

2019 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2075

2019 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

SB 2075
1/9/2019
Job # 30584

- Subcommittee
 Conference Committee

Committee Clerk: Amy Crane

Explanation or reason for introduction of bill/resolution:

Relating to appraisal management companies.

Minutes:

Att. #1 – Corey Kost

Chairman Klein: Opened the hearing on SB 2075.

(00:19)Corey Kost Vice-Chair, North Dakota Real Estate Appraiser Qualifications and Ethics Board: See Attachment #1 for testimony in support of the bill.

06:16Senator Piepkorn: What is the typical ownership of one of these groups usually? Not limited to ten percent ownership normally, what is the makeup of the company? Just individual or multi owners?

Corey: I'm not entirely sure what the makeup is, a lot of times individuals but can be a number just like any other business, some are very large some are very small.

Chairman Klein: So what you're saying is we don't have very many in North Dakota, can you explain?

Corey: As far as AMC's go, we don't have any that are based in North Dakota however, the nationally based AMC's do business in North Dakota and that's why this legislation is required.

Chairman Klein: So we're somewhat policing these national companies so we make sure that the rules are consistent for them? Is there a concern that these companies do bad things? We all feel more comfortable when our local appraisers are doing the work but how does this work? Do they send someone? Do they sublet? How do they work?

Corey: Appraisal management companies act as middle man between appraisers and the creditors. A lot of local lenders choose to contract directly with appraisers, so no AMC is required. However, some do choose to contract with AMCs and those companies may be out of South Dakota or New York or Chicago. So what this bill does is it gives banks, credit unions, the ability to use AMCs for federally related transactions, if we do not have this AMC program, it would take that option away from the lenders. And they would be required to

contract directly with the appraisers. And there's a couple other ways that they could go about doing business for federally related transactions but it really gets into the weeds a bit.

Chairman Klein: But at the end of the day the appraiser is still a North Dakota appraiser, licensed in North Dakota. He is just asked to be in between the AMC?

Corey: Yes, for properties located in North Dakota. It is required that a North Dakota licensed or certified appraiser is the appraiser to perform that appraisal.

Senator Roers: What types of transactions use AMCs?

Corey: Most often in residential transitions, you don't see them that often in commercial transactions although they do exist in that realm as well. I would say for a local appraiser, the work could range from 50% for AMCs and 50% for local lenders, and then again, some might do all of their work for appraisal management companies. Its predominantly geared towards single family residential properties.

Senator Roers: From fees point of view, we never see fees for these? That's typically handled by the lender, the appraiser, and they take care of the AMCs? Cause I don't ever see a line item on a closing statement that says AMC fee.

Corey: Yes, this point has been discussed pretty in depth, about how the consumer is made aware of what the fees are. In the statute as its currently written, we do have that requirement that those fees are disclosed of what the appraiser is actually paid, and what the AMC is paid for their services. I'd have to check but I know for sure that the appraiser has the ability to disclose what their fee was, and you can compare that to what the total fee was, that the creditor would charge you for the appraisal.

Chairman Klein: Back when you were in high school we would argue here amongst the appraisers about the concerns that Western North Dakota had in the late 2000s and the concerns that Senator Andrews had. Where are we at, are we providing enough, do we have a handle on, the things that were holding up most of the transactions, the commercial folks, the residential folks who weren't getting their work done? Has the industry grown to where it needed to be?

Corey: The number of appraisers in North Dakota has grown from 267 licensed and certified in 2011 to 340 in 2018. Some of that is natural growth, there's more work to be done, so appraisers have come from other states. Folks within North Dakota have become appraisers.

Chairman Klein: The concern used to be that you were hindering the process because of all of the training that had to be done, and the concern was once these guys are trained and they go off and compete against us. But at the end we were, under Dodd-Frank, we were under the gun to have all this training and needed it. Did any of that change or am I way of base on that whole discussion?

