



July 6, 2020

Appraisal Subcommittee  
James R. Park, Executive Director  
1325 G Street, N.W., Suite 500  
Washington, DC 20005

RE: Temporary Waiver Request, 12 CFR Part 1102, Subpart A

Dear Executive Director Park:

On July 9, 2019, the Appraisal Subcommittee (ASC) approved temporary waiver relief for the State of North Dakota. The Federal Financial Institutions Examination Council concurred, and the temporary waiver went into effect for 12 months starting August 7, 2019. The waiver expired for 1-4 family residential real estate transactions when the federal agencies increased appraisal exemption threshold limits. The temporary waiver of appraiser credentialing requirements for appraisals of federally related transactions under \$1,000,000 for commercial real estate transactions are in effect for banks in North Dakota until August 7, 2020, unless an extension is granted. Since the National Credit Union Association (NCUA) has already set the commercial threshold at \$1,000,000, the waiver is not applicable to credit unions. The increased regulatory thresholds along with the waiver have provided much needed flexibility for North Dakota citizens. Although solutions are being sought to correct the scarcity of appraisers, no lasting effect has been realized to date, and the Coronavirus Disease (2019 COVID-19) pandemic effectively halted all work on the issue for most of 2020. Therefore, applicants respectfully request that the waiver is extended for two more years.

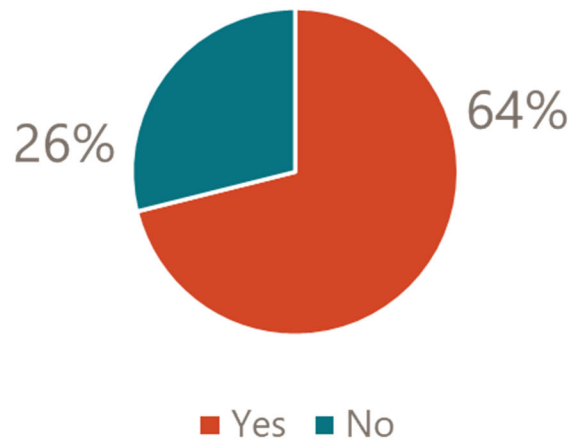
### **Usage of the Temporary Waiver**

In May 2020, the North Dakota Department of Financial Institutions (ND DFI) conducted a follow-up survey of financial institutions to determine if the waiver was helpful and utilized. Because financial institutions are facing a number of COVID-19-related challenges at this time, the survey was scaled down from the original survey distributed last year. Our bankers' abilities to serve their communities have been stressed by the Payment Protection Plan implementation, and modified operating procedures that had to be developed to keep employees and customers safe, which often had to be implemented with reduced staffing levels. For the same reasons, the feedback response was lower compared to 12 months ago. Outreach to individual institutions confirmed the challenges institutions are facing, and the increased workload also resulting from an increase in real estate refinances. Many of the respondents were small community banks and credit unions, which appreciated the options this waiver provided for their

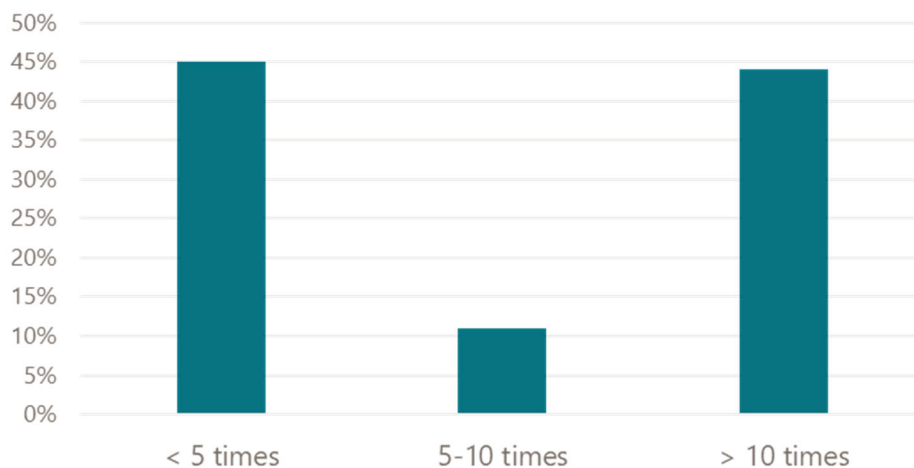
customers and members. The banks utilizing the waiver varied in asset size from \$50 million to \$750 million; about half have several branches and about 1/3 have branches in larger cities; and the respondents represented every region of the state.

Most banks (72 percent) and credit unions (50 percent) stated that the waiver was helpful, and the remaining institutions stated they did not use or consider using the waiver. Not one institution responded “no.” Every single bank except one stated that an extension for commercial and agricultural loans would be helpful. Although the sample does not include all ND banks, approximately 64 percent of bank respondents utilized the waiver option, with more than 55 percent reporting they used it on at least five occasions. However, some banks and credit unions stated that they did not have the right situation to take advantage of the waiver.

### Banks Using Temporary Waiver



### Number of Times Used

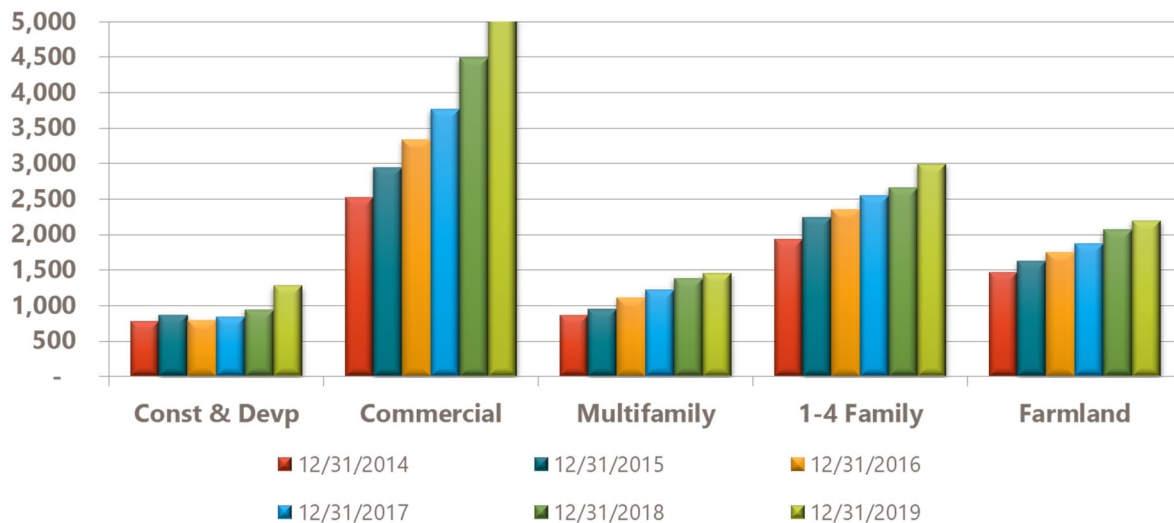


Institutions reported that the waiver has been utilized in scenarios where they felt comfortable with an appraisal conducted by a non-credentialed person, and where it fit the customer’s needs. With the flexibility created by the waiver, institutions have been able to prioritize the use of credentialed appraisers for loans secured by properties of higher value and complexity.

