



August 1, 2018

Secretary
Appraisal Subcommittee
2000 K Street, N.W., Suite 310
Washington, DC 20006

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

Dear Sir or Madam:

The North Dakota Department of Financial Institutions (“NDDFI”) and the North Dakota Bankers Association (“NDBA”) request the Appraisal Subcommittee (“ASC”) to exercise its discretionary authority to initiate a temporary waiver proceeding for a determination under subsection 1102.2(a) of Subpart A to 12 CFR Part 1102, Appraiser Regulation, of scarcity of licensed or certified appraisers leading to significant delays in obtaining appraisals in federally related transaction throughout the state of North Dakota.¹ Specifically, Applicants request waiver of requirements for federally related real estate mortgage loan transactions for which a bank or credit union is the mortgagee and for which the principal balance, secured by real estate within North Dakota, does not exceed \$1 million for a business or farm loan or \$500,000 for a residential real estate transaction.

Recent regulatory changes made as an effort to improve appraiser availability will take time before any positive effects can be realized. Accordingly, a waiver that is subject to periodic review and extension rather than a fixed term is a reasonable remedy at this time. However, if the subcommittee views an indefinite duration as being inconsistent with a “temporary” waiver, Applicants request an initial waiver term of not less than five years.

In support of this request, Applicants submit the following:

¹ A temporary waiver was listed as one of two existing options to address appraiser shortages in the Interagency Advisory on the Availability of Appraisers dated May 31, 2017 <https://www.occ.gov/news-issuances/news-releases/2017/nr-ia-2017-60a.pdf>.

Interest of Applicants:

Governor Doug Burgum

Doug Burgum is Governor of the State of North Dakota. One of Governor Burgum's primary economic development programs is the Main Street Initiative. There are three pillars to the Governor's Initiative: a skilled workforce; smart, efficient infrastructure; and healthy, vibrant communities. Critical to the success of the Main Street Initiative is timely, affordable financing for homebuyers, agricultural operations, and small businesses.²

North Dakota is a predominantly rural state. The State, with a U.S. Census estimated population of 755,393 as of July 1, 2017, ranks 47th among the states in population. Notwithstanding its small population, North Dakota has experienced substantial growth over the past several years – increasing from 28th in 2007 to 11th in 2017 for the U.S. in per capita personal income.³

The largest city is Fargo with 120,762 residents. There are three Metropolitan Statistical Areas in North Dakota: 241,356 (Fargo, ND and Moorhead, MN); 132,142 (Bismarck and Mandan, ND); and 102,414 (Grand Forks, ND and East Grand Forks, MN). However, the population of most North Dakota communities and counties is considerably fewer than 5,000 people.⁴

Housing is among the most acute needs faced by North Dakota. According to U.S. Census Bureau statistics, from 2010 through mid-2017, the top three fastest growing counties in the U.S. in terms of housing units are in North Dakota and, of the top 23 fastest growing counties, 8 are in North Dakota (Exhibit 1). Without timely, affordable housing, workers are not able to take advantage of the job opportunities that exist in rural areas of the U.S.⁵, including more than 14,000 available jobs in North Dakota alone.

Commissioner Lise Kruse

Lise Kruse is the North Dakota State Commissioner for the North Dakota Department of Financial Institutions (NDDFI). She is an appointee of the Governor and serves as a member of his Cabinet. NDDFI, under the supervision of the State Banking Board, State Credit Union Board, and Commissioner, is the state bank and credit union supervisory and examining agency for the State of North Dakota.⁶ As state supervisor, NDDFI is responsible for supervising and examining North Dakota's 69 state-chartered banks and its 21 state-chartered credit unions to ensure the safety and soundness of their operations is in compliance with applicable state and federal rules and regulations, and to protect the interests of their North Dakota customers. NDDFI has entered cooperative agreements with Federal Deposit

² Additional details regarding Governor Burgum's Main Street Initiative may be accessed at <https://www.governor.nd.gov/five-strategic-initiatives-north-dakota> or <https://www.mainstreetnd.com/>.

³ The U.S. Department of Commerce Bureau of Economic Analysis overview of North Dakota personal income may be accessed at: <https://bea.gov/regional/bearfacts/pdf.cfm?fips=38000&areatype=STATE&geotype=3>

⁴ Additional details regarding population and population distribution may be accessed at <https://www.ndworkforceintelligence.com/vosnet/analyzer/results.aspx?enc=LHW0SsK4neXauBz16j06Yg==>.

⁵ See "Rural America Has Jobs. Now It Just Needs Housing.", *Wall Street Journal*, May 20, 2018: <https://www.wsj.com/articles/scarcity-of-housing-in-rural-america-drives-worker-shortage-1527672602?mod=searchresults&page=1&pos=1>.

⁶ See N.D.Cent. Code Ch.6-01, <http://www.legis.nd.gov/cencode/t06.html>.

Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System, and the National Credit Union Administration (NCUA) to coordinate and share these duties. Commissioner Kruse, the State Banking Board, and the State Credit Union Board are fundamentally interested in the safe and sound operation of North Dakota's financial institutions and the availability of credit for consumers, farmers, and businesses.

As of December 31, 2017, there were 76 banks chartered in North Dakota (69 state-charters and 7 national charters) with total assets of \$28.8 billion. As of that date there were 36 credit unions (21 state-charters and 15 national charters) with total assets of \$3.7 billion. With the exception of branches of one large national bank and one regional bank, all banks and credit unions operating throughout North Dakota are small, and most are, by national standards, very small institutions. The largest North Dakota state-chartered bank has \$4.8 billion in assets while the smallest has \$20.8 million in assets as of December 31, 2017. Exhibit 2 shows the North Dakota state-chartered bank size distribution.

North Dakota Bankers Association

The North Dakota Bankers Association (NDBA) is a state-wide, bank trade association. NDBA's 70 members are state banks, national banks and federal savings associations which operate and serve consumers, farmers and commercial customers throughout North Dakota. Depending upon their business model, as FDIC-insured institutions, NDBA member banks are engaged in federally related transactions in the form of real estate mortgage loans whether for residential, commercial or farm and agricultural purposes.

The Applicants are fundamentally interested in the development and maintenance of a system of supervision and regulation that allows North Dakota mortgage lenders to meet reasonable and prudent customer demand for mortgage loans in a timely and cost-effective manner without compromising the safety and soundness of any financial institution. The requested waiver is consistent and appropriate to that common purpose.

(1) Applicable Laws

Congress enacted the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). Title XI of FIRREA requires federally regulated financial institutions to use state certified or licensed appraisers to perform appraisals for federally related real estate transactions. In response to FIERRA, the North Dakota Legislature adopted a requirement that state-chartered banks use licensed or certified appraisers to evaluate real estate collateral, if also required by federal law. N.D.C.C. section 6-03-05. In response to the 2008 financial crisis, more federal law requirements were added for federally related real estate transactions. Again, the North Dakota Legislature, as well as other state legislatures, responded with state laws to conform appraiser licensing and certification standards to federal requirements, *see e.g.*, N.D.C.C. Ch. 43-23.3. Applicants request a waiver so that North Dakota banks and credit unions can obtain evaluations of real estate from individuals other than licensed and certified appraisers, subject to the limitations addressed further in this application. North Dakota statutes affected by the waiver application are discussed below.

N.D.C.C. Ch. 43-23.3, specifically, N.D.C.C. § 43-23.3-04, relating to licensure and certification of appraisers, N.D.C.C. § 43-23.3-05, relating to the obligation of an individual to apply for a permit, and N.D.C.C. Ch. 43-23.5 relating to appraisal management companies. Copies of those chapters of state law are included with this application (Exhibit 3 and 4) and are also available at

<http://www.legis.nd.gov/cencode/t43c23-3.pdf> and <http://www.legis.nd.gov/cencode/t43c23-5.pdf>.

With a waiver and within the requirements of remaining, applicable regulations, North Dakota banks and credit unions will be able to assess the type of valuation that is appropriate for a given tract of proposed real estate collateral and be able to have that valuation made by any qualified person as determined by the lender, irrespective of that person's licensure or certification as an appraiser under North Dakota law. Waiver is being sought of both the aforementioned statutes and their associated regulations.

Applicants are not requesting a waiver from N.D.C.C. section 6-03-05 and N.D.A.C. sections 13-02-20 and 13-03-02, which establish foundational safety and soundness prerequisites for real estate loans by banks and credit unions. Copies of these statutes and regulations are included with this application (Exhibit 5, 6 and 7) and is also available at <http://www.legis.nd.gov/cencode/t06c03.pdf> and via

<http://www.legis.nd.gov/cencode/t06.html>. N.D.C.C. section 6-03-05 mandates "an appropriate evaluation of real property collateral for transactions that do not require an appraisal by a licensed or certified appraiser []" and specifically reserves to the Commissioner the authority to require "an appraisal by a licensed or certified appraiser when necessary to address safety and soundness concerns." Similar authority rests with primary federal regulators and applies to national banks, federal savings banks, and state banks subject to supervision by the FDIC or the Federal Reserve Bank of Minneapolis and credit unions subject to supervision by the NCUA. *As noted, other existing state and federal regulations to address loan-to-value limits, limit loan concentrations, and otherwise govern prudent lending practices for evaluation of real property are neither waived nor affected by a waiver of appraisal requirements.*

(2) Problems Currently Being Encountered

North Dakota banks, credit unions, and others interested in real estate lending practices have long encountered unreasonable delays and excessive costs for real estate appraisals required for federally related transactions. Problems are of significant duration and of such severity as to generate legislative concern and frustration as well as frustration for customers, real estate professionals, and lenders. See for example, Leg. History S.B. 2187 (2011): <http://www.legis.nd.gov/files/resource/62-2011/library/sb2187.pdf> and Leg. History H.B. 1216 (2013): <http://www.legis.nd.gov/files/resource/63-2013/library/hb1216.pdf>. In the current rising rate environment delayed appraisals can cause customers to lose out on favorable interest rates or incur increased costs as rate locks expire or must be extended, and, even more egregiously, can even cause a buyer to lose the opportunity to purchase a home at all because of competition from cash buyers. Tardiness in the appraisal process can also cause delayed project starts. Such delays are seriously detrimental in a state such as North Dakota where customers face a short building season due to extreme cold temperatures in the winter time. Adding to customer frustration is the fact that North Dakota farmers can buy and finance a \$500,000 tractor or combine more quickly and easily than can be done with a building project of similar cost, partly due to having to wait for an appraisal.

