management company utilizes to perform an appraisal review on a completed appraisal on property located in North Dakota, be licensed or certified with the same or higher qualifications required to perform the appraisal being reviewed, and holding a permit in good standing in North Dakota.

Section 4: REVAA Proposed Solution for North Dakota

REVAA offers the following amendment suggestions to help the Board achieve its stated goal before the House Industry, Business and Labor Committee and industry stakeholders to have an appraiser review program on par with that of the approximately 50 percent of states that have similar regulation.

REVAA has agreed to accept the cost and burden increases required to meet this objective. The proposed changes below help achieve the Board's objectives while ensuring a clear delineation of AMC quality control and business activities to minimize operational or financial burden.

Further, they seek to provide clarification around the definition of "appraisal review" and clarify when a person reviewing the work of a North Dakota appraisal must be licensed in North Dakota

Fix the Definition of Appraisal Review and Identify When a License is Required

To be consistent, REVAA proposes the definition for appraisal review should be in the appraiser chapter, and delete it from the AMC chapter so others such as banks, etc. can rely on it for their QC processes. We have identified two options that meet the Board and REVAA's objectives:

- **Option A: Use the appraiser board's current proposed amendment but move it to the appraiser statute. In addition, add a licensing exception in the appraiser law for anyone performing an appraisal review that does not include an opinion of value.**

43-23.5-01. Definitions.

(4) "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment related to the appraiser's data collection, analysis, opinions, conclusions, or estimate of value, or compliance with the uniform standards of professional appraisal practice. This term does not include:

- a. A general examination for grammatical, typographical, or other similar errors.
- b. A general examination for completeness, including regulatory or client requirements, or both, as specified in the agreement process that does not communicate an opinion.

43-23.3-04. Permit required - Exemptions.

Except as provided in this section, a person may not directly or indirectly engage in, advertise, conduct the business of, or act in any capacity as an apprentice, licensed, or certified appraiser without first obtaining a permit as provided in this chapter. An appraiser, apprenticed, licensed, or certified in another state may not engage in, advertise, conduct the business of, or act in any capacity as an appraiser in this state without first obtaining a temporary permit under section 43-23.3-11 or a permit under section 43-23.3-04.1. This chapter does not apply to a licensed real estate broker or salesperson who, in the ordinary course of business, gives an opinion to a potential seller or third party as to the recommended listing price of real estate or an opinion to a potential purchaser or third party as to the recommended purchase price of real estate. However, the opinion as to the listing price or the purchase price may not be referred to as an appraisal. This chapter does not apply to a person who, in the ordinary course of business, gives an opinion of the value of real estate to that person's employer.

An appraiser who performs an appraisal review of an appraisal of a property located in this state shall comply with the review provisions of the uniform standards of professional appraisal practice, and shall be licensed or certified as an appraiser under the laws of any state, except that a review appraiser shall obtain a permit under this chapter to the extent the review appraiser provides the review appraiser's own opinion of value, concurs with the original appraiser's opinion of value, or disagrees with the original appraiser's opinion of value.

Furthermore, strike the definition from the AMC statute (strike 43-23.5-01(4) in its entirety); Strike 43-23.5-12 from the AMC statute (as the appraiser law includes the carve-out that a North Dakota license is not required when reviewing the work of a North Dakota appraisal and not providing an opinion of value) - Board should also amend regulation to be consistent with statute.

- **Option B: Instead of the current proposed amendment from the appraiser board, carve-out opinion of value in the definition of “appraisal review,” strike text that is unneeded and move this definition from the AMC statute (whereby it only impacts AMCs) to the appraiser statute (whereby it impacts all appraisers).**

43-23.3-01. Definitions.

“Appraisal review” means the act or process of developing and communicating an opinion about the quality of another appraiser’s work that was performed as part of an appraisal assignment related to the appraiser’s data collection, analysis, opinions, conclusions, or estimate of value, ~~or compliance with the uniform standards of professional appraisal practice.~~ This term does not include:

- a. A general examination for grammatical, typographical, or other similar errors.
- b. A general examination for completeness, including regulatory or client requirements, or both, as specified in the agreement ~~process~~ that does not communicate an opinion of value.

Furthermore, we suggest striking the definition from the AMC statute (strike 43-23.5-01(4) in its entirety); Strike 43-23.5-12 from the AMC statute (as the carve-out in the definition clarifies a ND license is not required when reviewing the work of a ND appraisal and not providing an opinion of value) - Board to amend regulation to be consistent with statute.

Clarify AMC Law to Require AMCs to Have a QC Process

REVAA proposes to re-align current appraisal quality control expectations to require an AMC to certify that it has a process to examine appraisals for quality issues when performing services as an AMC:

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

Each appraisal management company seeking to be registered or to renew a registration in this state shall certify to the board on a form prescribed by the board that the company has a system in place to examine ~~perform an appraisal examination of~~ the work product of a statistically significant number of appraisal reports submitted by independent appraisers performing appraisals for the appraisal management company on a periodic basis ~~to validate that the appraisals are being conducted in accordance with the uniform standards of professional appraisal practice, and chapter 43-23.3, and the rules adopted under this chapter.~~ An appraisal management company shall report to the board the results of any appraisal examination in which an appraisal is found to be substantially noncompliant ~~with the uniform standards of professional appraisal practice.~~

It will be imperative for the Board to update its regulations to be consistent with North Dakota law.



Memorandum

To: Chair Koppelman, Representative Wagner and Representative Christy
Subcommittee of the Industry, Business and Labor Committee

Cc: Chair Louser, North Dakota Appraiser Board and Industry Stakeholders

From: Real Estate Valuation Advocacy Association (REVAA)

Date: January 17, 2023

Re: REVAA Suggested Revisions for H.B. 1106 and H.B 1107

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Regardless, we are committed to trying to find common ground with the Board on these bills.

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Unfortunately, we didn’t get an opportunity to work through this with the Board prior to the introduction of legislation. Once we learned of the bill introduction we offered to work with the Board to understand its intent and craft bill text to help achieve the Board’s objectives while ensuring a clear delineation of AMC quality control and business activities.

Now the Board’s stated objective that we had agreed to meet has since changed. The Board now intends to enact appraisal review policy restrictions that go further than other states it had cited as an example despite our objections over the negative operational and financial consequences inflicted on AMCs licensed in the state. As we understand it, the Board’s intent is to require that anyone who provides an opinion of any kind about the general work of a North Dakota appraiser must be licensed as a North Dakota appraiser.

This has created a fundamental impasse between REVAA and the North Dakota Appraiser Board that is keeping us from drafting acceptable text.

Instead of adopting regulation to place the state on par with most of the other states with similar policies, as we have now agreed to, the Board moved the goal post from adding nominal operational and financial burden for AMCs licensed in North Dakota to inflicting significant burden. North Dakota would move beyond “on-par” with 25 or so other states to among the top 2-3 least busy friendly states as most having in place the most burdensome and financially expensive appraisal review mandates, to the detriment of AMC customers such as lender and ultimately borrowers

Further, we believe the real implications of this issue have not been adequately shared with lawmakers. The requirements REVAA is talking about are regarding the concept that all appraisal reviews, pre and post transaction. To our opposition, the Board is proposing to require any employee appraiser of an AMC (and presumably a lender) to have a North Dakota license which will impose greater cost on AMCs and ultimately create delay in the delivery of appraisals (unless we get all staff appraisers licensed in North Dakota).

Some critical points of clarification that have not been adequately communicated:

- The appraisal reviews we are talking about involve less than 1 percent of North Dakota appraisals. They are primarily triggered by a lender (for federal regulatory reasons), a state (for regulatory reasons to mandate AMCs review the work of appraisers) or by an escalation of an appraisal done in a state that requires more intensive review by a state licensed appraiser.
- The other 99% are reviews/examinations are tied to an AMCs day to day quality control (QC) activity as a requirement of the state and its clients. This 99% of an AMCs work does not include a person making an opinion of another appraiser's opinion of value. Simply, AMC quality control requirements do not require a person to opine about an appraisers opinion of value. These reviews are performed by trained non-appraiser staff, but can be escalated to an appraiser who has more experience in evaluation and appraisals compliance with client requirements and can better communicate more nuanced issues with appraisers.
- North Dakota law requires that AMCs pay for an appraisal review process that typically occurs post-transaction - There is zero to at best nominal consumer protection that occurs with these requirements because they are almost always done post transaction, not during a transaction. All the consumer focused activities are included in the 99% of QC work we are doing as outlined. This change by the Board only protects appraisers whose work is called into question.
- There is no danger or immediate concern for consumers with the current system, other than the appraiser shortage as noted. Testimony before the board has been confusing and doesn't accurately portray the scope of the issue. We need to put lawmakers at ease that there is not a crisis or immediate issue that needs to be resolved.