When the waiver was granted, ND DFI sent out guidance on Uniform Standards of Professional Appraisal Practice (USPAP) expectations (Exhibit 1). Federal and state financial institutions regulators are responsible for reviewing appraisals for real estate transactions, and it should also be noted that no federal or state examination has identified any concern or abuse of the waiver. ND DFI routinely handles consumer complaints, and no complaints have been made due to the usage of the waiver. However, ND DFI has received calls from citizens indicating dismay that their lender is not utilizing the waiver. The citizens of North Dakota clearly benefitted from the temporary waiver.

North Dakota has continued to experience growth in commercial and farm real estate loans as shown in the Call Report data through year-end 2019.

**Real Estate Loans in North Dakota State-Chartered Banks**  
(\$ Millions)



**Plan to Address Appraiser Scarcity and Delay**

To consider an extension, the ASC requested “a status report to the ASC on the plan that was developed in collaboration with stakeholders and any implementation progress made on that plan toward identifying meaningful solutions to resolve appraiser scarcity and delay issues faced in ND.” After the waiver was granted, both the appraiser industry and financial industries have discussed opportunities for improvements and practical solutions to address the scarcity challenges. On November 6, 2019, a meeting was held with all stakeholders to enhance communication and collaboration between various stakeholders. The meeting was a positive step for everyone to realize that we need to work together to

conquer these challenges and see a positive, lasting outcome. The meeting had 58 attendees with the following representation:

Industries:

- Appraisers
- Bank of North Dakota
- Banks
- Credit unions
- Mortgage lenders
- Realtors

Industry Associations:

- Credit Union Association of the Dakotas (CUAD)
- Independent Community Bankers of America (ICBA)
- Independent Community Banks of North Dakota (ICBND)
- North Dakota Appraisers Association (NDAA)
- North Dakota Bankers Association (NDBA)

Regulators:

- Federal Deposit Insurance Corporation
- Federal Reserve Bank of Minneapolis
- North Dakota Department of Financial Institutions
- South Dakota Division of Banking Commissioner
- Tennessee Department of Financial Institutions Commissioner

Regulator Associations:

- Conference of State Bank Supervisors (CSBS)
- National Association of Credit Union Supervisors (NASCUS)

Legislators:

- Representatives from the North Dakota congressional offices of Senator Cramer, Senator Hoeven, and Representative Armstrong.

Other:

- Appraisal Subcommittee Executive Director James Park
- Tennessee Banker
- Tennessee Appraiser
- Tennessee Bankers Association

The program for the meeting included remarks from ASC Executive Director James R. Park and panel discussions on the regulators' role and progress made in Tennessee (Exhibit 2). The meeting ended with breakout sessions where attendees suggested potential solutions.

Since North Dakota winters are harsh and can make travel challenging, stakeholders had every intention of having another meeting in the spring of 2020<sup>1</sup>, but due to the challenges presented by the COVID-19 pandemic, all in-person meetings and conventions were canceled when travel became restricted and everyone responded to the crisis. Although our collaboration efforts have been disrupted for the time being, we are anticipating future collaboration to do as much as we can locally. The main results from our initial meeting was universal inspiration. We also gained encouragement from the Tennessee representatives that we can indeed work together to make a difference.

### **Potential Solutions to Resolve Scarcity Problem**

In the November 6, 2019, meeting breakout session, groups were created to discuss specific topics. Each group contained at least one financial institution representative and appraisers. The following is an excerpt of ideas and potential solutions proposed by meeting attendees and does not necessarily reflect a consensus, nor does it reflect an opinion of the applicants. This is to show the first step in pursuing solutions, some that can be achieved at the local level, and some that would remain the decision of others outside of North Dakota.

#### **1) Local Issues:**

- Build better database of available appraisers. Perhaps utilization of the Nationwide Multi-Licensing System database or the creation of something similar could be helpful. However, this could be a nationwide effort.
- Increase support of an appraisal licensing program. There are challenges for new apprentice appraisers to find supervisors.
- Remove the need for appraisers to rely on supervisors and remove the requirement of certified appraisers for Federal Housing Administration (FHA) loans in order to open up for licensed appraisers. This, however, is outside local control and beyond the ND Real Estate Appraiser Qualifications and Ethics Board's authority.
- Improve training for rural appraisers since some appraisers may not feel confident in appraising rural properties. This concern was addressed by NDAA inviting everyone, including lenders, to attend appraisal courses and classes, with a specific emphasis on rural appraisals. A more formal invitation to the November 21, 2019, training was sent to all attendees by the ND DFI Commissioner, and ICBND and NDBA forwarded the invitation to their memberships.
- Find better ways in the use of Appraisal Management Companies (AMC). A common theme that seemed to have consensus of many attendees was a shared frustration in the use of AMCs. The process was stated to be cumbersome and a more direct relationship with appraisers was reported to be better than working with an AMC. The use of AMCs has increased as lenders seek to comply with federal requirements that require a firewall between the lender and the

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<sup>1</sup> Minutes from the North Dakota Appraisers Association meetings March 19, 2020, and April 15, 2020, confirm discussion on meeting with the bankers during their convention in June 2020 (which was later cancelled) and that nothing can be done at this time due to travel restrictions

<https://ndappraisers.org/media/ndaa360webcmscom/NDAA%20Minutes%203-19-20.pdf>

<https://ndappraisers.org/media/ndaa360webcmscom/NDAA%20Minutes%204-15-20.pdf>

appraiser<sup>2</sup>. The federal firewall requirement unfortunately appears to have unintended negative consequences.

- Improve communication and education between industries would be helpful, as many lenders learned in the meeting that appraisers working for Farm Credit can also be available for financial institutions.

## **2) Turnaround:**

- Encourage counties to automate and digitize records. Appraisers noted that a time-consuming part of conducting appraisals is to obtain documentation from counties since it is often not available electronically.
- Enhance communication to improve timeliness and manage expectations. Frustration was again expressed about the lack of communication between appraisers and lenders, especially when working with AMCs, with statements indicating that the timeliness does not appear to improve when working with AMCs.
- Request regulators to push out more information saying it is acceptable for lenders to talk to appraisers.
- Find ways to work together to encourage legislative engagement. On a national level, work has been done to address appraiser issues, and both sides working together can improve these efforts.

## **3) Streamline process:**

- Improve communication was again stated as an area for improvement. Lenders and appraisers should communicate expectations up front, and the lenders should also communicate these expectations with customers.
- Create database with a list of who would be willing to appraise in specific rural areas. NDAA reported that they have a list of all 53 counties on their website identifying where and what appraisers are available. Questions arose whether the local lists are accurate or up to date and if in fact the individuals on the list are willing to travel to various projects outside of their area.
- Consider special recruitment and incentives for appraisers to go to specific regions with a shortage of appraisers. It is a challenge to find ways for younger people to move to rural districts and even for appraisers to travel to a rural area, they would need incentives such as more pay.