Excessive delays and high costs are especially problematic in rural areas and areas experiencing housing shortages. Bank of North Dakota reports current appraisal turnaround of 8 weeks on average for direct farm real estate loans (and up to 11 weeks in the last 3 months) and average turnaround of 36 days (and up to 3 months) for residential real estate loans in rural areas. However, unacceptable delays also have been experienced in more urban settings, several of which faced housing shortages and construction “booms” in connection with development of North Dakota’s oil fields. Interestingly, according to local lenders, the much-discussed slowdown in oil and agriculture sectors has not alleviated the problem in any significant way. In oil impacted areas of North Dakota, as in the city of Williston market, residential real estate appraisals continue to take an excessively long 5-6 weeks on average. Although this has improved from 9-12 weeks at the height of the boom, it is still a slow turnaround time with only 5 active appraisers serving the city. Commercial and agricultural appraisal turnaround times have also improved from 3-4 months to the still slow 3-8 weeks. Only 4 active commercial appraisers and 2 agricultural appraisers are reported to serve in this market. To help alleviate the local appraiser shortage and to shorten the time-frame, one institution has contracted with an appraiser from Idaho that comes to the Williston area once a month. Furthermore, although institutions report they have several appraisers on their list, some of these are for specialized commercial projects only.

In addition, the slowdown in the oil sector now appears to be over, with shortages of housing and continued real estate development demands growing. See, e.g., “Williston housing shortage could have regional repercussions”, *The Bismarck Tribune*, April 7, 2018 ⁷ (Exhibit 8). With the resurgence of oil development and production, mortgage lenders are anticipating turnaround time for appraisals will be increasing.

Financial institutions report that appraisals are more costly the further away from a larger city the project is; and appraisers appear selective in choosing a property; routinely avoiding more complex and unique properties. Overall, the lack of appraisers hurts consumers’ timely credit availability, slows down economic development and thus further threatens the viability of rural communities. Bank of North Dakota reports appraisal costs for direct farm loans ranging from \$950 to \$2,950 and an average cost for residential appraisals as \$762 and up to \$1,000 in northwestern North Dakota.

(3) Nature of the Scarcity

The scarcity of appraisers in North Dakota appears to have the similar causes as the national scarcity: an aging and insular population of appraisers, high entry barriers, and many licensees who are not actually located in North Dakota or offer their services only on a part-time basis or to a specific employer.

Despite recent modification by the Appraisal Qualification Board (“AQB”), North Dakota standards are not yet revised. Until revisions are accomplished state regulations will continue to impose overly severe entry requirements in terms of education levels and experience. Additionally, North Dakota’s population of resident appraisers is aging and retiring without replacements coming up through the ranks. Meanwhile, there seems to be a reluctance by experienced appraisers to hire and train their

⁷ The article can also be accessed at: https://bismarcktribune.com/business/local/williston-housing-shortage-could-have-regional-repercussions/article_1cef7907-ea2c-5f39-97a6-cce7e1ca621e.html.

“future competition” even though candidates for licensure and certification as appraisers must meet stringent and specific requirements for experience.

The April 17, 2018, list of certified general appraisers obtained from the ND Real Estate Appraiser Qualifications and Ethics Board website, shows 183 certified general appraisers; only 75 of these are located in North Dakota. The number of certified general appraisers increased from 40 licensed appraisers for 2012 to 195 licensed general appraisers for 2014 but has since remained static or decreased somewhat in 2018. However, bare numbers of licenses may not accurately show availability to local lenders and their borrowers. Numerous licensees appear not to provide services to the general public while others are located out-of-state, a situation that complicates provision of services in rural North Dakota and, possibly, causes greater difficulty assessing the local market. Both lenders *and examiners* routinely observe that the local lenders are typically better prepared to accurately assess the value of collateral, especially in the rural areas where comparable sales are limited.