***Summary:** REVA is willing to meet the North Dakota Board's original demand for appraisal review restrictions and drafted suggested legislative changes for H.B. 1106 for consideration. Due to the impacts of the Board's desire to adopt more stringent regulation, we cannot support the additional operational impact and financial burden.*

H.B. 1107 (Appraiser statutory change)

This legislation makes revisions to the appraiser statute. There is a cross-reference to H.B. 1106 that intertwines the two bills and needs to be made consistent depending on the outcome of the discussion on H.B. 1106.

So long as the North Dakota Bankers agrees, the amendment provided by the North Dakota Realtors Association and the appraiser association are welcome additions that we fully support.

***Summary:** If there is consistency with the outcome of H.B. 1107, REVA supports the proposed changes.*

Table of Contents for this Document and Proposed Legislative Revision

We believe important aspects of AMC operations and the impact of the Board's proposed change has not been adequately shared with the legislators. The following document seeks to provide important background and AMCs and their Quality Control/Appraisal Review activities, along with our proposed solutions to help North Dakota achieve its originally stated objective to enhance its appraisal review policies.

- **Section 1:** Background on the federal and state mandated role of AMCs. (Page 3-4)
- **Section 2:** Background on AMC Quality Control and Appraisal Review responsibilities (Page 4 -6)
- **Section 3:** Background on North Dakota's current AMC and appraiser policy (Page 7-8)
- **Section 4:** REVA's proposed revisions to North Dakota AMC and appraiser statutes (Page 9-10)

Section 1: About Appraisal Management Companies (AMC)

AMCs are an Agent of the Lender: AMCs are third party service providers engaged by bank/non-bank lenders to collaborate with appraisers on residential appraisals in compliance with federal appraisal independence requirements. AMCs have existed since the 1960's and were primarily utilized by the largest US financial institutions to reduce consumer costs by outsourcing the expenses that would be incurred through their internal management of the valuation process. AMCs grew in popularity among smaller and mid-size lenders following the 2007-08 financial crisis as their attention to efficiency, compliance and regulatory responsibilities helped ensure consumer protection.

AMCs are Regulated in all 50 States and Washington, D.C.: Per Dodd-Frank, AMCs are licensed in all 50 states and Washington, D.C with federally compliant regulatory oversight to strengthen and ensure consistent appraiser independence and consumer protections across the entire United States. AMCs are also required to be on the National AMC Registry.

AMCs Do Not Have Direct Consumer Contact: While AMCs have contact with appraisers and their lender clients, AMCs do not have direct consumer contact. They are agents of the lender to facilitate the procurement of an appraisal or property valuation. This includes the management of compliant panels of independent fee appraisers, real estate professionals and others performing property valuations.

AMCs Provide Important Consumer Protections: AMCs benefit consumers by ensuring that the residential property they are purchasing, refinancing, or otherwise using as collateral is properly evaluated and that the lender they are working with to secure their residential mortgage transaction will receive a quality, timely appraisal that is reasonably priced based on current market conditions, free from undue influence, and compliant with the *Uniform Standards of Professional Appraisal Practice* (USPAP). Among an AMC's core functions include:

- Maintaining a panel of qualified appraisers ready to execute lender valuation assignments.
- Ensuring appraiser independence by safeguarding against fraud and undue influence.
- Maintaining a process to require that an appraiser comply with USPAP and state law;
- Providing quality assurance processes for appraisal and valuation products to support lender risk.
- Supporting a smooth, timely and responsive mortgage process for consumers and lenders.
- Ensuring lender compliance with federal and state banking and mortgage regulations.

AMCs Provide Valuable Services to Lenders: Lenders, mortgage companies, investors, government-sponsored entities and others seek different levels of service from a valuation company for several reasons, including:

- Valuation companies are experts in real estate property data. Customers seek to collaborate with companies that have expertise in all real estate collateral risk concepts.
- From a vendor management perspective, customers demand to work with one business that can support many needs, as opposed to working with an AMC, a valuation company, and data company. This helps banks and other regulated institutions more effectively provide oversight of their vendors.
- Valuation companies invest heavily in technology, product development tools, vendor panels to be able to adapt to shifts in the marketplace, which provides economies of scale and efficiencies to support customer needs for different transaction types.

Under federal law and regulation, lender clients may be held responsible for the actions or inactions of their third-party vendors, including AMCs. Therefore, AMCs are under continuous, vigorous, and extensive scrutiny by their lender clients through the lender client third-party oversight programs. AMCs are required to regularly submit to client audits to ensure compliance with federal banking regulations and lender policies and procedures. In addition, lender transactions with AMCs are regulated by state and federal banking regulators.

AMCs are Pioneering New Technologies and Innovation: AMCs invest significantly in technology to support the above functions, including but not limited to developing proprietary ordering processes that can integrate with appraisal form providers and other real estate technology solutions and implementing automated quality control rule sets. It is important to underscore that the AMC's lender customer sets the expectations for how an AMC must manage its appraisal orders – this is critical as there is a misunderstanding amongst appraisers that AMCs set appraisal order turn times, delivery requirements, and other obligations.

AMCs play a critical role in developing and supporting innovation that allows non-traditional valuation services to augment traditional appraisals. New and emerging technology places mobile tools in the hands of both appraisers and non-appraisers to perform onsite data collection, including obtaining photographs, video, floor plans, square footage calculations, 3D scanning, virtual property tours to obtain digital GLA measurements.

AMCs Often Manage More Valuations Than Only Appraisal: Many AMCs are more appropriately described as valuation providers that offer customers with a variety of valuation-related products and management services, including but not limited to evaluations, broker price opinions, automated valuation models, property data collection products, post-disaster property reviews, and data analytics. While a business may meet the definition of an AMC, they often provide many other services - this business model is beneficial to customers, borrowers, and helps to support a more healthy and cohesive process.

Section 2: AMC Appraisal Review and Quality Control

AMCs have robust Quality Control (QC) programs in place to examine appraisal reports after the initial delivery by the appraiser. These programs involve reviews that are done to ensure compliance before the appraisal report or valuation is delivered to the lender and are not used to determine a lending decision. Such programs may involve automated quality control rules and technology, trained non-appraiser staff, and appraisers.

Any AMC QC process must comply with two important components of appraiser independence under the Truth in Lending Act:

1. Complying with federal and state appraiser independence requirements, including not attempting to directly or indirectly causing an opinion of value to be influenced based on any factor other than the independent judgment of the person preparing the valuation.
2. Performing quality assurance review in compliance with appraiser independence – federal and state law explicitly permits an AMC (whether an appraiser or non-appraiser) to ask an appraiser to:
 - a. Consider additional, appropriate property information, including the consideration of additional comparable properties to make or support a valuation.
 - b. Provide further detail, substantiation, or explanation for the valuation provider's value conclusion.
 - c. Correct errors in the appraisal report.

Lender Quality Control Requirements: Federal Interagency Appraisal and Evaluation Guidelines mandate that lenders are responsible for safety and soundness of property valuations.

Most lender clients outline requirements for the AMCs they have hired to perform QC as part of the overall services performed on their behalf. These requirements vary by lender client and can range from nominal review to intensive review. In addition, some lenders have their own QC programs beyond or in lieu of what may be provided by the AMC. So while AMCs may have a base set of QC processes, they can be enhanced or changed by customers - most AMCs typically do not have the same QC process for all customers.

AMC QC Requirements Under Federal Law: Federal law imposes requirements on lenders to implement controls to review appraisals, and AMCs as service providers work with lender customers to ensure their requirements are met.

AMC QC Requirements Under State Law: State laws vary, but most have a requirement that AMCs must audit the work of appraisers on their panel, although the details of how many appraisals must be reviewed or the extent of the review can vary. Typically, AMCs are required to provide a general review for compliance with USPAP. Approximately 50% of states have more restrictive requirements that require a detailed opinion of an appraisers opinion of value in compliance with Standards 3 and 4 in USPAP. Only a small number of states extend these restrictions further, which adds burden on AMC operations (e.g., operational, financial, trouble finding enough appraisers to fulfill review orders, etc.).

AMC QC Review of Independent Appraisers: AMCs review their panel of independent fee appraisers to grade appraiser performance on past assignments, research state boards to determine if there is any disciplinary history, require background checks to determine if there is any criminal history. Their work is reviewed for quality, on-time delivery, customer service and professionalism, conformance with appraiser independence requirements, and USPAP compliance. Independent appraisers also need to agree to terms of use/agreement/code of conduct which outline specific expectations of the relationship, including compliance with applicable laws (i.e. fair lending requirements), and individual assignments include a letter of engagement that outlines assignment-specific criteria required by a client.

