Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

HOUSE BILL NO. 1100
(Industry, Business and Labor Committee)
(At the request of the North Dakota Real Estate Appraiser Qualifications and Ethics Board)

AN ACT to amend and reenact subsection 2 of section 43-23.3-03 and sections 43-23.3-04, 43-23.3-04.1, 43-23.3-09, 43-23.3-22, and 43-23.3-24 of the North Dakota Century Code, relating to real estate appraiser permits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 43-23.3-03 of the North Dakota Century Code is amended and reenacted as follows:

2. The board, or the board's designated representative, may:

   a. Promote research and conduct studies relative to real estate appraising and sponsor educational activities.

   b. Contract for services necessary to carry out this chapter.

   ~~c. Enter reciprocity agreements with other states.~~

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

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 <u>or a permit under section 43-23.3-04.1</u>. 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.

SECTION 3. AMENDMENT. Section 43-23.3-04.1 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-04.1. Issuance of permits to applicants licensed or certified by another state.

The board shall issue a permit to an applicant who is licensed or certified in good standing by another state if the other state's requirements to be licensed or certified are at least substantially equivalent to the requirements imposed by this state, and if grounds for denial of the application under section 43-23.3-18 do not exist. ~~If an applicant was licensed or certified by another state by reciprocity or a similar process, the requirements of the state in which the applicant was originally licensed or certified must be at least substantially equivalent to the requirements imposed by this state.~~ Within sixty days of filing a completed application, the board shall issue or deny the application and inform the applicant of the decision.

SECTION 4. AMENDMENT. Section 43-23.3-09 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-09. Appraisal experience.

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 ~~may~~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.

SECTION 5. AMENDMENT. Section 43-23.3-22 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-22. Disciplinary proceedings.

1. The board may deny an application for, refuse to renew, suspend, or revoke a permit, impose a monetary fine, or issue a letter of reprimand, when the applicant or permittee has:

   a. Procured or attempted to procure a permit by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification, or through fraud or misrepresentation.

   b. Failed to meet the minimum qualifications established under this chapter.

   c. Paid money other than provided for by this chapter to any member or employee of the board to procure a permit.

   d. Been convicted, including a conviction based upon a plea of guilty or nolo contendere, of a felony or of a crime that is substantially related to the qualifications, functions, and duties of a person developing and communicating appraisals to others.

   e. Performed an act involving dishonesty, fraud, or misrepresentation with the intent to benefit substantially that person or another person, or with the intent to injure substantially another person.

   f. Violated any standard for the development or communication of appraisals as provided in this chapter.

   g. Failed or refused without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal.

   h. Acted with gross negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal.

   i. Willfully violated this chapter or rules of the board.

   j. Accepted an appraisal assignment when the employment is contingent upon the reporting of a predetermined estimate, analysis, or opinion, or if the fee is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment.

   k. Violated the confidential nature of governmental records to which the person gained access through employment or engagement as an appraiser by a governmental agency.

   l. Had entry of a civil judgment against the person on grounds of fraud, misrepresentation, or deceit in the making of an appraisal.

2. In a disciplinary proceeding based upon a civil judgment, the permittee must be afforded an opportunity to present matters in mitigation and extenuation, but may not collaterally attack the civil judgment.

3. A signed or unsigned allegation from the public is not a complaint until the board determines there is reasonable cause to initiate a disciplinary proceeding against one or more applicants or permittees.

SECTION 6. AMENDMENT. Section 43-23.3-24 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-24. Criminal history record checks.

The board shall require an applicant for a permit, under sections 43-23.3-04.1, 43-23.3-07, 43-23.3-08, and 43-23.3-09, ~~and 43-23.3-11,~~ and may require a permittee to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided in section 12-60-24. All costs associated with obtaining a background check are the responsibility of the applicant or permittee.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1100.

House Vote:	Yeas 84	Nays 2	Absent 8
Senate Vote:	Yeas 47	Nays 0	Absent 0

Chief Clerk of the House

Received by the Governor at 12:36 P.M. on March 19, 2015.

Approved at 12:01 P.M. on March 20, 2015.

Governor

Filed in this office this 20th day of March, 2015,

at 3:56 o'clock P M.

Secretary of State