North Dakota financial institutions have not been formally tracking appraiser numbers, turnaround times, or transactions thwarted by appraisal problems because the need to obtain an appraisal in compliance with appraisal regulations has not depended on appraiser availability and timeliness. Even so, institutions have experienced and complained about the lack of appraisal services for many years, even decades.⁸

In the meantime, the North Dakota population has grown substantially while the number of appraisers has stayed static or been reduced. In 2010 the population of North Dakota was 672,585. By 2017, the population had grown 12.3 percent to 755,393. Despite a much publicized economic downturn, state population levels have remained level.⁹

The scarcity of appraisers may also be a result of the overall labor shortage experienced in North Dakota. North Dakota’s unemployment rate adjusted for seasonality was 2.6 percent in March 2018 with 14,738 jobs available.¹⁰

(4) Extent of Experienced Delays and Cause

Several North Dakota financial institutions have submitted letters in which they provide detailed descriptions of the delays and other problems which they have and continue to experience. These letters are included with this application (Exhibits 9-14). The information in these letters is wholly consistent with concerns raised by banks in a November 16, 2017, roundtable discussion initiated by the FDIC about problems with appraisals and appraiser availability. Participants included representatives from the FDIC, Office of the Comptroller of the Currency, Conference of State Bank Supervisors (CSBS),

⁸ As noted, appraiser problems and issues have existed for many years and have not been successfully addressed as shown by legislative efforts to address complaints raised, primarily, by the public: Leg. History S.B. 2187 (2011): <http://www.legis.nd.gov/files/resource/62-2011/library/sb2187.pdf> and Leg. History H.B. 1216 (2013): <http://www.legis.nd.gov/files/resource/63-2013/library/hb1216.pdf>.

⁹ In 2017, North Dakota experienced its first population drop in 15 years, with a reduction of 155 individuals, https://bismarcktribune.com/news/state-and-regional/north-dakota-drops-in-population-for-first-time-in-years/article_b945a779-4285-5f3d-9f58-b333b64678e6.html.

¹⁰ North Dakota Labor Force and Unemployment Statistics are found at: <https://www.ndworkforceintelligence.com/gsipub/index.asp?docid=543>.

NDDFI, six community bankers, Bank of North Dakota, Independent Community Bankers of ND (ICBND), and NDBA. In a frank discussion, our bankers reported experiences where delays (of up to more than one year) caused business transactions to fall through, house purchases lost to cash buyers who did not need a loan to finance the transaction and could close without an appraisal, and, occasionally, loans that were closed even though the appraisal was not then received.

(5) Recent Changes in Standards

Applicants recognize and appreciate recent changes by the AQB to address and mitigate the unintended effects of standards that have turned out to be barriers to entry to the appraisers' profession. Although the adoption of the new standards is not mandatory for states, we would expect the state Appraisal Board to give the new standards consideration now that they are effective. However, any positive effects of the changes (in terms of increasing the supply of qualified appraisers in North Dakota) is entirely speculative at this point and will, in any case, take several years to be realized. For that reason, the changes in standards should not be held to affect this application for waiver.

A similar situation exists regarding the recent adoption as law of S. 2155, a bipartisan bill negotiated in part and co-sponsored by North Dakota Senator Heitkamp. This legislation does provide some relief from current appraisal requirements however, its impact and application in practice is still unclear. Also, interagency rules increased appraisal requirements to \$500,000 for commercial loans. Financial institutions report a \$500,000 threshold does not provide adequate relief since commercial loans are usually larger, and 1-4 family and real estate development loans were excluded from eligibility for any relief.

Nonetheless, these efforts by the AQB, regulatory agencies, and Congress recognize the current regulatory scheme for appraisers and required appraisals have caused and are harming consumers, businesses, farmers and financial institutions in North Dakota and elsewhere, and that action to mitigate the ill effects of the current requirements is appropriate if safety and soundness concerns can be addressed as they can under existing North Dakota and federal banking laws, regulations, and policies. Also, to reduce the burden to consumers, Freddie Mac and Fannie Mae are now accepting certain mortgages without appraisals, relying on technology and algorithms to protect against risk.¹¹ Similarly, Bank of North Dakota, which participates in larger real estate loans, and also purchases residential real estate loans from North Dakota banks and credit unions, is open to revising its requirements to reflect the availability of an evaluation rather than an appraisal if the application for a waiver is granted.

Although a frustration to lenders, consumers and other potential borrowers are the ones actually being harmed by the cost and lack of timely appraisals. When housing is in high demand, there is always tension between a moderate income buyer, whose purchase must be supported by a loan, and cash

¹¹ Fannie Mae's August 18, 2017, statement is found at:

<http://www.fanniemae.com/portal/media/statements/2017/statement-piw-for-purchase-081817.html> and a [Washington Post June 21, 2017](#), article discusses the initiative at:

https://www.washingtonpost.com/realestate/for-fannie-and-freddie-appraisals-are-not-always-necessary/2017/06/19/18032bfc-54fc-11e7-ba90-f5875b7d1876_story.html?utm_term=.85757f759acd. A [Washington Post April 30, 2018](#), indicates a saving of \$30 million to consumers:

https://www.washingtonpost.com/realestate/fannie-and-freddie-approve-thousands-of-loans-with-no-formal-appraisals/2018/04/30/50503d9c-4c95-11e8-af46-b1d6dc0d9bfe_story.html?noredirect=on.

buyers. Indeed, North Dakota lenders do report instances in which moderate income buyers have lost the opportunity to close on a house because the seller and cash buyer could close a transaction more quickly and with a lot less red tape. Beyond that, the cost of appraisals is ordinarily borne by the borrower. As prices increase and delays grow with distance between a customer's location and appraiser's, rural customers suffer the most. An approval of a temporary waiver would give borrowers more options than now exist. If a financial institution decides to take advantage of a granted waiver and believes an internal evaluation can satisfactorily establish the value of collateral for the lender's purposes, the customer remains free to order an appraisal independently from the lender, bearing the same cost as now occurs.