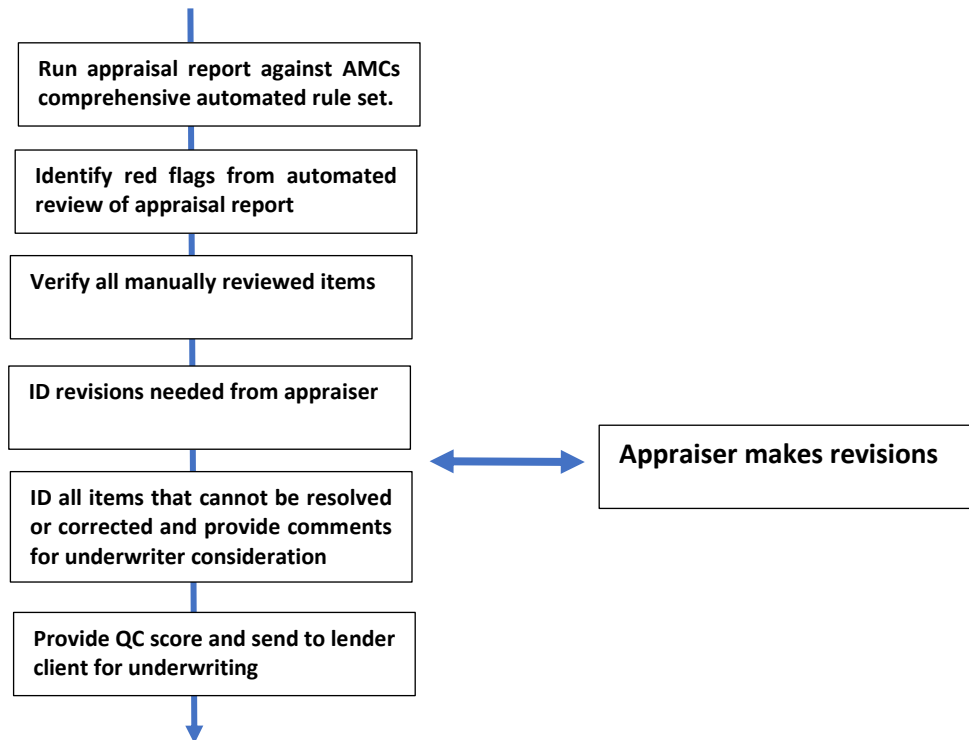
There are Different Levels of AMC QC Reviews: Each AMC has its own QC process that is largely dependent on the unique QC review requirements of its lender clients. Lender contracts with AMCs dictate the level of QC and specific guidelines for what is to be reviewed by the AMC.

AMCs review all appraisal reports for a base level of items as dictated by state and/or lender requirements.

- **Detailed Appraisal Review** = >1% of reviews (USPAP Standards 3 and 4 full review of an appraisers work including opinion of value). In most cases, a detailed review by an AMC would treat this like an appraisal assignment and use their appraiser panel to identify a geographically competent appraiser in the market in question to perform the review of another appraisers opinion of value.
 - ❖ There are some states that require AMCs to review a percentage (e.g. 2%) of appraisals each month that were performed in the state for quality control purposes. Typically, this requires a general review for compliance with USPAP. However, there are a few states that do require this review to be a more detailed Standards 3 and 4 review, which is a full review of the appraisal and its opinion of value of another appraiser.
- **Other Day to Day AMC QC Reviews/Examinations** = 99% of reviews (QC for correct names, address, use of proper forms, report completion, compliance with standards such as Uniform Standards of Professional Appraisal Practice (USPAP), Uniform Appraisal Dataset (UAD), the Uniform Collateral Data Portal (UCDP)). There is no review of the appraisers opinion of value. These reviews ensure compliance before the appraisal report or valuation is delivered to the lender and are not used to determine a lending decision.
 - ❖ Automated reviews utilize logic software with defined business rules to review text used in the appraisal report. The number of business rules used varies from AMC to AMC based on lender client or state requirements (e.g., 100+ including USPAP, UAD, UCDP, FHA, USDA, etc. and lender-specific overlays). In addition, for some AMCs this may include a key word search to identify those words shared by Fannie Mae, Freddie Mac and other institutions which can be perceived as bias or discriminatory in nature. Flagged words would be sent back to the appraiser for removal.

Lenders may request additional information after an appraisal has been submitted for a lending decision. The AMC would facilitate the information request with the appraiser who performed the assignment, within the guidelines of federal appraisal independence requirements.

Overview of the General AMC QC Process (99% of the examination work AMCs perform)



Escalation. If a red flag is identified through an automated or manual review of an appraisal, the concern is escalated to a more intensive review based on severity, including one or all the tools outlined below. Any questions or issues identified are addressed directly with the appraiser who completed the appraisal.

- Manual desk reviews are performed as required by AMC lender client contracts. It allows the consideration of unique attributes to the property and its potential impact on value.
- AMCs may seek to evaluate an opinion of value via an automated valuation model (AVM) or other valuation tool) to determine if over or under value.
- AMCs must manage complaints related to appraisal bias or discrimination. These complaints come from homebuyers through the lender, there is no direct contact between the consumer and AMC.
- Reconsideration of value at the request of lender or borrower. Any questions or issues identified are addressed with the appraiser who completed the appraisal. It is important to note again that reconsiderations are routed through the lender because they have conducted other QC or review for that file that the AMC has not been exposed to. A lender may opt not to forward a ROV to an AMC if they believe it doesn't have merit. An AMCs responsibility in the ROV process is to communicate the request to the appraiser, review the response to confirm it addresses the request, determine if there are any outstanding QC issues, and return to the lender for its review.

Section 3: Overview of Current North Dakota AMC and Appraiser Policy

North Dakota Appraiser Statute and Rules Already Allow an Exemption for Non-AMCs

North Dakota's existing appraiser statute requires a person to obtain an appraiser permit or temporary permit to conduct the business of or otherwise act as an appraiser in North Dakota. However, the entire appraiser chapter does not apply to a person who, in the ordinary course of business, gives an "opinion of value" of real estate to that person's employer.

Specifically, the last sentence of current Section 43-23.301, highlighted in yellow below, provides exceptions to its licensing statute. Given this existing precedent for an exemption contrasted against the Board's sudden need to adopt more stringent regulation on AMCs is confusing. Shouldn't the Board seek the same standard be in place for persons who opine about another appraiser's opinion of value when they do not work AMCs?

Unlike the North Dakota AMC statute, the appraiser statute does not include use of the term "appraisal review." Conversely, while "appraisal" is defined in the appraiser statute, it is not defined in the AMC statute.

This inconsistency in standards regarding an exemption should be resolved as we believe it unfairly targets the business operations of AMCs over non-AMCs who may perform the same type of appraisal review function.

Following are appraiser statutory citations:

43-23.3-01. Definitions.

1. "Appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, real estate. An appraisal may be classified by subject matter into either a valuation or an analysis.

...

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

43-23.3-04. Permit required - Exemptions.

Except as provided in this section, a person may not directly or indirectly engage in, advertise, conduct the business of, or act in any capacity as an apprentice, licensed, or certified appraiser without first obtaining a permit as provided in this chapter. An appraiser, apprenticed, licensed, or certified in another state may not engage in, advertise, conduct the business of, or act in any capacity as an appraiser in this state without first obtaining a temporary permit under section 43-23.3-11 or a permit under section 43-23.3-04.1. This chapter does not apply to a licensed real estate broker or salesperson who, in the ordinary course of business, gives an opinion to a potential seller or third party as to the recommended listing price of real estate or an opinion to a potential purchaser or third party as to the recommended purchase price of real estate. However, the opinion as to the listing price or the purchase price may not be referred to as an appraisal. This chapter does not apply to a person who, in the ordinary course of business, gives an opinion of the value of real estate to that person's employer.

North Dakota AMC Statute and Regulations are Conflicting

Current North Dakota Appraisal Management Company law permits an appraiser credentialed in any state to perform an appraisal review for a North Dakota property, regardless of whether any opinion of value is provided and regardless of the purpose of the appraisal review.

This is the section of the AMC law that the appraiser board is seeking to amend and where we are at an impasse.

While there is a definition of "appraisal review," in the AMC statute, there is no matching definition in the appraiser statute. And although "appraisal" is defined in the appraiser statute it is not in the AMC statute. Further, the Board's AMC regulation around "appraisal review" currently conflicts with, and is therefore superseded by, state law.

We believe these inconsistencies in definitions, and between statute and rules, should be resolved to provide maximum clarity and consistency for licensees.

Following are AMC statutory and regulatory citations:

43-23.5-01. Definitions.

3. "Appraisal management services" means to, directly or indirectly, perform any of the following functions on behalf of a lender, financial institution, client, or any other person in conjunction with a consumer credit transaction that is secured by a consumer's primary dwelling:
...
 - d. Contract with appraisers to perform appraisal assignments
 - ...
 - h. Conduct an appraisal review or other quality control of a completed appraisal prior to the delivery of the appraisal to the person that ordered the appraisal.
4. "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment related to the appraiser's data collection, analysis, opinions, conclusions, estimate of value, or compliance with the uniform standards of professional appraisal practice. This term does not include:
 - a. A general examination for grammatical, typographical, or other similar errors.
 - b. A general examination for completeness, including regulatory client requirements, or both, as specified in the agreement process that does not communicate an opinion.

