

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 amend and reenact subsection 2 of section 43-23.3-03 and sections  
2 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  
3 Code, relating to real estate appraiser permits.

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

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

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

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

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

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

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

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

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

1 as an appraisal. This chapter does not apply to a person who, in the ordinary course of  
2 business, gives an opinion of the value of real estate to that person's employer.

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

5 **43-23.3-04.1. Issuance of permits to applicants licensed or certified by another state.**

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

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

16 **43-23.3-09. Appraisal experience.**

17 The board may issue a permit to practice as a licensed, certified residential, or certified  
18 general appraiser to an individual who possesses the minimum experience requirements  
19 established by the board. The board ~~may~~shall require an applicant to furnish, under oath, a  
20 detailed listing of the appraisal reports or file memoranda for which appraisal experience is  
21 claimed by the applicant. Upon request, the applicant shall provide to the board copies of  
22 appraisal reports or other documents that the applicant has assisted in preparing.

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

25 **43-23.3-22. Disciplinary proceedings.**

- 26 1. The board may deny an application for, refuse to renew, suspend, or revoke a permit,  
27 impose a monetary fine, or issue a letter of reprimand, when the applicant or permittee  
28 has:
- 29 a. Procured or attempted to procure a permit by knowingly making a false  
30 statement, submitting false information, refusing to provide complete information

- 1                   in response to a question in an application for certification, or through fraud or  
2                   misrepresentation.
- 3           b. Failed to meet the minimum qualifications established under this chapter.
- 4           c. Paid money other than provided for by this chapter to any member or employee  
5           of the board to procure a permit.
- 6           d. Been convicted, including a conviction based upon a plea of guilty or  
7           nolo contendere, of a felony or of a crime that is substantially related to the  
8           qualifications, functions, and duties of a person developing and communicating  
9           appraisals to others.
- 10          e. Performed an act involving dishonesty, fraud, or misrepresentation with the intent  
11          to benefit substantially that person or another person, or with the intent to injure  
12          substantially another person.
- 13          f. Violated any standard for the development or communication of appraisals as  
14          provided in this chapter.
- 15          g. Failed or refused without good cause to exercise reasonable diligence in  
16          developing an appraisal, preparing an appraisal report, or communicating an  
17          appraisal.
- 18          h. Acted with gross negligence or incompetence in developing an appraisal, in  
19          preparing an appraisal report, or in communicating an appraisal.
- 20          i. Willfully violated this chapter or rules of the board.
- 21          j. Accepted an appraisal assignment when the employment is contingent upon the  
22          reporting of a predetermined estimate, analysis, or opinion, or if the fee is  
23          contingent upon the opinion, conclusion, or valuation reached, or upon the  
24          consequences resulting from the appraisal assignment.
- 25          k. Violated the confidential nature of governmental records to which the person  
26          gained access through employment or engagement as an appraiser by a  
27          governmental agency.
- 28          l. Had entry of a civil judgment against the person on grounds of fraud,  
29          misrepresentation, or deceit in the making of an appraisal.

- 1           2.    In a disciplinary proceeding based upon a civil judgment, the permittee must be  
2                    afforded an opportunity to present matters in mitigation and extenuation, but may not  
3                    collaterally attack the civil judgment.
- 4           3.    A signed or unsigned allegation from the public is not a complaint until the board  
5                    determines there is reasonable cause to initiate a disciplinary proceeding against one  
6                    or more applicants or permittees.

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

9           **43-23.3-24. Criminal history record checks.**

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