Additional Information

There are several circumstances to distinguish North Dakota from other parts of the country in the context of a temporary waiver of appraisal requirements.

Enhanced appraisal requirements were imposed as a response to irresponsible mortgage lending and appraisal practices that led to the 2008 financial crisis and many financial institution failures. North Dakota financial institutions neither engaged in the imprudent practices nor failed as a result. If anything, the prudence of North Dakota bankers is very well established. No North Dakota bank or thrift has failed since early 1991. During the oil "boom" of the recent past, no North Dakota bank or credit union over-extended itself. Since the "slowdown" of the past four years or so, North Dakota financial institutions have demonstrated their commitment to prudent lending; even as the economic stresses have adversely affected borrowers, North Dakota financial institutions remain safe and sound. Overwhelmingly, after four years of slowdown, North Dakota banks continue to be highly rated for financial soundness and management. For example, as of December 31, 2017, the average nonperforming loans (past due 90+ days and nonaccrual) to total loans ratio was 0.83 in North Dakota, compared to 1.17 for all FDIC insured institutions. During the last recession, the number was as high as 5.64 nationally (Q1 2010) while North Dakota's number never went higher than 1.75 (Q2 2010).¹² North Dakota lenders' responsible lending practices are also demonstrated by North Dakota's longtime and continuing status as one of the best performing states in terms of foreclosures. According to Realty Trac, as of May 2018, the U.S. foreclosure rate is 1/1,835 housing units. At the same time, after approximately four years of downturn, North Dakota's rate is 1/32,471 housing units.¹³ Credit is due to our prudent lenders and incentivized by laws that make it virtually impossible for a North Dakota lender to obtain a deficiency judgment in a real estate foreclosure action. North Dakota banks and credit unions base real estate mortgage loans on repayment ability in addition to "value" collateral because under North Dakota's foreclosure laws the lender bears virtually all risk of reduced collateral value (Exhibit 15). There is simply no reason to suspect the relief that can be provided through a waiver will have any adverse effect on the practices of North Dakota financial institutions.

¹² Federal Financial Institutions Examination Council (US), Nonperforming Loans (past due 90+ days plus nonaccrual) to Total Loans for Banks in North Dakota [NDNPTL], retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/NDNPTL>, June 25, 2018.

¹³ See <https://www.realtytrac.com/statsandtrends/foreclosuretrends/nd>, North Dakota Real Estate Trends and Market Information. Other foreclosure reporting sites report similar results.

Safe and sound lending principles dictate that any loan should be made based on the repayment ability of the borrower; any collateral would be a secondary repayment option. Although financial institutions must assess the value of the collateral to ensure protection in the event of default, the value of collateral can be determined by an evaluation rather than a certified appraisal. In an economic downturn, the property's value will decrease, and an appraised value will be obsolete. A lender is not obligated to take advantage of the waiver if they deem an appraisal appropriate or necessary to determine a property's value.

If a temporary waiver is granted, the largest benefits will accrue to rural banks, credit unions and their customers. This is because larger, urban institutions have established secondary market outlets, and liquidity, and appraiser relationships which they are not likely to disrupt based upon a temporary waiver. On the other hand, rural lenders tend to keep real estate loans in their portfolios. However, as noted above, should there be a need for a secondary market outlet that accepts loans supported by evaluations, Fannie Mae, Freddie Mac, and potentially, Bank of North Dakota exist and can operate in that capacity.

As stated above, Applicants request a waiver that is subject to periodic review and extension rather than a fixed term. However, if the subcommittee views that as being inconsistent with a "temporary" waiver, Applicants request an initial waiver term of not less than five years. This will allow time to determine the effect of moderated standards as contemplated by the AQB and any legislative changes that may be accomplished in the interim.

Conclusions

North Dakota financial institutions are community-based and relationship-oriented. They know their customers and know their markets. Applicants expect North Dakota financial institutions to respond to a waiver by acting judiciously in light of market circumstances and economic conditions. Financial institutions will continue to operate responsibly even as they have more flexibility to timely serve their customers as certain real estate loans are made with in-house or third-party evaluations in compliance with evaluation regulations and guidelines such as the *Interagency Appraisal and Evaluation Guidelines*. It is likely there would be a somewhat reduced demand for appraiser services. This will allow the existing supply of appraisers to focus their specialized expertise on projects, that because of contractual requirements or demands of the secondary market, size, or other characteristics, justify a formal appraisal.

