

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1124
(Industry, Business and Labor Committee)
(At the request of the North Dakota Real Estate Appraiser
Qualifications and Ethics Board)

AN ACT to create and enact a new section to chapter 43-23.3 of the North Dakota Century Code, relating to the issuance of real estate appraiser permits to applicants licensed or certified by another state; to amend and reenact sections 43-23.3-04, 43-23.3-10, 43-23.3-11, 43-23.3-19, and 43-23.3-23 of the North Dakota Century Code, relating to real estate appraisers and the practice of real estate appraisal.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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 a licensed or certified appraiser without first obtaining a permit as provided in this chapter. An appraiser 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 ~~nonresident~~ temporary permit under section 43-23.3-11. This chapter does not apply to a licensed real estate broker or salesman 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 2. A new section to chapter 43-23.3 of the North Dakota Century Code is created and enacted as follows:

Issuance of permits to applicants licensed or certified by another state. The board may 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. 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.

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

43-23.3-10. ~~Term~~ Expiration of permit. Permits expire 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.

SECTION 4. AMENDMENT. Section 43-23.3-11 of the North Dakota Century Code is amended and reenacted as follows:

43-23.3-11. ~~Nonresident~~ Temporary permit.

1. ~~A nonresident~~ The board may issue a temporary permit to an applicant who is licensed or certified in good standing by another state. The board may deny a temporary permit to an

applicant whose permit, 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 ~~nonresident appraiser~~ applicant.
- ~~2.~~ 3. The board may issue a temporary permit to ~~a nonresident~~ an applicant if the applicant agrees in writing to abide by this chapter and to submit to the jurisdiction of the board.
- ~~3.~~ 4. The board shall issue a temporary permit to ~~practice to a nonresident~~ an applicant who has complied with this section. The board may require the ~~nonresident~~ applicant to pay a ~~temporary appraiser's~~ fee. The board shall determine the amount of the ~~temporary~~ fee and the duration of the temporary permit.
4. ~~If the board determines that another state has substantially equivalent requirements and the board enters into a reciprocity agreement, an applicant from that state may obtain a permit to practice as either a licensed or certified appraiser upon application and payment of any required permit fee.~~

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

43-23.3-19. Continuing education. ~~Each applicant for renewal of a permit shall submit proof of participation in the minimum number of continuing education hours required and approved by the board.~~ The board shall adopt rules for the implementation of continuing education requirements to assure that permit renewal applicants have current knowledge of appraisal theories, practices, and techniques that provide a high degree of service and protection to the public. The rules must establish:

1. Policies and procedures for obtaining board approval of courses of instruction.
2. Standards, policies, and procedures to be applied by the board in evaluating an applicant's claims of equivalency.
3. Standards, monitoring methods, and systems for recording attendance by course sponsors.

SECTION 6. 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 a licensed or a certified appraiser without holding a permit to practice is guilty of a class A misdemeanor. An appraiser 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 ~~nonresident~~ 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.

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 Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1124.

House Vote: Yeas 91 Nays 0 Absent 3

Senate Vote: Yeas 45 Nays 0 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State