43-23.5-12. Appraisal review.

Any employee of, or independent contractor to, the appraisal management company that performs an appraisal review for a property located in this state must be:

1. A certified or licensed appraiser in good standing in this state; or
2. A certified or licensed appraiser in good standing in another state.

43-23.5-13. Verification of licensure or certification.

1. An appraisal management company registered in this state may not enter any contract or agreement with an appraiser for the performance of appraisals unless the company verifies that the appraiser is licensed or certified in good standing in this state.
2. An appraisal management company seeking to be registered in this state or to renew a registration in this state shall certify to the board on a form prescribed by the board that the company has a system and process in place to verify that an individual being added to the appraiser panel of the company for appraisal services holds a permit in good standing in this state.

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

Each appraisal management company seeking to be registered or to renew a registration in this state shall certify to the board on a form prescribed by the board that the company has a system in place to perform an appraisal review of the work product of a statistically significant number of appraisal reports submitted by independent appraisers performing appraisals for the appraisal management company on a periodic basis to validate that the appraisals are being conducted in accordance with the uniform standards of professional appraisal practice, and chapter 43-23.3, and the rules adopted under this chapter. An appraisal management company shall report to the board the results of any appraisal reviews in which an appraisal is found to be substantially noncompliant with the uniform standards of professional appraisal practice.

[REGULATION] 101-05-01-15. Responsibilities and duties.

An appraisal management company registered under the provisions of this article shall:

...

Have a system in place to verify that any employee or independent contractor the appraisal management company utilizes to perform an appraisal review on a completed appraisal on property located in North Dakota, be licensed or certified with the same or higher qualifications required to perform the appraisal being reviewed, and holding a permit in good standing in North Dakota.

Section 4: REVAA Proposed Solution for North Dakota

REVAA offers the following amendment suggestions to help the Board achieve its stated goal before the House Industry, Business and Labor Committee and industry stakeholders to have an appraiser review program on par with that of the approximately 50 percent of states that have similar regulation.

REVAA has agreed to accept the cost and burden increases required to meet this objective. The proposed changes below help achieve the Board's objectives while ensuring a clear delineation of AMC quality control and business activities to minimize operational or financial burden.

Further, they seek to provide clarification around the definition of "appraisal review" and clarify when a person reviewing the work of a North Dakota appraisal must be licensed in North Dakota

Fix the Definition of Appraisal Review and Identify When a License is Required

To be consistent, REVAA proposes the definition for appraisal review should be in the appraiser chapter, and delete it from the AMC chapter so others such as banks, etc. can rely on it for their QC processes. We have identified two options that meet the Board and REVAA's objectives:

- **Option A: Use the appraiser board's current proposed amendment but move it to the appraiser statute. In addition, add a licensing exception in the appraiser law for anyone performing an appraisal review that does not include an opinion of value.**

43-23.5-01. Definitions.

(4) "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment related to the appraiser's data collection, analysis, opinions, conclusions, or estimate of value, or compliance with the uniform standards of professional appraisal practice. This term does not include:

- a. A general examination for grammatical, typographical, or other similar errors.
- b. A general examination for completeness, including regulatory or client requirements, or both, as specified in the agreement process that does not communicate an opinion.

43-23.3-04. Permit required - Exemptions.

Except as provided in this section, a person may not directly or indirectly engage in, advertise, conduct the business of, or act in any capacity as an apprentice, licensed, or certified appraiser without first obtaining a permit as provided in this chapter. An appraiser, apprenticed, licensed, or certified in another state may not engage in, advertise, conduct the business of, or act in any capacity as an appraiser in this state without first obtaining a temporary permit under section 43-23.3-11 or a permit under section 43-23.3-04.1. This chapter does not apply to a licensed real estate broker or salesperson who, in the ordinary course of business, gives an opinion to a potential seller or third party as to the recommended listing price of real estate or an opinion to a potential purchaser or third party as to the recommended purchase price of real estate. However, the opinion as to the listing price or the purchase price may not be referred to as an appraisal. This chapter does not apply to a person who, in the ordinary course of business, gives an opinion of the value of real estate to that person's employer.

An appraiser who performs an appraisal review of an appraisal of a property located in this state shall comply with the review provisions of the uniform standards of professional appraisal practice, and shall be licensed or certified as an appraiser under the laws of any state, except that a review appraiser shall obtain a permit under this chapter to the extent the review appraiser provides the review appraiser's own opinion of value, concurs with the original appraiser's opinion of value, or disagrees with the original appraiser's opinion of value.

Furthermore, strike the definition from the AMC statute (strike 43-23.5-01(4) in its entirety); Strike 43-23.5-12 from the AMC statute (as the appraiser law includes the carve-out that a North Dakota license is not required when reviewing the work of a North Dakota appraisal and not providing an opinion of value) - Board should also amend regulation to be consistent with statute.

- **Option B: Instead of the current proposed amendment from the appraiser board, carve-out opinion of value in the definition of “appraisal review,” strike text that is unneeded and move this definition from the AMC statute (whereby it only impacts AMCs) to the appraiser statute (whereby it impacts all appraisers).**

43-23.3-01. Definitions.

“Appraisal review” means the act or process of developing and communicating an opinion about the quality of another appraiser’s work that was performed as part of an appraisal assignment related to the appraiser’s data collection, analysis, opinions, conclusions, or estimate of value, ~~or compliance with the uniform standards of professional appraisal practice.~~ This term does not include:

- a. A general examination for grammatical, typographical, or other similar errors.
- b. A general examination for completeness, including regulatory or client requirements, or both, as specified in the agreement ~~process~~ that does not communicate an opinion of value.

Furthermore, we suggest striking the definition from the AMC statute (strike 43-23.5-01(4) in its entirety); Strike 43-23.5-12 from the AMC statute (as the carve-out in the definition clarifies a ND license is not required when reviewing the work of a ND appraisal and not providing an opinion of value) - Board to amend regulation to be consistent with statute.

Clarify AMC Law to Require AMCs to Have a QC Process

REVAA proposes to re-align current appraisal quality control expectations to require an AMC to certify that it has a process to examine appraisals for quality issues when performing services as an AMC:

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

Each appraisal management company seeking to be registered or to renew a registration in this state shall certify to the board on a form prescribed by the board that the company has a system in place to examine ~~perform an appraisal examination of~~ the work product of a statistically significant number of appraisal reports submitted by independent appraisers performing appraisals for the appraisal management company on a periodic basis ~~to validate that the appraisals are being conducted in accordance with the uniform standards of professional appraisal practice, and chapter 43-23.3, and the rules adopted under this chapter.~~ An appraisal management company shall report to the board the results of any appraisal examination in which an appraisal is found to be substantially noncompliant ~~with the uniform standards of professional appraisal practice.~~

It will be imperative for the Board to update its regulations to be consistent with North Dakota law.



January 17, 2023

The Honorable Scott Louser
North Dakota House of Representatives
Chair, Industry, Business and Labor Committee

RE: HB 1107

Dear Chairman Louser, Subcommittee Chairman Koppelman, and Industry, Business and Labor Committee members:

The North Dakota Appraisers Association was established in 2016 and represents 150 Appraiser Members. Our goal is to build productive relationships with individuals, associations, and organizations within the real estate industry to promote positive impacts on the appraisal profession in North Dakota.

NDAA has reviewed HB 1107 and would like to submit an amendment. The amendment has been provided to the Chairman and the Clerk. We would like the opportunity to explain our amendment at the subcommittee hearing on January 18th, 2023.

The amendment centers around the issue of evaluations within the State of North Dakota. There is a need for competent individuals to complete evaluations for financial institutions. We believe appraisers and real estate professionals have the necessary skills to provide this financial product. Currently credentialed appraisers cannot complete evaluations in North Dakota. We believe the century code needs to be updated to allow appraisers to complete evaluations for financial institutions. Allowing financial institutions the ability to work with appraisers on evaluations will strengthen the product, strengthen their decision making, and improve their ability to provide service to the borrowers of North Dakota.

Respectfully submitted,

A handwritten signature in black ink that reads "Joe Sumers". The signature is written in a cursive, flowing style.

Joe Sumers
President
North Dakota Appraisers Association
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jsumers@FIBT.com
www.ndappraisers.org



North Dakota Farm Credit Council

AgCountry Farm Credit Services

Farm Credit Services of Mandan

TO: House IBL Committee Chairman Louser
Rep. Koppelman
Rep. Wagner
Rep. Christy

FROM: Dana Bohn, NDFCC Executive Director

DATE: January 17, 2023

RE: HB 1107

On behalf of the North Dakota Farm Credit Council (NDFCC), I would like to express our opposition to the HB 1107 amendments presented by the North Dakota Appraisers Association (NDAA) because they don't include the Farm Credit Administration (FCA), which regulates the Farm Credit Services associations, in the definition of agencies. Farm Credit Services has licensed appraisers on staff, and we are regulated by the Farm Credit Administration (FCA). Therefore, it is essential for us to have our regulator, the Farm Credit Administration (FCA), included in the definition of agency.