For the reasons stated above, Applicants are confident that a temporary waiver will be in the interest and to the benefit of consumers, banks and credit unions, and believe circumstances existing in North Dakota warrant discretionary subcommittee action for a temporary appraisal waiver, and respectfully request the waiver be given as provided in this Application.

Applicants request the opportunity to present oral testimony at a hearing in support of this application.

Appraisal Subcommittee

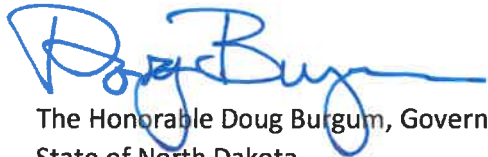
August 1, 2018

Page | 10

Contacts

For additional information please contact Commissioner Lise Kruse or NDBA President Rick Clayburgh.

Sincerely Yours,



The Honorable Doug Burgum, Governor
State of North Dakota



Lise Kruse, Commissioner
ND Dept. of Financial Institutions
2000 Schafer Street, Suite G
Bismarck, ND 58501-1204
lkruse@nd.gov
(701) 328-9938



Rick Clayburgh, President & CEO
North Dakota Bankers Association
122 East Main Avenue, Ste. 210
Bismarck, ND 58503
ndba@ndba.com
(701) 223-5303

CC: North Dakota Real Estate Appraiser Qualifications and Ethics Board
North Dakota Congressional Delegates

EXHIBIT LIST

Exhibit 1: United States Census Bureau: ND Overview; ND Quickfacts; ND Largest Cities; county size and growth.

Exhibit 2: North Dakota Bank Profile.

Exhibits 3: North Dakota Century Code (NDCC) Ch. 43-23.3 Real Estate Appraisers.

Exhibit 4: NDCC Ch. 43-23.5 Appraisal Management Companies.

Exhibit 5: NDCC Section 6-03-05 Powers, Management, and Operations of Banks.

Exhibit 6: North Dakota Administrative Code (NDAC) Section 13-02-20 Loans Secured Primarily by Real Estate.

Exhibit 7: NDAC Section 13-03-02 Limiting and Restricting the Amount that may be Loaned on Real Property Security.

Exhibit 8: "Williston housing shortage could have regional repercussions", The Bismarck Tribune, April 7, 2018.

Exhibit 9: Letter from Garrison State Bank & Trust, Garrison, ND. Branch in Max. Asset size: \$135.3 million.

Exhibit 10: Letter from Security First Bank of North Dakota, New Salem, ND. Branches in Almont, Bismarck (Bismarck-Mandan, ND-MSA), Center, and Mandan. Asset size: \$185.1 million.

Exhibit 11: Letter from Town & Country Credit Union, Minot, ND. Branches in Fargo (Fargo, ND-Moorhead, MN-MSA), Kenmare, Ryder, Stanley, and West Fargo. Asset size: \$416.8 million.

Exhibit 12: Letter from Bank Forward, Hannaford, ND. Branches in Bowdon, Carrington, Cooperstown, Fargo (Fargo, ND-Moorhead, MN-MSA), Grand Forks (Grand Forks, ND-East Grand Forks, MN-MSA), Jamestown, New Rockford, Valley City, Wimbledon, and several MN branches. Asset size: \$555.9 million.

Exhibit 13: Letter from Union State Bank of Hazen, Hazen, ND. Branches in Beulah and Stanton. Asset size: \$138.7 million.

Exhibit 14: Letter from Bell Bank, Fargo, ND (Fargo, ND-Moorhead, MN-MSA). Branches in Wahpeton, West Fargo, and several MN branches. Asset size: \$4.8 billion.

Exhibit 15: NDCC Ch. 32-19 Foreclosure of Real Estate Mortgages by Action.

North Dakota

BASIC INFORMATION

2010 Census Population:	672,591 (48 th)
Land Area:	69,000.8 square miles (17 th)
Density:	9.7 persons per square mile (47 th)
Capital:	Bismarck
Became a State:	November 2, 1889 (39 th)
Bordering States:	Minnesota, Montana, South Dakota
International Border:	Canada
Abbreviation:	ND
ANSI/FIPS Code:	38

HISTORY

The United States acquired most of the area of North Dakota from France in 1803 as part of the Louisiana Purchase. It obtained the area in the north and northeast part of the present-day state by a convention, signed with Great Britain in 1818 that extended the northern boundary along the 49th parallel. Dakota Territory was organized on March 2, 1861, from unorganized area formerly within Minnesota Territory and part of Nebraska Territory. Dakota Territory included all of the present-day states of North Dakota and South Dakota, most of Montana, the northern half of Wyoming, and a small part of Nebraska. The territory was reduced in 1863 with the organization of Idaho Territory, enlarged in 1864 with the addition of most of the remainder of present-day Wyoming, and again reduced with the organization of Wyoming Territory in 1868. In 1882, the state of Nebraska acquired an area north of the Keya Paha River and Niobrara River. North Dakota was admitted to the Union simultaneously with South Dakota on November 2, 1889, as the 39th and 40th states, with generally the same boundaries as the present states.