## **4) What can be done to get more people into the appraiser profession:**

- Address the apprentice and supervisor requirement. There was much agreement that this is a challenge for making the appraiser profession more attractive for new entrants. Decisions to address some of these considerations are under the jurisdiction of the Appraisal Foundation. The Appraiser Qualifications Board's Practical Applications of Real Estate Appraisals (PAREA) which

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<sup>2</sup> The Dodd-Frank Wall Street Reform and Consumer Protection Act was passed after the 2008 financial crisis and included a requirement for appraiser independence <https://www.law.cornell.edu/uscode/text/15/1639e>. To limit the amount of direct contact between lenders and appraisers, the use of AMCs has increased as lenders need to stay in compliance with federal statutes <https://www.investopedia.com/terms/a/appraisal-management-company-amc.asp>.

addresses the supervisor/trainee model was first introduced in July 2015; however, it is moving slowly, and the first draft was published on September 5, 2019<sup>3</sup>.

- Explore possibility of an examination to become a credentialed appraiser, similar to the bar examination for attorneys. This could be an alternative to the supervisor/apprenticeship model.
- Consider initiative to bring military veterans into the business.

#### **5) Requirements – Appraiser Education/Apprenticeship:**

- Look for ways the ND Real Estate Appraiser Qualifications and Ethics Board can reduce the requirements. However, locally, the board has done much work to be accommodative to new appraisers and adopted reduced appraiser qualifications requirements as soon as these were available<sup>4</sup>.
- Explore the necessity of apprenticeship while also recognizing the difficulty in replacing practical experience. A system could be developed in which classroom work and exercises could replace the apprentice requirement, or at least make the apprenticeship shorter.
- Encourage more appraisers to be open to take on apprentices. However, not every appraiser has the ability to teach or supervise, and there are no financial incentives for supervisors to make it attractive.
- Find ways to reduce the time it takes to become an appraiser and increase salary levels.
- Consider making an examination available for appraisers to become licensed (as mentioned above).
- Re-examine the college degree requirement.
- Consider educational opportunities at the universities.
- Establish multiple options to become an appraiser. The academic route or work experience/apprenticeship is a potential solution to finding a way to limit the barriers to enter the profession.
- Sit down with congressional delegates together to find solutions that appeal to all stakeholders was considered as helpful by both appraisers and financial industry representatives.

#### **Plan for Future**

To continue the collaboration between stakeholders to see lasting results, further opportunities to meet and learn from each other are necessary. Representatives for the appraisers and NDBA have both received a copy of the Appraisal and Banking Conference agenda held in Nashville, Tennessee, on October 15, 2019 (Exhibit 3). Having a similar meeting in North Dakota is considered; however, our plans were thwarted by the COVID-19 pandemic and is on hold until large gatherings are again acceptable. For this kind of collaboration, the in-person relationship-building is the most effective. From our initial meeting, it was evident that many ideas and solutions are brought forward when participants are separated into

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<sup>3</sup> The first exposure draft of PAREA is found here:

<https://appraisalfoundation.sharefile.com/share/view/sab44800eb37456e9>

<sup>4</sup> North Dakota education requirements for appraisers are found here:

[http://ndappraiserboard.org/uploads/3/5/4/5/35456267/appraiser\\_education\\_requirements\\_effective\\_5-1-18.pdf](http://ndappraiserboard.org/uploads/3/5/4/5/35456267/appraiser_education_requirements_effective_5-1-18.pdf)

smaller groups. Therefore, having a lunch meeting with a Q&A as the Tennessee meeting provided, would be most beneficial. Furthermore, with the ideas that have been presented, the industries must work together to figure out the priorities, and how we can best experience lasting benefits in North Dakota.

The May 2020 survey to banks and credit unions asked what one suggestion they would give to improve the scarcity issue. Overwhelmingly the respondents stated removing the obstacle faced by the apprenticeship requirement. Since this is not determined in North Dakota, appraisers and the financial industry locally must figure out North Dakota solutions, which can include the suggestions of a comprehensive appraiser database, automation of data, and university involvement in education. Better data availability in counties would allow the appraiser industry to have more easy access and time outside of their area can be reduced. Any legislative changes that could help facilitate any efforts cannot be acted on until 2021 since North Dakota has biennial legislative sessions. The anticipation is that the next meeting held with stakeholders will further this discussion.

The North Dakota state legislature has taken initiative to make it easier for individuals with occupational licenses in other states moving to North Dakota. On April 25, 2019, Governor Doug Burgum signed Senate Bill (SB) 2306<sup>5</sup> into law, which removes licensing barriers for military spouses and dependents. In response to SB 2306, the Department of Commerce and the Workforce Development Council engaged with the Council on Licensure, Enforcement & Regulation (CLEAR), a nonpartisan international consortium for occupational and professional regulators. The purpose of working with CLEAR was to develop a survey to better understand the occupational and professional regulatory environment in North Dakota and to identify opportunities for improvement. Although the ND Real Estate Appraiser Qualifications and Ethics Board was exempted in SB 2306, the North Dakota legislature's actions illustrate many efforts underway to attract workforce to North Dakota, which hopefully will include more appraisers.

### **Federal Impediments to Local Solutions**

It is critical to note that North Dakota solutions are limited by federally issued impediments. The Appraisal Subcommittee asked that ND DFI, North Dakota financial institutions, and North Dakota appraisers work together to find a solution to the scarcity problem. In our discussions, all parties seemed to agree that the real solution to many of the most significant issues was modifications to the rules set forth in Washington, DC. Unrealistic education requirements, experience requirements which are difficult to attain, and a general lack of flexibility in the manner in which a person is allowed to gain appraiser qualifications are all things which must be corrected at the federal level. Additionally, the federal firewall requirements resulted in an additional layer of red tape in the form of AMCs, which has impacted communication and turnaround times. Although North Dakota stakeholders will do our part to implement the above plan to resolve this issue, in return we ask that the ASC uses its influence to implement and accelerate reforms to rules which serve as an impediment to those trying to enter the appraiser profession or provide services to North Dakota borrowers.

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<sup>5</sup> North Dakota SB 2306 is found here: <https://www.legis.nd.gov/assembly/66-2019/documents/19-0255-07000.pdf>



**Current Status**

The second criteria the ASC requested for considering extending the waiver was supporting data showing that appraiser scarcity leading to significant delays continues to exist, which may include information to identify specific localities affected by appraiser scarcity. Our survey of banks and credit unions in May 2020 revealed limited changes to their turnaround experiences or appraiser availability since our initial application. Lack of appraiser availability is still an issue for agricultural and commercial real estate appraisals. In fact, in some areas it may have become worse. It was again reported that institutions have found it necessary to engage Minnesota appraisers to appraise Bismarck (central North Dakota) properties while some institutions in Williston (northwest North Dakota) continue to utilize out-of-state appraisers from Idaho, several states away.