I have also included information from AgCountry Farm Credit Services Chief Appraiser Timothy L. Kreft, ARA, regarding additional NDFCC concerns with the NDAA amendments below:

While expanding the definition of agencies to include the Farm Credit Administration (FCA) is our top priority, we also believe the amendments are inadequately written as they may exclude some institutions that are not federally insured depository institutions, such as Farm Credit Administration (FCA) or possibly another federal institution.

The amendment in Section 4, part 4, should not be part of the appraisal regulations as the state appraisal board will have no oversight over evaluations being performed by individuals who do not carry an appraisal license. Without minimal oversight as to how evaluations are completed, there may be no consequences if an individual completes an evaluation that is not credible or reliable to the institution.

In Section 4, part 6, regarding the amendment for the Bank of North Dakota proposal, this is already covered in Section 4, part 5, that allows an individual to provide, through the ordinary course of business, an employee to provide their employers with an opinion of value for real estate to that person's employer.

In Section 4, part 5, we recommend the amendment language be changed to the following.

This chapter does not apply to a person who in the ordinary course of business, give an opinion of the value of real estate to that person's employer, which shall include any licensed real estate appraiser. An evaluation by a licensed real estate appraiser under this subdivision must contain a disclosure that the evaluation is not an appraisal.

In Section 15, we would recommend the amendment language for Evaluations be replaced with the following:

Evaluations.

Any licensed real estate appraiser may provide an evaluation. When providing an evaluation, a licensed real estate appraiser is not engaged in real estate appraisal activity and is not subject to this chapter. An evaluation by a licensed real estate appraiser under this subdivision must contain a disclosure that the evaluation is not an appraisal.

Thank you for allowing us to express opposition to the NDAA amendments to HB 1107. We would support legislation that improves the amount of time (excessive wait time) consumers are experiencing when trying to obtain an valuation, which could be done by allowing licensed appraisers to complete evaluations for lending institutions when under the exception threshold or de minimis; however, we would continue to stress the importance of maintaining the credibility and reliability of these valuations and the importance of those individuals conducting evaluation being adequately trained and remaining unbiased.

NDFCC is comprised of two farmer/rancher-owned independent Farm Credit associations that provide credit and financial services to farmers, ranchers and agribusinesses of all sizes and income ranges in every county in North Dakota. North Dakota Farm Credit cooperatives provide about \$12.7 billion in loans to farmers, ranchers and agribusinesses and provide financial services to approximately 28,000 customers.

If you have questions or need additional information, feel free to contact AgCountry Farm Credit Services Chief Appraiser Timothy L. Kreft, ARA, at 701-499-2611 or Tim.Kreft@agcountry.com or me at 701-355-4458 or dbohn@clearwatercommunications.net . Thank you.

Independently owned and operated associations serving North Dakota.

AgCountry FCS

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23.8140.01000
Sixty-eighth
Legislative Assembly
of North Dakota

Introduced by
Industry, Business and Labor Committee

(At the request of the North Dakota Real Estate Appraiser Qualifications and Ethics Board)
A BILL for an Act to amend and reenact sections 43-23.3-01 and 43-23.3-02, subsection 1 of section 43-23.3-03, sections 43-23.3-04 and 43-23.3-05, subsection 1 of section 43-23.3-06, and sections 43-23.3-07, 43-23.3-08, 43-23.3-09, 43-23.3-10, 43-23.3-11, 43-23.3-13, 43-23.3-17, 43-23.3-18, and 43-23.3-23 of the North Dakota Century Code, relating to the regulation of real estate appraisers; and to provide a penalty.

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. "Analysis" means a study of real estate other than estimating value.
2. "Appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, real estate. An appraisal may be classified by subject matter into either a valuation or an analysis.
3. "Appraisal assignment" means an engagement for which a person is employed or retained to act, or would be perceived by the public as acting, as a disinterested party in rendering an unbiased supportable appraisal.
4. "Appraisal foundation" means the appraisal foundation incorporated as an Illinois corporation on November 30, 1987.
5. "Appraisal report" means any communication of an appraisal.
6. "Appraisal subcommittee" means the appraisal subcommittee of the federal financial institutions examination council.
7. "Appraiser" means a person who engages in appraisal activity for valuable consideration.

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- a. Each appraiser member of the board must be either a licensed or certified appraiser, but at least two of the appraiser members must be certified appraisers.
 - b. The governor shall appoint the financial industry representative from a list of qualified individuals submitted by the North Dakota bankers associations, the credit union association of the Dakotas, and the North Dakota farm credit system associations. Each of these entities may submit two names of candidates to the governor. The public member of the board may not be engaged in the practice of real estate appraising.
- 2 The term of each member is five years. A member may not serve more than two consecutive five-year terms, after which at least two years must pass before the governor may reappoint that former member to the board. The governor shall appoint members so the terms of no more than two members expire each year. A member of the board continues to hold office until the appointment and qualification of a successor. The governor may remove a board member for cause.
 - 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. Subsection 1 of section 43-23.3-03 of the North Dakota Century Code is amended and reenacted as follows:

- 1 The board, or the board's designated representative, shall:
 - a. Define apprentice appraiser, licensed appraiser, certified residential appraiser, and certified general appraiser; determine the type of educational experience, appraisal experience, and equivalent experience that meet the requirements of this chapter; establish application procedures; and establish standards for approval and disapproval of applications for permits.

3. This chapter does not apply to a licensed real estate broker or salesperson who, in the ordinary course of business, gives ~~an a price opinion to a potential seller or buyer or third party as to the~~ and is referred to a recommended listing price or recommended purchase price of real estate. ~~or an opinion to a potential purchaser or third party as to the~~ recommended purchase price of real estate. However, the opinion ~~as to the listing price or the purchase price may not be referred to as value or an appraisal.~~
4. A state licensed real estate broker or licensed sales agent under a broker, may provide an evaluation exclusively to a federally-insured depository institution that is regulated by a federally financial institution regulatory agency "agencies" according to federal guidelines and shall be clearly identified as an "Evaluation" and must clearly and conspicuously state, "An evaluation is not an appraisal, it's intended use is exclusively for financial institutions".
5. This chapter does not apply to a person who in the ordinary course of business, gives an opinion of the value of real estate to that person's employer and apprentice, licensed or certified appraiser who is employed by a federally-insured depository institution that is regulated by a federally financial institution regulatory agency "agencies" only when providing an evaluation.
6. This chapter does not apply to a person employed by the Bank of North Dakota when providing evaluations for BND participant loans for federally-insured depository institution under federal financial institution regulatory agency appraisal exemptions.

SECTION 5. AMENDMENT. Section 43-23.3-05 of the North Dakota Century Code is amended and reenacted as follows:

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.

SECTION 6. AMENDMENT. Subsection 1 of section 43-23.3-06 of the North Dakota Century Code is amended and reenacted as follows:

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.

SECTION 7. AMENDMENT. Section 43-23.3-07 of the North Dakota Century Code is amended and reenacted as follows:

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.~~

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

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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.

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

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.~~

SECTION 13. AMENDMENT. Section 43-23.3-17 of the North Dakota Century Code is

Evaluation reports must be clearly identified as an "Evaluation" and must contain a disclosure that, "An evaluation is not an appraisal, it's intended use is exclusively for financial Institutions".

Page No. 8

23.8140.01000

SECTION 16. AMENDMENT. Section 43-23.3-23 of the North Dakota Century Code is amended and reenacted as follows:

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 No. 9

23.8140.01000

Proposed Changes to HB 1107

Page 4, Line 25, remove the overstrike over "or" and remove the comma after "state"

Page 4, Line 26, remove "or perform an appraisal review for a property located in this state,"

Page 5, Line 2, remove "value or as"

Page 5, line 6, insert "5." and add "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 institution regulatory agency appraisal exemptions."

How this would read:

Page 4 -> "2. An appraiser, apprenticed, licensed, or certified in another state may not engage in, advertise, conduct the business of, or act in any capacity as an appraiser in this state, ~~or perform an appraisal review for a property located in this state~~, without first obtaining a temporary permit under section 43-23.3-11 or a permit under section 43-23.3-04.1."

Page 5, Line 2 -> "as to the listing price or the purchase price may not be referred to as ~~value or as~~ an appraisal."

Page 5, Line 6 below subsection 4 ->

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 institution regulatory agency appraisal exemptions.