Census data for the combined area in present-day North Dakota and South Dakota are available in the 1860 census (and listed in national tables with South Dakota). The 1860 census population is for territory reported as "unorganized Dakota" and includes population in areas now in Montana. The 1860 population excludes some population enumerated in Nebraska Territory. Although the state had not yet been legally established, the 1870 and 1880 populations generally are for the area of the present state. The population of Dakota Territory as legally established was 135,177 in 1880 and 14,181 in 1870.

Data for the legally established state of North Dakota are available beginning with the 1890 census.

AMERICAN INDIAN AREAS

North Dakota has five federally recognized American Indian area reservations, two with off-reservation trust land.

METROPOLITAN AND MICROPOLITAN STATISTICAL AREAS AND RELATED STATISTICAL AREAS

North Dakota has three metropolitan statistical areas, five micropolitan statistical areas, and one combined statistical area.

COUNTIES

There are 53 counties in North Dakota. All counties are functioning governmental units, each governed by a board of county commissioners.

COUNTY SUBDIVISIONS

North Dakota has 1,765 county subdivisions which are minor civil divisions (MCDs). There are 1,317 townships which are functioning, but not necessarily active, governmental entities. Townships are governed by a board of township supervisors. Rushville township, Ward County is inactive. There are 357 incorporated places which are independent of MCDs and serve as 364 county subdivisions. There are also 84 unorganized territories. Billings, Dunn, Mercer, Oliver, and Stark Counties have no townships and are covered entirely by unorganized territories or cities independent of any MCDs.

PLACES

North Dakota has 401 places; 357 incorporated places and 44 census designated places (CDPs). The incorporated places are all cities. There is no minimum population for incorporation in North Dakota. All incorporated places are independent of county subdivisions.

CENSUS TRACTS/BLOCK GROUPS/BLOCKS

North Dakota has 205 census tracts, 572 block groups, and 133,769 census blocks.

CONGRESSIONAL DISTRICTS

For the 111th Congress (January 2009-January 2011), North Dakota had one congressional district. For the 113th Congress (January 2013-January 2015), North Dakota continues to have one congressional district as a result of reapportionment based on the 2010 Census.

SCHOOL DISTRICTS

North Dakota has 29 elementary school districts and 155 unified school districts.

STATE LEGISLATIVE DISTRICTS

There are 47 state senate districts and 47 state house districts in North Dakota.

URBAN AREAS

North Dakota has 16 urban areas; 3 urbanized areas and 13 urban clusters.

ZIP CODE TABULATION AREAS

There are 393 ZIP Code tabulation areas (ZCTAs) in North Dakota.

OTHER INFORMATION OF GENERAL GEOGRAPHIC INTEREST

The geographical center of North America is located near the city of Rugby.

HISTORICAL CENTERS OF POPULATION

http://www.census.gov/geo/reference/centersofpop/histstate/historical_cenpop_38.html

Year	North Latitude	West Longitude
2010 ⁶	47° 20' 54"	99° 18' 34"
2000 ⁶	47° 22' 31"	99° 20' 05"
1990 ⁵	47° 24' 50"	99° 24' 56"

Year	North Latitude	West Longitude
1980 ⁴	47° 25' 40"	99° 30' 38"
1970 ³	47° 27' 48"	99° 30' 57"
1960 ³	47° 28' 11"	99° 33' 57"
1950 ³	47° 27' 31"	99° 35' 42"
1940 ²	47° 28' 14"	99° 40' 13"
1930 ²	47° 28' 21"	99° 47' 20"
1920 ¹	47° 28' 43"	99° 46' 27"
1910 ¹	47° 30' 32"	99° 39' 47"
1900 ¹	47° 31' 40"	98° 42' 27"
1890 ¹	47° 28' 35"	98° 20' 25"
1880 ¹	47° 02' 03"	98° 09' 37"

¹ Source: U.S. Department of Commerce, Bureau of the Census, Fourteenth Census of the United States, 1923

² Source: U.S. Census Bureau, recomputation for historical county level data which relied upon aggregate county level population data with an estimated county centroid resulting in a possible error of up to one mile.

³ Source: U.S. Department of Commerce, Bureau of the Census, Centers of Population for States and Counties, 1974

⁴ Source: U.S. Census Bureau, Geography Division, recomputation from archived national block group/enumeration area data resulting in a possible error of up to 1,000 feet.

⁵ Source: U.S. Census Bureau, Geography Division, recomputation from archived national block group data resulting in a possible error of up to 1,000 feet.