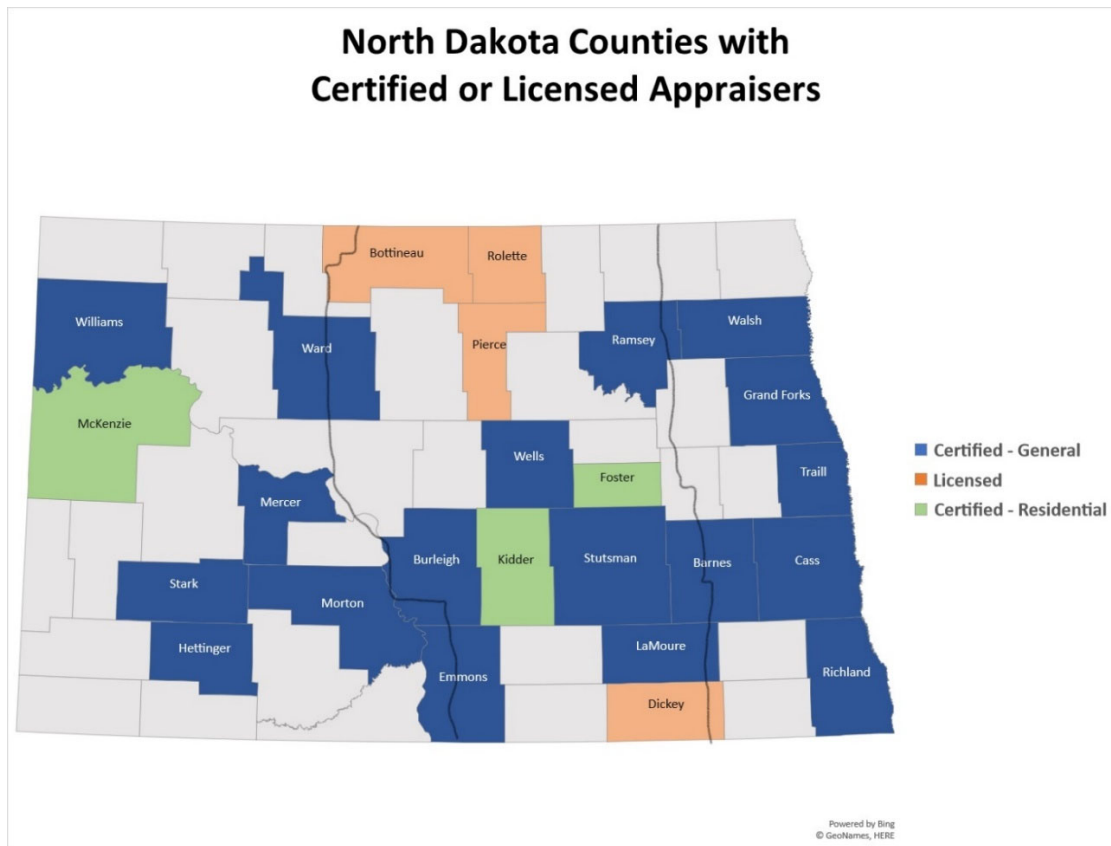
Looking at the number of appraisers in North Dakota, the following changes are observed (numbers from 9/17/2018 are in parenthesis)<sup>6</sup>:

	<b>Certified General (4/30/2020)</b>	<b>Certified Residential (1/30/2020)</b>	<b>Licensed (1/28/2020)</b>	<b>Total</b>
Total	185 (191)	83 (85)	29 (30)	<b>297 (306)</b>
North Dakota only	79 (79)	62 (56)	27 (26)	<b>168 (161)</b>
Plus: neighboring border cities MN	4 (5)	1 (2)	1 (1)	<b>6 (8)</b>
= ND/MN border total	83 (84)	63 (58)	28 (27)	<b>174 (169)</b>
Less: Dedicated to one organization	18 (17)	5 (4)	1 (1)	<b>24 (21)</b>
<b>Potentially available in ND</b>	<b>65 (67)</b>	<b>58 (54)</b>	<b>27 (26)</b>	<b>150 (147)</b>

	<b>Certified General</b>	<b>Certified Residential</b>	<b>Licensed</b>	<b>Total</b>
West	8 (8)	10 (7)	2 (2)	20 (17)
Central	24 (24)	18 (19)	14 (14)	56 (57)
East	33 (35)	30 (28)	11 (10)	74 (73)

This map shows the lines between the regions:

<sup>6</sup> Source: ND Real Estate Appraiser Qualifications and Ethics Board <https://ndappraiserboard.org/appraisers--rosters.html>.



Although the overall number of appraisers has increased by three, the number of certified appraisers, which are required to appraise commercial and agricultural properties, have declined by two. The changes are rather immaterial and are not resulting in shorter turnaround times or much difference in appraiser availability, especially in western North Dakota. The appraiser numbers and the financial institutions' experience indicate that the scarcity of appraisers remains the same, and delays are realized largely at the same rate as one year ago, when the initial waiver was granted. The delay was reported at the same rate for residential real estate loans as 12 months ago, however, recent conversations with institutions indicate that the delay appears to be worsening due to an increase in re-finances. The waiver extension would only be applicable to commercial and agricultural loans, and the experience obtaining these appraisals has been unchanged for 54 percent of the survey respondents and was reported as becoming more difficult for 38 percent of respondents. Many certified appraisers also conduct residential real estate appraisals and although there has been some improvement for commercial loans, lenders compete with residential transactions for these appraisers. Also, 64 percent reported an increase in appraisal costs over the last 12 months. The turnaround time for commercial appraisals on average displayed a slight improvement. Those reporting delays more than 50 percent of the time improved to 23 percent from 28 percent a year ago. Additionally, 23 percent still reported more than five delays in the last 12 months, which is also an improvement from the 38 percent reported previously. These improvements are because of the temporary waiver, increased regulatory thresholds for residential real estate transactions, and the increased threshold for credit unions for commercial real estate transactions. An extension of the waiver is needed to ensure these improvements are not lost.

### **Impact in Rural North Dakota**

It is important to note that a lack of appraiser availability impacts the access to and the delivery of financial services to rural citizens. On a national level, much discussion has occurred about redlining in the inner cities and metropolitan areas throughout the United States. Redlining is a practice in which banks refuse to lend in certain neighborhoods based on race, ethnicity, or income. The purpose of the Community Reinvestment Act (CRA) is to prevent redlining and to ensure that citizens, especially those from less affluent communities, have fair access to financial services. Discrimination against any person based on where they live is unacceptable and is not the standard in our nation. Financial services should be available in rural communities equally as in metropolitan areas, and community banks and credit unions are at the center of these efforts. North Dakota has more banks per 100,000 people than any other state. However, the lack of appraiser availability, and a delay in receiving services and therefore closing real estate loans, causes rural populations to be at a disadvantage regardless of a financial institution's efforts. Although there has been no evidence of North Dakota institutions engaging in these practices, redlining should be prevented in rural America.