North Dakota Association of REALTORS®

To advocate for the success of our members in partnership with our local Associations and the National Association of REALTORS®

March 3, 2023

Testimony in Support of Engrossed Bill 1107

Chairman Wobbema and Members of the Senate Workforce Development Committee,

For the record my name is Jill Beck, and I am the CEO with the North Dakota Association of REALTORS® (NDAR). My lobbyist ID is #196. I apologize for not being there in person to testify but had other personal commitments for the day but appreciate the opportunity to submit written testimony.

The North Dakota Association of REALTORS® membership is made up of more than 2,200 REALTORS® and more than 250 Business Partner members. We are the non-profit professional member organization for real estate licensees and those businesses that enhance our members business.

With the original HB 1107 we started with a neutral position as we wanted to learn more of intent but quickly changed to an opposition position with some of the language. The House Industry Business Committee created a subcommittee and invited six to seven stakeholder groups to be part of the hearings and express concerns. After two subcommittee meetings, the chair Representative Koppelman, asked each group if we were ok with the compromised bill that all had input with. All groups expressed positive feedback and were thankful for the ability to participate and express concerns.

We do ask for a *Do Pass* of Engrossed Bill 1107 in its current format. We understand that there may be amendments coming forward that we will have a different position on and would ask for consideration of those if they are presented.

Thank you,

A handwritten signature in blue ink that reads "Jill Beck".

Jill Beck, CEO
NORTH DAKOTA ASSOCIATION OF REALTORS

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

March 3rd, 2023

Workforce Development Committee. Fort Lincoln Room.

Committee Chair: Senator Michael Wobbema.

Senators; Axtman VC; Elkin, Larson, Piepkorn, Sickler.

My Name is Dean Rylander – Chair of the Government Affairs Committee of the North Dakota Appraisers Association. I am here today to present an Amendment to HB1107.

The NDAA is an association of Appraisers for Appraisers. Our Goal is to foster better understanding of the appraisal profession, make a positive impact in the Real Estate profession and promote positive legislation that provide better service to the State of North Dakota and the Public.

As many Legislatures and the general public are not aware of, our profession is heavily regulated by the Federal Government. The Government and its various agencies are the entities that mandate our Education, Qualifications, Standards of Practice, and experience hours required for each level of licensing. We don't have control over that. These agencies also mandate that each State shall provide a means of oversight to appraisers. This is our North Dakota State Appraisal Board. They carry out the rules and regulation mandated by the Federal Government. They police appraisers and make sure our State Century Codes meet those guidelines to remain in compliance.

The NDAA is committed to finding solutions for issues that hinder not only our profession but many other Real Estate professionals in the State. The industry has taken steps on a national basis to improve access to appraising by eliminating many barriers to the profession.

- Lowered experience hours for Apprentice / Trainee licensing.
- Lowered qualifying education required for licensing.
- Created alternative pathways to licensing upgrades for those without a BS degree.
- Created an entire new model and or training method called Practical Application of Real Estate Appraising (PAREA)

This new program creates a path to the appraising profession without the need of a supervisor. This eliminates barriers and shortens the time it takes to become an appraiser, while at the same time leaving the traditional option of supervisor/trainee method in place for a hybrid option. Many will take advantage of this new model that is available today.

However the NDAA can do more and must do more right here in our own State.

- Created ndappraisers.org to include a search engine for the public and lending institutions to search for appraisers by application and location.
- The NDAA offers Apprentice Appraisers 1st year membership Free for educational discounts and networking with experience appraisers.
- The NDAA offers Scholarships for qualifying education to apprentice and licensed appraisers.
- The NDAA is working with NDSU to create a Real Estate Valuation Minor. This curriculum would provide qualifying education for the appraisal profession. Coupled with PAREA or supervisory Appraiser creates a powerful tool for newer and younger people to enter the profession. This is on track to be offered the Spring of 2024.

- The NDAA is working with industry partners to search and promote applications for Federal Grant money that can be used to promote more and new Appraisers specifically in rural underserved areas of the State.
- The NDAA has introduced Legislation that enhances Availability of and Access to Data, focusing on underserved rural areas of the State. Better access to data benefits Real Estate, Financial institutions but most importantly the public, especially in rural communities.

HB1107

What is an evaluation?

An Evaluation is a bank product that is offered to qualified homeowners that meet Federal Agency Guideline, in lieu of an appraisal for a transaction that qualifies for certain exemptions.

Evaluations are an important part of lending and will become even more prominent as interest rates remain high and markets remain slow. This coupled with the increased \$400,000 threshold creating an entire new market demographic that now qualifies for these loans. The NDAA feels it is important for lenders to have access to good quality evaluation reports that are complete and accurate as lending exposes more and more of bank assets to these types of loans. Safety and soundness are still cornerstones of Banking.

We believe in the fair market and allowing lending institutions the ability to decide and select the appropriate individual to complete their evaluation needs and therefore, we are in favor of leaving the Brokers and Bank of North Dakota in the Engrossed Bill. This is a service that has been requested of us, and we believe that we are uniquely qualified as valuation experts to meet the needs of lenders and the citizens of North Dakota.

Many have expressed concern that if appraisers are performing evaluations, they are not performing appraisals, this is just simply not true. Typically, evaluation and appraisal needs are inversely related. Therefore, when there is a high demand for residential appraisals there is a lower demand for residential evaluations and vice versa in our current economic state when there is a low demand for residential appraisals there is a higher demand for residential evaluations. Evaluations are typically a faster lower cost product that does not require the same amount of analysis that an appraisal requires and therefore does not have the same amount of liability attached to the product like a full Appraisal would have. So, when appraisal demand increases appraisers will concentrate more on appraisals than they would evaluations. By leaving Brokers in the mix provides the Lenders with the option they need to provide services and loans to customers with out delays.

Representative Koppelman introduced HB1107 to the House Floor, however through no fault of his own some things have been misrepresented. We are not looking to build fences around evaluations, we are just asking for a seat at the table. In fact, in our original amendment, we asked to include the BND and Brokers as participants in the evaluation field. It has never been the NDAA's intent to eliminate any other qualified Real Estate Professional from performing evaluations.

Additional benefits are, Evaluations will provide Apprentice Appraisers with experience hours toward licensing. This is new, as the Appraiser Qualifications Board did just make a rule change that created a path that will allow the appraiser to convert the evaluation into a non-client appraisal report for experience hours toward licensing. This will help bring in newer and younger people into the profession.

This is another good example of how our industry and profession is working to eliminate barriers to our profession.

Currently today the market is slow with appraisers completing most residential assignments within 5 to 14 business days. We surveyed our membership with 88 response, just over 40% stated they would have to find alternative income if the market remains the same as it is today. While I do not have a crystal ball and cannot predict the future, it would not be a stretch to estimate we have the potential to lose 15 or 20% of our working appraisers in the state. The NDAA's largest concern is when our market does come back and interest rates do stabilize around 3 to 4% again, we cannot replace these individuals. Our profession is not one that can create appraisers at the drop of a hat.

This State has the potential to create an appraiser shortage of a magnitude that we have never seen before. Evaluations do have the potential to generate enough income to keep appraisers in the profession.

23.8140.02001

FIRST ENGROSSMENT

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1107

Introduced by

Industry, Business and Labor Committee

(At the request of the North Dakota Real Estate Appraiser Qualifications and Ethics Board)

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 real estate evaluations; and to amend and reenact sections
 3 43-23.3-01 and 43-23.3-02, subsection 1 of section 43-23.3-03, sections 43-23.3-04 and
 4 43-23.3-05, subsection 1 of section 43-23.3-06, and sections 43-23.3-07, 43-23.3-08,
 5 43-23.3-09, 43-23.3-10, 43-23.3-11, 43-23.3-13, 43-23.3-17, 43-23.3-18, and 43-23.3-23 of the
 6 North Dakota Century Code, relating to the regulation of real estate appraisers; and to provide a
 7 penalty.

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

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

11 **43-23.3-01. Definitions.**

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

13 1. "Agency" includes the office of the comptroller of the currency, state treasury, board of
 14 governors of the federal reserve system, federal deposit insurance corporation, state
 15 department of financial institutions, national credit union administration, and farm
 16 credit administration.

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

18 ~~2.3.~~ "Appraisal" means an analysis, opinion, or conclusion relating to the nature, quality,
 19 value, or utility of specified interests in, or aspects of, real estate. An appraisal may be
 20 classified by subject matter into either a valuation or an analysis.

21 ~~3.4.~~ "Appraisal assignment" means an engagement for which a person is employed or
 22 retained to act, or would be perceived by the public as acting, as a disinterested party
 23 in rendering an unbiased supportable appraisal.