Corey: You aren't way off base, one of the major things that's been done and there's been discussion about this at the national level about the number of appraisers. This isn't specific to North Dakota, it's a concern nationwide, some of these federal entities that oversee the

state board, they talked about the appraisal subcommittee, which has a couple of boards. One in particular being the appraiser qualifications board of the appraisal foundation and they are a nonprofit entity that oversees the appraisal structure at a national level. What they have done is that they have reduced their minimum qualifications requirements for appraisers, for example, the number of experience hours that were required to become a licensed appraiser have been cut in half, and the criteria that allowed states to reduce their standards to meet this new change at the federal level, just went into effect in May of 2018. The appraisal board looked at these changes that were made and felt comfortable with the changes and we felt that it would still provide credibility within the profession if we reduced our standards again to meet the minimum standards allowed by the appraiser qualifications board. And we went ahead and met those minimum requirements set forth by the appraisers' qualifications board. So that was a reduction in experience hours, a reduction in education requirements, at one point a bachelor's degree was required to become a certified residential appraiser, that's no longer the case. Now they have very specific post high school education that's required. Thirty hours that has to do with math, economics, that kind of thing. And with the changes that were made at the national level and now at the state level, there has been an increase in the number of appraisers entering the industry so I think it's a problem that existed, and it obviously existed in western North Dakota. We struggled through the boom, at this point there is an adequate number of appraisers to address those needs. There are certain areas, especially rural markets, that there are challenges and there a lot of different reasons for those challenges but it's something that we continue to look at and be aware of. And try to address to the best of our abilities.

Senator Kreun: Chairman Klein brought up a comment about the final phase of training in the appraisal process, is working under a certified appraiser, are we still in that mode? It was referred to as family orientated training is the only way you could get into the business because nobody wanted to take on somebody else outside, because as soon as they got their license they would be a competitor. Has that changed at this time? Because I remember there were a lot of people that could meet the criteria, but couldn't get the last year or two under, and then of course all the certified appraisers, they can go out and do an appraisal but it still has to be certified by the person of the company that's overseeing them. That was one of the big bottlenecks at the time, has that changed any?

Corey: Yes, it has changed to some degree. The experience required to become a licensed appraiser could be accomplished within 3-6 months, it used to be one year. So that period has been decreased. That means the time the supervisor appraiser needs to spend with the apprentice has been shortened and during that time period, when an appraiser is only an apprentice, the work that they can do is restricted. They are restricted on multiple levels, some are lender specific requirements, so it's what the marketplace is dictating, they don't want an appraiser apprentice doing these certain tasks, they don't want a licensed appraiser doing these tasks, they only want a certified appraiser. And that certified appraiser, again, has an increased education and experience requirement in order to gain that credential. Some of it is minimums that are set forth at the federal level, which we meet at the state level. Again, the shortened window is what has been changed. Continuing to change in what hopefully will come into fruition, is the appraisal foundation is currently working on a program called Practical Applications of Real-estate Appraisal, this program is a program that is being developed currently and it's going to be an experience based module program that an apprentice appraiser will be able to gain all of their experience or at least 75%, by going

through this program. So by going through this program, they either will be able they will be able to become a licensed appraiser without ever having to have a supervisor, or the time that they would need to spend with that supervisor would be shortened dramatically and they would be a lot more marketable, the supervisors would be a lot more willing to take on someone who has already put in that initial legwork and is more knowledgeable at that point that can step in from day one and be a productive part of their team. It's a big financial burden for supervisors to take on an apprentice, that is typically why you're seeing family members only willing to take on family members.

Senator Kreun: Are we going to more paper appraisals rather than physical appraisals, like through records and things, rather than physically going out and looking at the property?

Corey: Yes, it depends on what the user's requirements are. And those are set at the federal level. But they are different appraisal products being considered right now. One product being used very often right now are called desktop appraisals. The appraisal basically sits behind a desk and they do the appraisal. They never go inside the property; they may drive by but never step foot inside the property. That level of credibility, or detail varies. The next has to do with third party inspectors, a third party would actually go out and do the inspection on the property. They would put together a report and that report would be given to a licensed or certified appraiser. At that point, the appraiser would use that information and they would produce that appraisal back based on that information.

Senator Kreun: With the desktop appraisal, if in fact you do a desktop appraisal on a house used for meth or marijuana or illegal drugs and you did not know that, and you give the appraisal and you do the process, are you held to some kind of higher account, or any legal aspect that's required because you are certifying that that building is okay to sell. How does that desktop appraisal approach that?