Many North Dakota financial institutions serve our Native American populations and report that there are also challenges in obtaining appraisal services on our Native American reservations. Most Native American Reservations are in areas that are considered rural. Therefore, this minority group is subject to higher mortgage-related costs due to the location of their reservation. North Dakota is home to five federally recognized tribes and one Native American community. In total, there are nearly 32,000 Native Americans living in North Dakota, with almost 60 percent living on reservations. Slow appraisal turnaround time hinders economic growth and development among our minority population. Discussion with representatives from North Dakota's Native American tribes about their experiences on the reservations reveals that the impact from the lack of appraisal availability is even more pronounced. Attached to this letter is a statement from North Dakota Indian Affairs Commissioner Scott Davis, who is also a member of the Turtle Mountain Band of Chippewa Indians tribe, expressing support for the benefit a continued waiver would provide for North Dakota (Exhibit 4).

The ASC asked applicants to identify specific localities affected by appraiser scarcity. Applicants still believe that the scarcity is prevalent throughout North Dakota. As evident by the appraiser numbers, no material changes have occurred in the last 12 months. The western part of North Dakota continues to be the most impacted, but even the larger cities are continuing to report long wait times. With the low interest rate environment, lenders are experiencing an increase in demand for appraisers for residential real estate loans. This increased demand was confirmed in all three Metropolitan Statistical Areas (MSAs): Fargo, Bismarck, and Grand Forks. Although COVID-19 has made for a slow-down in the commercial market, lenders are expecting the demand for commercial real estate appraisers to increase as many borrowers refinance current debt in the next few months. Cass County, the county with the largest metropolitan area of Fargo, does not show any indication of shorter turn-around times, and lenders report that the market is always active. As the ND DFI Commissioner stated in her testimony on July 9, 2019, Cass County is comparable in size to Delaware. Delaware has 285 appraisers per 1,000 square miles, while Cass County has 27 appraisers total. The entire state is the size of New England but predominately rural with only 762,000 residents. The distance between Fargo and Williston, our two major cities on opposite

corners of the state, is almost 400 miles and more than a six-hour drive apart. And if you drive only 10 minutes from downtown Fargo, you will be standing in a sugar beet field. The need for more commercial and farm appraisers is not confined to a geographic area of the state. North Dakota has 4.3 appraisers per 1000 square miles. Only Montana and Wyoming have fewer appraisers per square mile. In the last year, that has not changed.

The failure to address the obstacles and challenges for community banks and credit unions to provide real estate loans is not in the best interest of consumers. If borrowers are unable to utilize local lenders, they will be forced to find other alternatives such as online nonbanks. These lenders do not have the same incentive for the local community to succeed, nor do they have the same level of relationship with borrowers compared to a local financial institution. When the Payment Protection Plan loans were made available in response to COVID-19, several news stories confirmed how it was advantageous for small businesses to bank with community financial institutions<sup>7</sup>. North Dakota lenders have been top in the nation per capita in providing these loans. Community financial institutions also pose less risk to the overall financial system due to their stable funding source, compared to nonbanks. Allowing these institutions to serve their customers with flexibility allowing customers options when it comes to real estate transactions, benefits the small businesses and farmers, and is especially important as these businesses recover from the economic downturn. Similar concerns about nonbanks was expressed by the U.S. Department of the Treasury Financial Stability Oversight Council at their December 4, 2019, meeting<sup>8</sup>.

### **Regulatory Response to the Pandemic**

In response to the COVID-19 pandemic crisis, federal regulators recognized the importance of flexibility during this unprecedented time. On April 14, 2020, the Federal Regulatory agencies issued an interim final rule<sup>9</sup> allowing financial institutions to temporarily defer real estate-related appraisals for up to 120 days after closing the loan transaction. An institution is expected to provide an estimate of value prior to closing and is encouraged to focus on a borrower's ability to repay, which is always prudent to ensure safe and sound institutions. This rule was issued in response to a slowed down appraisal process due to inability for appraisers to access properties during COVID-19. An Interagency Statement<sup>10</sup> was also issued encouraging banks to use the flexibility in the existing appraisal regulations that include exemptions from the appraisal requirements<sup>11</sup>. To help borrowers have access to credit and liquidity, especially equity they

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<sup>7</sup> One example of a news story on this topic is found here:

<https://www.usatoday.com/story/money/usaandmain/2020/06/02/ppp-loans-community-banks-more-helpful-small-businesses/5300871002/>

<sup>8</sup> Minutes from FSOCs December 4, 2019, meeting are found here:

<https://home.treasury.gov/system/files/261/December-4-2019.pdf>

<sup>9</sup> The agencies are The Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Federal Reserve Board), and the Federal Deposit Insurance Corporation (FDIC).

<sup>10</sup> <https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20200414a2.pdf>. The agencies issuing the statements are: OCC, Federal Reserve Board, FDIC, Consumer Financial Protection Bureau (CFPB), and NCUA

<sup>11</sup> In addition to existing exceptions in appraisal regulations, the Appraisal Standards Board issued a 2020-21 USPAP Q&A on March 17, 2020, indicating that interior inspections are not required unless needed for credible results (<https://appraisalfoundation.sharefile.com/share/view/s607dbda9e9b41cb9>). Fannie Mae and Freddie Mac issued

may have in real estate, lenders are encouraged to work with borrowers, and waiting for an appraisal is not conducive to quick access to much needed funds. Extending this waiver period for two more years would provide North Dakota institutions continued flexibility in line with the regulators' encouragement to work with borrowers through this pandemic. The temporary appraisal deferment expires on December 31, 2020. Since no one knows how long the pandemic will last, what shape the economic recovery will take, or when people such as appraisers can travel freely; it makes sense to extend the waiver. Our rural state has already established the need for regulatory relief to ensure rural communities have financial services available.