Sixty-eighth
Legislative Assembly

- 1 | ~~4.5.~~ "Appraisal foundation" means the appraisal foundation incorporated as an Illinois
2 | corporation on November 30, 1987.
- 3 | ~~5.6.~~ "Appraisal report" means any communication of an appraisal.
- 4 | ~~6.7.~~ "Appraisal subcommittee" means the appraisal subcommittee of the federal financial
5 | institutions examination council.
- 6 | ~~7.8.~~ "Appraiser" means a person who engages in appraisal activity for valuable
7 | consideration.
- 8 | ~~8.9.~~ "Apprentice appraiser" means a person who holds a valid permit as an apprentice
9 | appraiser.
- 10 | ~~9.10.~~ "Board" means the North Dakota real estate appraiser qualifications and ethics board.
- 11 | ~~10.11.~~ "Certified appraiser" means a person who holds a valid permit as a certified residential
12 | or general appraiser.
- 13 | ~~11.12.~~ "Certified general appraiser" means a person who holds a valid permit as a certified
14 | general appraiser.
- 15 | ~~12.13.~~ "Certified residential appraiser" means a person who holds a valid permit as a certified
16 | residential appraiser.
- 17 | 14. "Evaluation" means an estimate of the value of real property, made in accordance with
18 | an agency, including an agency regulation or guideline provided to a federal financial
19 | institution or other entity for use in a real estate-related financial transaction for which
20 | an appraisal is not required by federal law.
- 21 | ~~13.15.~~ "Licensed appraiser" means a person who holds a valid permit as a licensed
22 | appraiser.
- 23 | ~~14.16.~~ "Permit" means the document issued by the board, verifying that the person named on
24 | the permit has fulfilled all prerequisites to practice either as an apprentice appraiser, a
25 | licensed appraiser, or a certified appraiser.
- 26 | ~~15.17.~~ "Real estate" means an identified parcel or tract of land including improvements, and
27 | interests, benefits, and rights inherent in the ownership of real estate.
- 28 | ~~16.18.~~ "Uniform standards of professional appraisal practices" means standards of appraisal
29 | promulgated by the appraisal standards board of the appraisal foundation as adopted
30 | ~~and modified by the board. The standards adopted and modified by the board must~~
31 | ~~meet the minimum standards adopted by the appraisal foundation.~~

1 | ~~17.19.~~ "Valuation" means an estimate of the value of real estate or real property.

2 | **SECTION 2. AMENDMENT.** Section 43-23.3-02 of the North Dakota Century Code is
3 | amended and reenacted as follows:

4 | **43-23.3-02. North Dakota real estate appraiser qualifications and ethics board.**

- 5 | 1. The governor shall appoint the board. The board must consist of five members. One
6 | member must represent the public; one member must be a representative of the
7 | financial industry; and three members must be appraisers, at least one of which is
8 | experienced in the appraisal of agricultural property.
- 9 | a. Each appraiser member of the board must be either a licensed or certified
10 | appraiser, but at least two of the appraiser members must be certified appraisers.
- 11 | b. The governor shall appoint the financial industry representative from a list of
12 | qualified individuals submitted by the North Dakota bankers associations, the
13 | credit union association of the Dakotas, and the North Dakota farm credit system
14 | associations. Each of these entities may submit two names of candidates to the
15 | governor. The public member of the board may not be engaged in the practice of
16 | real estate appraising.
- 17 | 2. The term of each member is five years. A member may not serve more than two
18 | consecutive five-year terms, after which at least two years must pass before the
19 | governor may reappoint that former member to the board. The governor shall appoint
20 | members so the terms of no more than two members expire each year. A member of
21 | the board continues to hold office until the appointment and qualification of a
22 | successor. The governor may remove a board member for cause.
- 23 | 3. Annually the members shall elect a chairman from among the members. At least two
24 | of the members who are appraiser members must be present in order for a quorum to
25 | exist. The members are entitled to receive compensation for each day actually
26 | engaged in the service of the board and actual and necessary traveling expenses at
27 | the rate allowed other state officials, paid from the fees collected by the board.
- 28 | 4. At least two of the members who are appraiser members must be present in order for
29 | a quorum to exist.

- 1 5. The members are entitled to receive compensation for each day actually engaged in
2 the service of the board and actual and necessary traveling expenses at the rate
3 allowed other state officials, paid from the fees collected by the board.

4 **SECTION 3. AMENDMENT.** Subsection 1 of section 43-23.3-03 of the North Dakota
5 Century Code is amended and reenacted as follows:

- 6 1. The board, or the board's designated representative, shall:
- 7 a. Define apprentice appraiser, licensed appraiser, certified residential appraiser,
8 and certified general appraiser; determine the type of educational experience,
9 appraisal experience, and equivalent experience that meet the requirements of
10 this chapter; establish application procedures; and establish standards for
11 approval and disapproval of applications for permits.
 - 12 b. Establish examination specifications for ~~each category of licensed and~~
13 ~~certified~~ the apprentice and supervisory appraiser and administer examinations.
 - 14 c. Approve or disapprove applications for permits, issue ~~peeket cards and~~ permits
15 to practice, and maintain a registry of the names and addresses of individuals
16 holding permits.
 - 17 d. Discipline permittees.
 - 18 e. Hold meetings, hearings, and examinations in places and at times as the board
19 designates and maintain records of board activities.
 - 20 f. Adopt rules, pursuant to chapter 28-32, necessary to implement this chapter or
21 carry out the requirements imposed by federal law.
 - 22 g. Adopt rules that clearly and concisely establish the standards for approval and
23 disapproval of applications for permits. The rules must include a requirement that
24 an application disapproval clearly specify the basis for the disapproval.
 - 25 h. Keep permittees informed of board activities, including providing notification of
26 board member terms and any upcoming board vacancy; internet posting of
27 meeting notices and minutes; and internet posting of proposed and final rule
28 changes.

29 **SECTION 4. AMENDMENT.** Section 43-23.3-04 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **43-23.3-04. Permit required - Exemptions.**

2 1. Except as provided in this section, a person may not directly or indirectly engage in,
3 advertise, conduct the business of, or act in any capacity as an apprentice, licensed,
4 or certified appraiser without first obtaining a permit as provided in this chapter.

5 2. An appraiser, apprenticed, licensed, or certified in another state may not engage in,
6 advertise, conduct the business of, or act in any capacity as an appraiser in this state
7 without first obtaining a temporary permit under section 43-23.3-11 or a permit under
8 section 43-23.3-04.1.

9 3. This chapter does not apply to a licensed real estate broker or salesperson who, in the
10 ordinary course of business, gives an opinion to a potential seller or third party as to
11 the recommended listing price of real estate or an opinion to a potential purchaser or
12 third party as to the recommended purchase price of real estate. However, the opinion
13 as to the listing price or the purchase price may not be referred to as an appraisal.

14 4. This chapter does not apply to a person who, in the ordinary course of business, gives
15 an opinion of the value of real estate to that person's employer.

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

19 **SECTION 5. AMENDMENT.** Section 43-23.3-05 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **43-23.3-05. Permit process.**

22 An individual who desires to engage in the practice of real estate appraisal shall apply for a
23 permit ~~on forms prescribed by~~with the board and submit the required fee.

24 **SECTION 6. AMENDMENT.** Subsection 1 of section 43-23.3-06 of the North Dakota
25 Century Code is amended and reenacted as follows:

26 1. An apprentice appraiser must meet the minimum requirements established by the
27 board for a permit. An apprentice appraiser may only assist ~~a licensed or~~ a certified
28 appraiser in the performance of an appraisal assignment.

29 **SECTION 7. AMENDMENT.** Section 43-23.3-07 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **43-23.3-07. Examination requirement.**

2 The board shall issue a permit to practice as a licensed, certified residential, or certified
3 general appraiser to an individual who has ~~demonstrated the following qualifications through a~~
4 ~~written examination process:~~

- 5 1. ~~Knowledge of technical terms used in or related to real estate appraising, appraisal~~
6 ~~report writing, and economic concepts relating to real estate.~~
- 7 2. ~~Understanding of the principles of land economics, appraisal processes, and of~~
8 ~~problems likely to be encountered in gathering, interpreting, and processing of data in~~
9 ~~carrying out appraisal disciplines.~~
- 10 3. ~~Understanding of the uniform standards of professional appraisal practices.~~
- 11 4. ~~Knowledge of theories of depreciation, cost estimating, methods of capitalization, the~~
12 ~~mathematics of real estate appraisal, and other principles and procedures determined~~
13 ~~by the board to be appropriate for the appreciable classification of permit.~~
- 14 5. ~~Basic understanding of real estate law.~~
- 15 6. ~~Understanding of the types of misconduct for which disciplinary proceedings may be~~
16 ~~initiated against an appraiser~~successfully completed the appropriate national
17 examination as required by the appraisal foundation appraisal qualification board
18 criteria.

19 **SECTION 8. AMENDMENT.** Section 43-23.3-08 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **43-23.3-08. ~~Application prerequisites~~Appraisal education requirements.**

22 An applicant for a permit as an apprentice, licensed, certified residential, or certified general
23 appraiser ~~must~~shall successfully complete the education requirements established by the
24 board.