Corey: In my opinion, I have reservations about doing appraisals of that nature for that reason. I feel like there's a lot of value for setting foot inside a property. But it's a product that the marketplace is asking for. It's a product that the marketplace is comfortable with. And some appraisers are choosing to do that work and some are not. It is just something that will continue to evolve over the next couple years.

Senator Kreun: Does the purchaser of the property have the right to ask for a walkthrough appraisal instead of a desktop?

Corey: I'm not certain of what the borrowers, but they can always walk away and go to a different lender if their current lender refuses. I believe it's something that is going to become more and more important to make sure that the consumer is aware of what the appraisal being ordered is actually asking the appraiser to do. It's something that appraisers and the appraisal board will take a proactive role in getting out and communicating that to the public. As these products, or if they become more prominent because it is something that a lot of consumers might not understand on the surface.

Senator Kreun: It used to be that the lending institution could choose the appraiser and of course Dodd-Frank changed that. And so it's always the buyer beware. And I don't think a

lot of people know that yet, that somebody can be held accountable if they don't actually go in and do that type of appraisal.

Chairman Klein: I don't know how it works in the big town, because we don't have that happen very often but I think in Fargo now you have to have a building inspector now too for the lender. The lender now requires that, for somebody to go through the house to tell you if the furnace is too old, the shingles are bad. Do some lenders require that and some don't?

Senator Roers: That's usually done by a home inspection request. Building inspection doesn't extend themselves out.

Chairman Klein: But is that a requirement from the lender or how does that happen?

Senator Roers: I don't know who requires it. People normally do it so you have a third party inspector in to do them. I know the transactions we're in, we do them but I don't know who forces it.

Senator Kreun: Well if its federal loan...

Senator Roers: Well federal loan is a whole different set up, then you do go through building code review and zoning, making through the zoning is proper.

Senator Kreun: Because otherwise its optional.

Corey: I believe it's a client specific requirement and a lot of times which type of financing you're to achieve. I know certain types like a VA loan have different requirements than a conventional loan. Or FHA would have different requirements. It's really again what we in the appraisal business refer to as scope of work. Basically you're going to tell the client, the consumer, what you're going to do and then you do it. It's as simple as that.

Chairman Klein: The 10% ownership issue, I know if we strike in one spot we strike it everywhere but it's not relevant anymore or?

Corey: The simple answer is that it is required by the appraisal subcommittee to have that language in the way that its stated or, our appraisal management company program will be out of compliance.

Chairman Klein: So we're maintaining compliance with the federal rules.

Corey: Yes, that's correct.

Senator Roers: Moved a Do Pass.

Vice Chairman Vedaa: Seconded.

A Roll Call Vote Was Taken: 5 yeas, 0 nays, 1 absent.

Motion Carried.

Senate Industry, Business and Labor Committee
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Chairman Klein will carry the bill.

Date: 1/9/19
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2075

Senate Industry, Business and Labor Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Koers Seconded By Vedaa

Senators	Yes	No	Senators	Yes	No
Chairman Klein	X		Senator Piepkorn	X	
Vice Chairman Vedaa	X				
Senator Burckhard					
Senator Kreun	X				
Senator Roers	X				

Total (Yes) 5 No 0

Absent 1

Floor Assignment Klein

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2075: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2075 was placed on the Eleventh order on the calendar.

2019 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2075

2019 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2075
2/27/2019
32935

- Subcommittee
 Conference Committee

Committee Clerk: Ellen LeTang

Explanation or reason for introduction of bill/resolution:

Appraisal management companies.

Minutes:

Attachment 1

Chairman Keiser: Opens the hearing on SB 2075.

Corey Kost-Vice Chair-ND Real Estate Appraiser Qualification & Ethics Board:
Attachment 1.

4:55

Rep Adams: Do we have reciprocity with Minnesota?

Corey Kost: They are able to apply for reciprocity.

Rep Richter: If this passes, you could deny somebody reciprocity if they don't meet these qualifications?

Corey Kost: No, this bill is the appraiser management company, not reciprocity.