### **Executive Order to Provide Regulatory Relief to Support the Recovery**

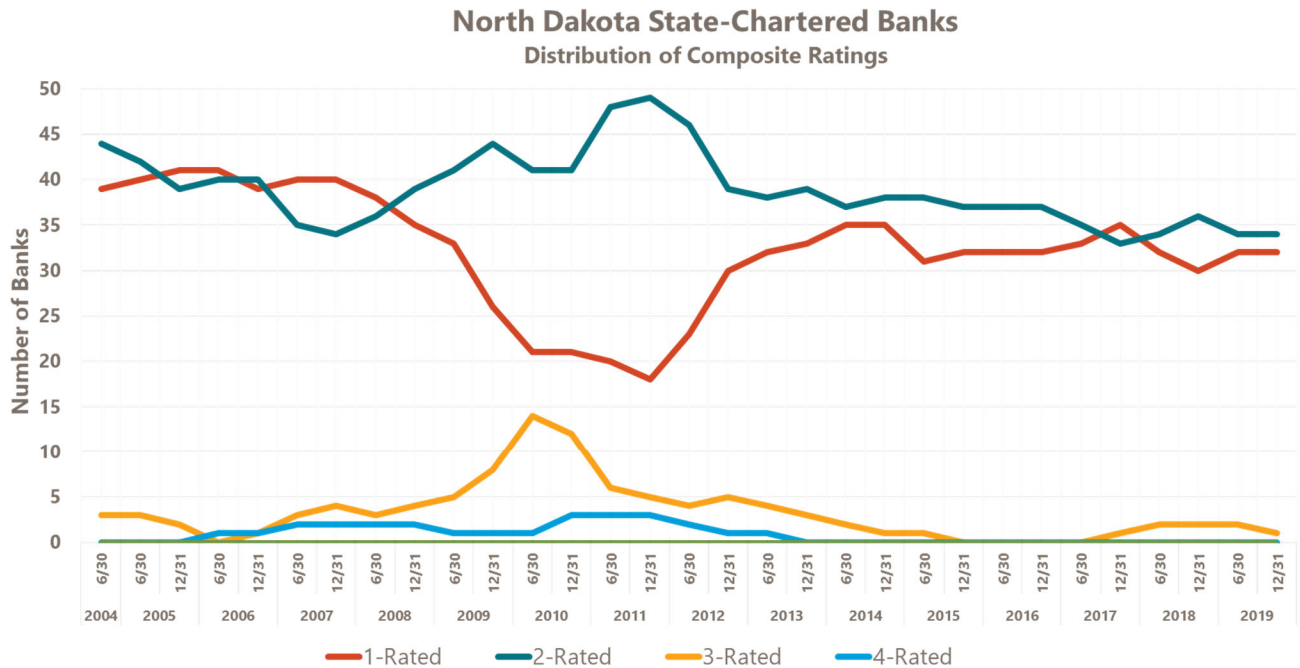
On May 19, 2020, a presidential Executive Order was issued to promote "Regulatory Relief to Support Economic Recovery."<sup>12</sup> The intention is to combat the effect COVID-19 has had on the United States economy, and therefore, agencies are directed to remove or ease regulatory barriers that may inhibit economic recovery. Approving the temporary waiver for two additional years coincides with the presidential, congressional, and regulatory efforts to respond to the unprecedented impact COVID-19 has had on the economy. Although North Dakota has enjoyed a strong economy since 2016, the energy and agricultural sectors have recently been impacted by a series of adverse circumstances. Weather conditions have included excessive moisture and localized flooding, and both sectors continue to be impacted by oversupply, falling commodities prices, and ongoing international trade and market implications. Therefore, it is important to provide enough flexibility for our institutions to help citizens have access to funds quickly and to provide for options in their transactions. Despite the local economic challenges, the financial institutions have responded quickly and wisely and have proven that they are there for their communities. Prior to COVID-19, our financial institutions enjoyed healthy capital positions, and as stated in the April 10, 2019, application, granting the temporary waiver will not affect the safety and soundness of North Dakota institutions. An updated graph showing the financial condition of our banks shows the continued strength<sup>13</sup>:

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a lender letter on March 23, 2020, stating that desktop appraisals are acceptable, exterior only inspection appraisals are acceptable, and banks are encouraged to use government-sponsored enterprise waivers when offered (<https://singlefamily.fanniemae.com/media/22321/display>).

<sup>12</sup><https://www.whitehouse.gov/presidential-actions/executive-order-regulatory-relief-support-economic-recovery/>

<sup>13</sup> Regulators measure the overall risk of institutions using the Uniform Financial Institutions Rating System (UFIRS). A 1-rated institution exhibits the strongest performance and risk management practices relative to the institution's size, complexity, and risk profile, and give no cause for supervisory concern. A 5-rated institution exhibits extremely unsafe and unsound practices or conditions and failure is highly probable. An institution rated 3, 4 or 5 is considered a problem institution and receives more closely monitoring by regulatory authorities to restore the institution to a satisfactory condition.



**Conclusion**

The NCUA has already increased the limit for commercial real estate loans to the \$1,000,000 threshold. Credit unions report that this change has been helpful and examinations to date have not revealed any concerns with the increased limit. The temporary waiver requires an USPAP compliant appraisal; the credentialing requirement is what is waived. Therefore, banks will continue to have additional requirements compared to credit unions under temporary waiver relief.

As our state and the nation continue to respond to the current economic crisis, providing at least two more years of flexibility for consumers makes sense. Given the adverse economic conditions, we expect new real estate appraisals down the road to be lower than previous appraisals. Therefore, the value given by a current appraisal is not in itself a complete measurement of local conditions and values. Equally important is the ongoing processes our banks have in place to monitor their markets closely for downward trends and valuations. Our lenders have shown the ability to operate in a safe and sound manner, and we expect they will continue to do so.

North Dakota will work to address the issues that are contributing to the scarcity which are within our control; but it needs to be recognized by the ASC that many of the issues need a federal solution. We strongly urge those in Washington, DC to correct issues such as the education requirements and firewall requirements in a timely manner. An extension of the current waiver will serve as a temporary solution while long term national solutions are finalized.

In the last 12 months, there have only been positive effects in North Dakota realized as a result of the waiver. Appraisers continue to be busy, and the availability of appraisers has not materially changed from

the levels that led to the granting of the initial waiver in 2019. At a minimum, an extended waiver provides another option for those commercial businesses looking to complete a real estate transaction. Due to the success the initial temporary waiver has had for North Dakota, and the lack of material improvement to the scarcity and delay realized in one year, along with the effects of COVID-19, applicants are requesting an extension for at least two more years as we continue finding local solutions.

**Contacts**

For additional information please contact ND DFI Commissioner Lise Kruse, NDBA President Rick Clayburgh, ICBND President Barry Haugen, or CUAD President Jeff Olson.

Sincerely Yours,



Doug Burgum, Governor  
State of North Dakota



Lise Kruse, Commissioner  
ND Dept. of Financial Institutions  
2000 Schafer Street, Suite G  
Bismarck, ND 58501-1204  
[lkruise@nd.gov](mailto:lkruise@nd.gov)  
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CC: North Dakota Real Estate Appraiser Qualifications and Ethics Board  
North Dakota Congressional Delegates

## **EXHIBIT LIST**

Exhibit 1: Guidance issued by the ND Dept. of Financial Institutions on August 7, 2019.

Exhibit 2: Appraiser/financial industry meeting agenda, November 6, 2019, Bismarck, ND.

Exhibit 3: Appraisal and Banking Conference Agenda, October 15, 2019, Nashville, TN.

Exhibit 4: Letter from Executive Director Scott Davis, North Dakota Indian Affairs Commission.



**August 7, 2019**

**Expectations for banks and credit unions  
utilizing the temporary waiver on appraiser credentialing requirements**

North Dakota has long experienced a challenge of appraiser scarcity and resulting appraisal delays. Since evidence shows there is need for relief in our State from the appraisal regulations' appraiser credential requirements, we pursued a waiver of such requirements from the Federal Financial Institutions Examination Council (FFIEC). Why this waiver is important was discussed in a blog post by Commissioner Lise Kruse here: <https://www.csbs.org/why-appraisal-waiver-important>.