25 **SECTION 9. AMENDMENT.** Section 43-23.3-09 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **43-23.3-09. Appraisal experience requirements.**

28 The board may issue a permit to practice as a licensed, certified residential, or certified
29 general appraiser to an individual who possesses the minimum experience requirements
30 established by the board. ~~The board shall require an applicant to furnish, under oath, a detailed~~
31 ~~listing of the appraisal reports or file memoranda for which appraisal experience is claimed by~~

1 ~~the applicant. Upon request, the applicant shall provide to the board copies of appraisal reports~~
2 ~~or other documents that the applicant has assisted in preparing.~~

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

5 **43-23.3-10. Expiration of permit.**

6 Permits expire biennially on December thirty-first of each year. The expiration date of the
7 permit must appear on the permit and no other notice of its expiration need be given to the
8 permittee.

9 **SECTION 11. AMENDMENT.** Section 43-23.3-11 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **43-23.3-11. Temporary permit.**

- 12 1. The board may issue a temporary permit to an applicant who is ~~apprenticed,~~ licensed,
13 or certified in good standing by another state. The board may deny a temporary permit
14 to an applicant whose permit, apprenticeship, license, or certification was revoked,
15 suspended, or otherwise subjected to discipline by any state or jurisdiction.
- 16 2. ~~An applicant for a temporary permit shall file with the board a designation in writing~~
17 ~~which appoints the chairman of the board to act as the applicant's licensed agent upon~~
18 ~~whom all judicial and other process or legal notices directed to the applicant may be~~
19 ~~served. Copies of the appointment, certified by the chairman of the board, may be~~
20 ~~received in evidence in any proceeding and must be given the same effect as the~~
21 ~~original. In the written designation, the applicant shall agree that any lawful process~~
22 ~~against that individual which is served upon the agent is of the same legal force as if~~
23 ~~served upon the applicant, and that the authority of the agent continues in force as~~
24 ~~long as any liability of the applicant remains outstanding in this state. Upon the receipt~~
25 ~~of any process or notice, the chairman shall mail a copy of the process or notice by~~
26 ~~certified mail, return receipt requested, to the last known business address of the~~
27 ~~applicant.~~
- 28 3. The board may issue a temporary permit to an applicant if the applicant agrees in
29 writing to abide by this chapter and to submit to the jurisdiction of the board.

1 4-3. The board shall issue a temporary permit to an applicant who has complied with this
2 section. The board may require the applicant to pay a fee. The board shall determine
3 the amount of the fee and the duration of the temporary permit.

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

6 **43-23.3-13. Principal place of business.**

7 A permittee shall notify the board of the address of the permittee's place of business. Within
8 twenty days of a change in the address of the place of business, the permittee shall give written
9 notification of the change to the board and pay the change of address fee.

10 **SECTION 13. AMENDMENT.** Section 43-23.3-17 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **43-23.3-17. Retention of records.**

13 An apprentice, licensed, or certified appraiser shall retain, for at least five years, originals or
14 copies of all written contracts engaging the permittee's services for appraisal work and all
15 reports and supporting data assembled and formulated by the permittee in preparing the
16 reports. The period for retention of records applies to each engagement of the services of the
17 permittee and commences upon the date of the submission of the appraisal to the client unless,
18 within that period, the permittee is notified that the appraisal report is involved in litigation, in
19 which event the period for the retention of records commences on the date of the final
20 disposition of the litigation. The permittee shall make available for inspection and copying by the
21 board on reasonable notice all records required to be maintained comply with the recordkeeping
22 rule as specified in the uniform standards of professional appraisal practice.

23 **SECTION 14. AMENDMENT.** Section 43-23.3-18 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **43-23.3-18. Standards of professional appraisal practice.**

26 An Except as authorized under section 16 of this Act, to conduct an evaluation, an
27 apprentice, licensed, or certified appraiser shall comply with the standards of professional
28 appraisal practice and ethical rules specified by the uniform standards of professional appraisal
29 practice and all other standards and ethical requirements adopted by the appraisal standards
30 board of the appraisal foundation.

1 **SECTION 15. AMENDMENT.** Section 43-23.3-23 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-23.3-23. Penalties.**

4 A person acting or purporting to act as an apprentice, licensed, or certified appraiser without
5 holding a permit to practice is guilty of a class A misdemeanor. An appraiser, apprenticed,
6 licensed, or certified in another state, who engages in, advertises, conducts the business of, or
7 acts in any capacity as an appraiser without first obtaining a temporary permit is guilty of a
8 class A misdemeanor. In addition to any other penalty, a person receiving any money or other
9 compensation in violation of this chapter is subject to a penalty of not less than the amount of
10 the sum of money received and not more than three times the sum in the discretion of the court.

11 **SECTION 16.** A new section to chapter 43-23.3 of the North Dakota Century Code is
12 created and enacted as follows:

13 **Evaluations.**

- 14 1. An apprentice, licensed, or certified appraiser may provide an evaluation for a real
15 estate-related financial transaction for an institution regulated by an agency.
16 2. An evaluation by an appraiser must be conducted in accordance with federal and state
17 laws, rules adopted by the board, regulatory guidelines, and the most current appraisal
18 and evaluation guidelines for federally insured depository institutions or federally
19 regulated lending institutions made by a federal financial institution regulatory agency.

March 3, 2023

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1107

Page 1, line 1, after "to" insert "create and enact a new section to chapter 43-23.3 of the North Dakota Century Code, relating to real estate evaluations; and to"

Page 1, line 11, after "1." insert "Agency" includes the office of the comptroller of the currency, state treasury, board of governors of the federal reserve system, federal deposit insurance corporation, state department of financial institutions, national credit union administration, and farm credit administration.

2."

Page 1, line 12, overstrike "2." and insert immediately thereafter "3."

Page 1, line 15, overstrike "3." and insert immediately thereafter "4."

Page 1, line 18, overstrike "4." and insert immediately thereafter "5."

Page 1, line 20, overstrike "5." and insert immediately thereafter "6."

Page 1, line 21, overstrike "6." and insert immediately thereafter "7."

Page 1, line 23, overstrike "7." and insert immediately thereafter "8."

Page 2, line 1, overstrike "8." and insert immediately thereafter "9."

Page 2, line 3, overstrike "9." and insert immediately thereafter "10."

Page 2, line 4, overstrike "10." and insert immediately thereafter "11."

Page 2, line 6, overstrike "11." and insert immediately thereafter "12."

Page 2, line 8, overstrike "12." and insert immediately thereafter "13."

Page 2, after line 9, insert:

"14. "Evaluation" means an estimate of the value of real property, made in accordance with an agency, including an agency regulation or guideline provided to a federal financial institution or other entity for use in a real estate-related financial transaction for which an appraisal is not required by federal law."

Page 2, line 10, overstrike "13." and insert immediately thereafter "15."

Page 2, line 12, overstrike "14." and insert immediately thereafter "16."

Page 2, line 15, overstrike "15." and insert immediately thereafter "17."

Page 2, line 17, overstrike "16." and insert immediately thereafter "18."

Page 2, line 21, overstrike "17." and insert immediately thereafter "19."

Page 8, line 15, overstrike "An" and insert immediately thereafter "Except as authorized under section 16 of this Act, to conduct an evaluation, an"

Page 8, after line 28, insert:

"**SECTION 16.** A new section to chapter 43-23.3 of the North Dakota Century Code is created and enacted as follows:

Evaluations.

1. An apprentice, licensed, or certified appraiser may provide an evaluation for a real estate-related financial transaction for an institution regulated by an agency.

2. An evaluation by an appraiser must be conducted in accordance with federal and state laws, rules adopted by the board, regulatory guidelines, and the most current appraisal and evaluation guidelines for federally insured depository institutions or federally regulated lending institutions made by a federal financial institution regulatory agency."

Renumber accordingly



To advocate for the success of our members in partnership with our local Associations and the National Association of REALTORS®

March 3, 2023

Testimony in Support of Engrossed Bill 1107

Chairman Wobbema and Members of the Senate Workforce Development Committee,

For the record my name is Shawn Ostlie and I am the Immediate Past President of the North Dakota Association of REALTORS® (NDAR).

We believe this is primarily a housekeeping bill for the licensing agency, The North Dakota Real Estate Appraiser Qualifications and Ethics Board (aka ND Appraisal Board) and are in support of the engrossed bill.

As background we were neutral with the original bill and after the initial hearing, 2 subsequent subcommittee meetings and another committee hearing consensus was reached by stakeholders, and we are in now in support of this engrossed bill.

We ask for a Do Pass of Engrossed Bill 1107 in its current format. We understand that there may be amendments coming forward that we will have a different position on.

Thank you.

Shawn Ostlie
2022 ND REALTORS® President
Archer RE Services
Fargo ND
701-388-5365