Rep Schauer: Page 2, on line 3, 8, 19, 20 & you have taken it out more than 10%, but left it in line 12, why did you leave it in there? The difference of, "be & must be"?

Chairman Keiser: That's legislative council drafting rules.

Corey Kost: The first question, number 2, line 12, that is a specific requirement of the appraisal subcommittee & that's why it's repeated in our statute. The change to the 10% referred to the owner & their requirement is any owner of any appraisal management company can't have had their license revoked or similar actions taken against that. The moral character clause is left in for the 10%.

Rep Kasper: If someone that owns 9% can be of bad moral character?

Corey Kost: You're correct.

Chairman Keiser: We can hold this. I do encourage you & your members to look at this. Down below we've taken out the 10%, if you have that, you're out. Here we say more than 10% ownership. It's not consistent perhaps with that lower portion.

Corey Kost: That a good observation. I personally don't have any objection to that.

Rep Kasper: Twelve people own less than 9% each of a company & must not be of good moral character & shall not submit to criminal background. Therefore, you could have twelve scoundrels own the company & you don't know a thing about them. Could that happen?

Corey Kost: There is a distinction between a controlling person & an owner. There are separate requirements for the controlling person. One person has to be designated as that controlling person. The intent under the language was to address that issue.

Rep Kasper: The practical side, you could have a person with 11% of good character & the others are not.

Corey Kost: I would like to look more closely into statute before I give a detailed answer.

Rep Louser: We are suggesting that these 61 appraisal management companies on the ND Appraisal board that are approved to do business here. We're suggesting that 61 companies might have people where how is it possible to research every owner to determine moral character. They are trying to comply with national standards.

Rep Kasper: My response to that diatribe, if they own more than 10%, you have to do it now anyway. You have a loop hole here. I have even more concern that they are out of state.

Chairman Keiser: The home state is domicile in the insurance world & primary responsibility to check out everybody. Is there anything similar to that with these 61 companies from out of state? Do their home state have provisions to get around what the committee expressed?

Corey Kost: My understanding, the appraiser of management statute does not have reciprocity statute in place at this time. The appraiser program does & in that case the domicile state would be responsible for doing the initial vetting. What you see in the insurance industry is in the appraiser industry as well.

Rep P Anderson: People coming into my house, have they had a back ground check?

Corey Kost: Yes, they have to have a background check in order to get their license.

Rep Kasper: You require all appraisers but not the owners?

Corey Kost: That's correct because they contract with licensed appraisers.

Chairman Keiser: We are going to hold this bill because some questions have come up & I want it to be sure. Could you double check it?

Rep Louser: There are federal standards to be an appraisal management company. They are listed on the federal register. These companies are not appraisers & these companies were put in place because of the mortgage melt down in 2008. This is a firewall because they have the word appraisal does not mean that they are appraisers. I think the bill is written appropriately.

Chairman Keiser: Anyone else here to testify in support, opposition, neutral on SB 2075?
Closes the hearing.

2019 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2075
3/4/2019
33115

- Subcommittee
 Conference Committee

Committee Clerk: Ellen LeTang

Explanation or reason for introduction of bill/resolution:

Appraisal management companies.

Minutes:

Chairman Keiser: Reopens the hearing on SB 2075. What are the wishes of the committee?

Vice Chairman Lefor: Moves a Do Pass.

Rep Louser: Second.

Rep Louser: This is where you must be of a good moral character & shall submit to a criminal background check. There is still confusion to what an appraisal management company is. This is the opportunity for the appraisal board to disqualify any of the appraisal management companies what are domicile outside of North Dakota from doing business if somebody in their group doesn't have good moral character.

Vice Chairman Lefor: We were hung up on a minor point. I see no reason to hold the bill.

Roll call was taken on SB 2075 for a Do Pass with 11 yes, 0 no, 3 absent & Rep Louser is the carrier.