The waiver applies to federally related transactions under \$500,000 for 1-to-4 family residential real estate transactions, and under \$1,000,000 for agricultural and commercial real estate transactions throughout the State of North Dakota. The 1-to-4 family residential waiver will expire if the regulatory threshold is increased, with an effective termination date of 60 days after such rule is issued. The waiver will be in place for one year but may be extended for another year if certain conditions are met. The Order issued by the FFIEC can be found here: <https://www.federalregister.gov/d/2019-16908>.

As expressed in the title above, the waiver is of the appraiser credentialing requirements, which means that an appraisal can be conducted by other individuals; however, the appraisal still must comply with the Uniform Standards of Professional Appraisal Practice (USPAP). A financial institution, with its current appraisal review process, is presumably already determining if an appraisal is USPAP compliant. This document gives a short overview of what the standards are, and what a USPAP-compliant appraisal report should contain.

First, USPAP contains 5 basic rules that appraisers must follow:

- 1) Ethics rule: Sets forth the requirements for integrity, impartiality, objectivity, independent judgment, and ethical conduct. There must not be a conflict of interest, and the appraiser must protect the confidential nature of the appraiser-client relationship.
- 2) Record keeping rule: In the appraiser's workfile, he/she should maintain the data, information and analysis necessary to support his or her opinions for the appraisal.
- 3) Competency rule: The appraiser must be competent and have enough knowledge and experience to perform the assignment.
- 4) Scope of work rule: Sets forth obligations related to problem identification, research, and analyses.
- 5) Jurisdictional exception rule: Preserves the balance of USPAP if a portion is contrary to law or public policy of a jurisdiction.

In reporting the results of a real property appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading. The report should contain sufficient information to enable the intended users of the appraisal to understand the report properly. It should

clearly and accurately disclose all assumptions, extraordinary assumptions, hypothetical conditions, and limiting conditions used in the assignment.

To make sure the appraisal report you receive is compliant, it should contain the following (as set forth in Standards Rule 2-2):

- Identity of client
- Intended use
- Summarize information sufficient to identify the real estate involved in the appraisal, including the physical, legal, and economic property characteristics relevant to the assignment (legal description, address)
- State the real property interest appraised
- State the type and definition of value and cite the source of the definition
- State the effective date of the appraisal and the date of the report
- Summarize the scope of work used to develop the appraisal
- Summarize the information analyzed, the appraisal methods and techniques employed, and the reasoning that supports the analyses, opinions, and conclusions; exclusion of the sales comparison approach, cost approach, or income approach must be explained
- State the use of the real estate existing as of the date of value and the use of the real estate reflected in the appraisal
- When an opinion of highest and best use was developed by the appraiser, summarize the support and rationale for that opinion
- Clearly and conspicuously;
  - State all extraordinary assumptions and hypothetical conditions; and
  - State that their use might have affected the assignment results
- Include a signed certification

Source: <http://www.uspap.org/>

**APPRAISER/FINANCIAL INDUSTRY MEETING**

**November 6, 2019**

**Radisson Hotel**

**605 E Broadway Ave, Bismarck**

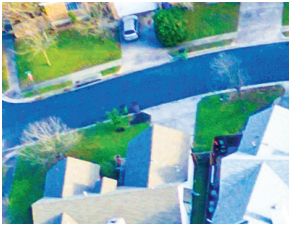
- 9:00 a.m.      Opening Remarks  
*Commissioner Lise Kruse*
- 9:15 a.m.      The Role of the Appraisal Subcommittee & Update on Appraisal Rule Changes  
*James R. Park, Executive Director, Appraisal Subcommittee, Washington, DC*
- 9:35 a.m.      Regulators' Role  
*Eric Winge, Field Supervisor, FDIC, Fargo, ND; Tim Melrose, Senior Examiner & Credit Risk Specialist, Federal Reserve Bank of Minneapolis; Lise Kruse, Commissioner, ND Dept. of Financial Institutions*
- 10:05 a.m.      Tennessee Progress  
*Greg Gonzales, Commissioner, TN Dept. of Financial Institutions; Colin Barrett, President/CEO, TN Bankers Association; Scott Cocanougher, CEO, First Community Bank of Tennessee, Shelbyville, TN; Rex Garrison, MAI, SRA, AI-GRS, Garrison Appraisal Services, Johnson City, TN*
- 10:35              Break
- 10:45 a.m.      Round-table Discussions
- 11:15 a.m.      Open Discussion  
*Moderated by Mary Beth Quist, Senior Vice President, Conference of State Bank Supervisors, Washington, DC, and Corey Krebs, Assistant Commissioner, ND Dept. of Financial Institutions*
- 12:00 p.m.      Adjourn



# Appraisal and Banking Conference

October 15, 2019

TBA Barrett Training Center, Nashville, Tennessee

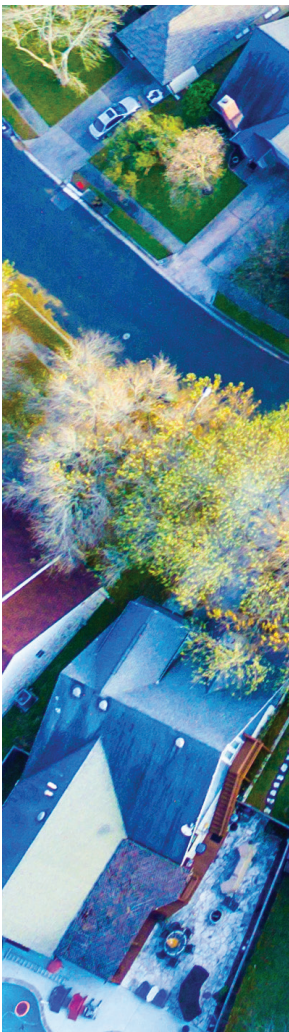


This inaugural seminar offers an opportunity for real estate appraisers, bankers, brokers, and attorneys to meet their professional peers during an open discussion forum. Facilitated by a discussion leader and featuring presenters from the appraisal and banking industries, this conference covers multiple issues related to real estate property loans and appraisals.

## Presented by



Tennessee Chapter



## Agenda

9:00 a.m.

### Opening Remarks

John S. Brenan, FRICS – The Appraisal Foundation

9:10 a.m.

### Myths & Truths About USPAP

John S. Brenan, FRICS – The Appraisal Foundation

- Changes in USPAP for 2020-2021
- How it will impact appraisals for lenders/ working within the guidelines of USPAP
- Other USPAP hot topics

10:10 a.m.

### Regulator's Perspective for Appraisals

Greg Gonzales, Commissioner, Tennessee Department of Financial Institutions

- The role of bank examiners
- Bank examiners' review of appraisals and how that supports the safety and soundness judgment
- Appraisers' work and how that supports the examiners' safe and soundness review
- What is happening from a national perspective on the appraisal issues
- How bankers and the appraisal community are coming together to encourage better education among all parties

11:10 a.m.

### Break

11:30 a.m.