Date: Mar 4, 2015

Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2075

House _____ Industry, Business and Labor _____ Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation

- Adopt Amendment
- Do Pass Do Not Pass Without Committee Recommendation
- As Amended Rerefer to Appropriations
- Place on Consent Calendar

Other Actions Reconsider _____

Motion Made by Rep Lefor Seconded By Rep Louser

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Rep O'Brien	Ab	
Vice Chairman Lefor	X		Rep Richter	X	
Rep Bosch	X		Rep D Ruby	X	
Rep C Johnson	X		Rep Schauer	X	
Rep Kasper	Ab		Rep Adams	X	
Rep Laning	X		Rep P Anderson	X	
Rep Louser	X		Rep M Nelson	Ab	

Total (Yes) 11 No 0

Absent 3

Floor Assignment Rep Louser

REPORT OF STANDING COMMITTEE

SB 2075: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING).
SB 2075 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

SB 2075

SENATE BILL NO. 2075
Testimony
Corey Kost, Vice Chair
North Dakota Real Estate Appraiser Qualifications and Ethics Board

January 9, 2019

Good Morning Mister Chairman and Members of the Senate Industry, Business, and Labor Committee:

My name is Corey Kost and I am vice-chair of the North Dakota Real Estate Appraiser Qualifications and Ethics Board. I am also a practicing appraiser specializing in commercial real estate. 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 Senate Bill 2075. This bill updates the statutory language within NDCC 43-23.5 relating to appraisal management companies. The language is taken from recommendations by the Appraisal Subcommittee (ASC). The ASC is the federal board which oversees state appraiser and appraisal management company programs for compliance with Title XI of FIRREA. Compliance with the ASC's recommendations is required to certify and license appraisers qualified to perform appraisals in connection with federally related transactions.

The bill in front of you brings the statute related to appraisal management companies (AMCs) into compliance with the federal rule which was amended to set the minimum requirements for AMCs. As a background, a new subsection to Section 1473 of the Dodd-Frank Act established minimum requirements to be applied by states in the registration and supervision of AMCs. AMCs are business entities that administer networks of independent appraisers to fulfill real estate appraisal assignments, essentially serving as a middle-man between creditors and appraisers. The Appraisal Subcommittee (ASC) is the federal board that oversees the state boards to ensure compliance with federal law so that appraisers can continue to work on federally related transactions.

I will review the specific proposed changes and the reasons behind the proposed changes:

1) 43-23.5-07. Exemptions.....The modification on line 15 to "fewer than twenty-five".

The ASC recommendation is to add the "fewer than" before "twenty-five". It could be read another way, with the thought process that "not more" only modifies "fifteen". Legislative Council made the remaining changes on the first page of the bill to bring the statute into compliance with the legislative drafting manual.

2) 43-23.5-08. Owner Requirements.

The ASC recommends revising language under this section, as the requirement that owners have not had an appraiser license refused, denied, cancelled, etc. is not limited to 10% ownership. This change is made throughout the section, as seen on lines 3, 8, 19, 20, and 21. Again, Legislative Council made the remaining changes to this section of the bill to bring the statute into compliance with the legislative drafting manual.

3) 43-23.5-12. Appraisal review.

The ASC further recommends adding "or" between 1 and 2, as the colon indicates that an appraiser needs to be both licensed in this state and in another state. This change will clarify that the requirement was one or the other, both are not required.

In conclusion, we, as a Board, feel this is an important bill to maintain compliance of our appraisal management company program with federal law and to continue serving consumers in the state of North Dakota to the fullest capacity.

The North Dakota Appraiser Board respectfully recommends a "Do Pass" of Senate Bill 2075. I would be happy to entertain any questions.

Corey Kost, Vice-Chair

North Dakota Real Estate Appraiser Qualifications and Ethics Board

SENATE BILL NO. 2075
Testimony
Corey Kost, Vice Chair
North Dakota Real Estate Appraiser Qualifications and Ethics Board

February 27, 2019

Good Morning Mister Chairman and Members of the House Industry, Business, and Labor Committee:

My name is Corey Kost and I am vice-chair of the North Dakota Real Estate Appraiser Qualifications and Ethics Board. I am also a practicing appraiser specializing in commercial real estate. I will refer to this Board throughout my testimony as either the North Dakota Appraiser Board or the Appraiser Board.

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Corey Kost, Vice-Chair

North Dakota Real Estate Appraiser Qualifications and Ethics Board