### Rural Appraisals & Lending—What Appraisers & Lenders Need to Know

Scott Cocanougher, CEO, First Community Bank of Tennessee

Michael Tankersley, MAI, SRA, AI-RRS

- Learn how appraisal guidelines and lender requirements affect appraisal in rural markets
- Best practices for researching and selecting data in rural markets
- How to use limited data to support a credible opinion of value
- How to meet and exceed client expectations

12:30 p.m.

### Lunch with Discussion Topics for Each Table

1:30 p.m.

### Q&A Session with Speakers

3:00 p.m.

### Program Adjourns

# Appraisal and Banking Conference

October 15, 2019 • TBA Barrett Training Center, Nashville, Tenn.

## Presenters

### John Brenan, FRICS



John Brenan has served at The Appraisal Foundation since October 2003. As vice president, appraisal issues, Brenan serves as the Foundation's senior staff contact regarding the work of the Appraisal Standards Board (ASB) and Appraiser Qualifications Board (AOB). Prior to his current position, Brenan served as the chief of licensing and

enforcement for the California Office of Real Estate Appraisers (OREA). In that role, he administered the largest real estate appraiser licensing program in the United States, evaluating applicants for compliance with both federal and state requirements. Brenan was also responsible for California's enforcement program; educating and/or disciplining licensees who violated law, regulations or USPAP. Brenan is a certified general appraiser, AQB certified USPAP instructor, and a Fellow with the Royal Institution of Chartered Surveyors.

### Greg Gonzales



Greg Gonzales is the 18th commissioner of the Tennessee Department of Financial Institutions, and began serving in this role in 2005 and was reappointed by Governor Bill Lee. He has served in the department since 1986. In this position, Gonzales serves as Tennessee's chief regulatory officer of all state-chartered depository and licensed non-

depository financial institutions. Additionally, he has served as assistant commissioner and general counsel for the department. Gonzales is a past chairman of the Conference of State Bank Supervisors (CSBS), which is the professional organization of state banking commissioners in the United States. He serves as Chairman of the State Liaison Committee that incorporates the state supervisory perspective into the Federal Financial Institutions Examination Council (FFIEC).

### Scott Cocanougher



Scott Cocanougher is the chief executive officer for First Community Bank of Tennessee, a \$500 million community bank covering Middle Tennessee area. In addition to the banking operation, First Community Bank bought a local mortgage originator (broker) in 2003 and has worked to build First Community Mortgage, Inc (Human

Mortgage). First Community Mortgage (FCM) has a large presence in the Middle Tennessee area and has retail operations in 8 states, as well as providing wholesale partnerships in 43 states. Cocanougher has served on several Tennessee Bankers Association committees through the years including the Independent Community Bankers Board, and the Government Relations Committee. He was recently appointed as the Trustee for the Graduate School of Banking at LSU representing the state of Tennessee.

### Michael Tankersley, MAI, SRA, AI-RRS, ARA, R/W-AC



Michael Tankersley started his professional appraisal career in 1993 after attending the University of Tennessee in Knoxville. From 1993 to 1997, he trained under his father who was a certified residential real estate appraiser. During this time, he also gained experience with small commercial properties. He became certified in 1997 and

took over Tankersley Appraisal at that time. The firm is located in Lewisburg, Tenn. which is approximately 50 miles south of Nashville. Tankersley Appraisal covers all of Middle Tennessee and specializes in rural markets. Tankersley has experience with a wide variety of property types, including residential, agricultural, industrial, retail, and special purpose properties.

## Continued Education

This conference has been approved for 4 hours of CE by the following entities:

- TREAC - (TN Appraisers)
- TREC- (TN Brokers & Affiliate Brokers)
- CLETN - (TN Attorneys)

# Appraisal and Banking Conference

October 15, 2019 • TBA Barrett Training Center, Nashville, Tennessee

## Registration Form

Please type or print. List name and badge nickname for each person attending and check appropriate space if registrant is a spouse or additional guest.

Must be included. For delegates only. For educational tracking only. **Last 4 digits:**  
SS # — — — —

Name \_\_\_\_\_ Nickname \_\_\_\_\_ SS # — — — —

Email \_\_\_\_\_

Name \_\_\_\_\_ Nickname \_\_\_\_\_ SS # — — — —

Email \_\_\_\_\_

Company \_\_\_\_\_

Street Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

### Pricing

\_\_\_\_\_ Attendees x \$100 per person (includes lunch)

\_\_\_\_\_ Total Registration Fee

### 4 WAYS TO REGISTER!

1. TBA members register online at [www.TNBankers.org](http://www.TNBankers.org)  
TCAI members register at [www.myappraisalinstitute.org/education/GreaterTennessee/](http://www.myappraisalinstitute.org/education/GreaterTennessee/)
2. Scan this form and email it to [ppowlas@TNBankers.org](mailto:ppowlas@TNBankers.org)
3. Mail this form to the TBA address at the bottom of this form
4. Fax this form to 615-324-1987

### Payment

Check    Check# \_\_\_\_\_    Check Amount \_\_\_\_\_    *Make checks payable to the Tennessee Bankers Association.*

Method of Payment:     MasterCard     Visa

Credit Card # \_\_\_\_\_    Exp Date \_\_\_\_\_    CVV \_\_\_\_\_

Name on card (please print) \_\_\_\_\_

Signature of cardholder \_\_\_\_\_

Card billing address \_\_\_\_\_

City \_\_\_\_\_    State \_\_\_\_\_    Zip \_\_\_\_\_



Tennessee Chapter

### Return this form with full payment to:

Tennessee Bankers Association  
Attn: Penny Powlas  
211 Athens Way, Ste 100  
Nashville, TN 37228-1381  
615-244-4871  
[ppowlas@TNBankers.org](mailto:ppowlas@TNBankers.org)

### Appraisal Institute Contact

Myra W. Pitts, Executive Director  
Tennessee Chapter of the Appraisal Institute  
2310 Londonderry Lane  
Cordova, TN 38016  
615-515-9700  
[myra@TNApraiser.org](mailto:myra@TNApraiser.org)

June 15, 2020

This is a letter providing my full support of an extension on the waiver granting temporary relief from appraisal credentialing requirements for a real estate transaction. It is important that the waiver extension request be granted because the significant positive impact it has had on our rural communities, especially the Tribal communities that we share territory with here in North Dakota. With the understanding that in some parts of our largely rural state it can take upwards of three months for these types of assessments to be completed, that wait can be even longer for Tribal citizens who do not have access to financial institutions in their respective Tribal communities. As a result, many Tribal citizens travel off reservation homelands to access these services. In doing so they bring with them consumer dollars that are no longer spent within their boundaries thus providing profits for businesses that are not part of their community. But they continue to do so because these transactions must take place so that they can support their families and fulfill goals they have for themselves. All the while knowing a decision on their request will likely take several months.

I ask that the extension on the waiver granting temporary relief from appraisal credentialing for real estate transactions be granted so that Tribal citizens as well as the many rural community members we share this great state with can benefit from these services and receive an answer in a timely manner.

Sincerely,



Scott J. Davis, Executive Director  
North Dakota Indian Affairs Commission