⁶ Source: U.S. Census Bureau, computation from national block-level data

MOST POPULOUS, LARGEST IN AREA, AND MOST DENSELY POPULATED AREAS

	Population		Land Area (square miles)		Population Density (Persons per square mile)	
	Name	Population	Name	Area	Name	Density
County	Cass County	149,778	McKenzie County	2,760.32	Cass County	84.9
Place						
- Inc Place	Fargo city	105,549	Fargo city	48.82	Fort Yates city	2,917.4
- CDP	Minot AFB CDP	5,521	Cannon Ball CDP	88.27	Ruthville CDP	1,251.9

LISTS OF ENTITIES



See the [Gazetteer Files](#) for a list of geographic entities. See the [Metropolitan and Micropolitan Statistical Areas](#) page for a list of metropolitan and micropolitan statistical areas and related statistical areas.

QuickFacts North Dakota

QuickFacts provides statistics for all states and counties, and for cities and towns with a **population of 5,000 or more**.


Table


ALL TOPICS	North Dakota
Population estimates, July 1, 2017, (V2017)	755,393
PEOPLE	
Population	
Population estimates, July 1, 2017, (V2017)	755,393
Population estimates, July 1, 2016, (V2016)	757,952
Population estimates base, April 1, 2010, (V2017)	672,585
Population estimates base, April 1, 2010, (V2016)	672,591
Population, percent change - April 1, 2010 (estimates base) to July 1, 2017, (V2017)	12.3%
Population, percent change - April 1, 2010 (estimates base) to July 1, 2016, (V2016)	12.7%
Population, Census, April 1, 2010	672,591
Age and Sex	
Persons under 5 years, percent	▲ 7.3%
Persons under 18 years, percent	▲ 23.3%
Persons 65 years and over, percent	▲ 14.5%
Female persons, percent	▲ 48.7%
Race and Hispanic Origin	
White alone, percent (a)	▲ 87.9%
Black or African American alone, percent (a)	▲ 2.9%
American Indian and Alaska Native alone, percent (a)	▲ 5.5%
Asian alone, percent (a)	▲ 1.5%
Native Hawaiian and Other Pacific Islander alone, percent (a)	▲ 0.1%
Two or More Races, percent	▲ 2.1%
Hispanic or Latino, percent (b)	▲ 3.6%
White alone, not Hispanic or Latino, percent	▲ 85.0%
Population Characteristics	
Veterans, 2012-2016	49,560
Foreign born persons, percent, 2012-2016	3.3%
Housing	
Housing units, July 1, 2016, (V2016)	368,624
Owner-occupied housing unit rate, 2012-2016	63.5%
Median value of owner-occupied housing units, 2012-2016	\$164,000
Median selected monthly owner costs -with a mortgage, 2012-2016	\$1,278
Median selected monthly owner costs -without a mortgage, 2012-2016	\$428
Median gross rent, 2012-2016	\$736
Building permits, 2016	3,981
Families & Living Arrangements	
Households, 2012-2016	305,163
Persons per household, 2012-2016	2.33
Living in same house 1 year ago, percent of persons age 1 year+, 2012-2016	82.3%
Language other than English spoken at home, percent of persons age 5 years+, 2012-2016	5.6%
Education	
High school graduate or higher, percent of persons age 25 years+, 2012-2016	92.0%
Bachelor's degree or higher, percent of persons age 25 years+, 2012-2016	28.2%
Health	
With a disability, under age 65 years, percent, 2012-2016	7.1%
Persons without health insurance, under age 65 years, percent	▲ 8.1%
Economy	
In civilian labor force, total, percent of population age 16 years+, 2012-2016	69.5%
In civilian labor force, female, percent of population age 16 years+, 2012-2016	65.2%
Total accommodation and food services sales, 2012 (\$1,000) (c)	2,045,123
Total health care and social assistance receipts/revenue, 2012 (\$1,000) (c)	5,418,355
Total manufacturers shipments, 2012 (\$1,000) (c)	14,427,360
Total merchant wholesaler sales, 2012 (\$1,000) (c)	28,150,837
Total retail sales, 2012 (\$1,000) (c)	15,519,816
Total retail sales per capita, 2012 (c)	\$22,183

Transportation	
Mean travel time to work (minutes), workers age 16 years+, 2012-2016	17.3
Income & Poverty	
Median household income (in 2016 dollars), 2012-2016	\$59,114
Per capita income in past 12 months (in 2016 dollars), 2012-2016	\$33,107
Persons in poverty, percent	▲ 10.7%
 BUSINESSES	
Businesses	
Total employer establishments, 2016	24,601 ¹
Total employment, 2016	346,947 ¹
Total annual payroll, 2016 (\$1,000)	15,816,748 ¹
Total employment, percent change, 2015-2016	-5.2% ¹
Total nonemployer establishments, 2015	53,263
All firms, 2012	68,270
Men-owned firms, 2012	37,016
Women-owned firms, 2012	20,316
Minority-owned firms, 2012	3,190
Nonminority-owned firms, 2012	62,271
Veteran-owned firms, 2012	6,584
Nonveteran-owned firms, 2012	56,904
 GEOGRAPHY	
Geography	
Population per square mile, 2010	9.7
Land area in square miles, 2010	69,000.80
FIPS Code	38

Value Notes

1. Includes data not distributed by county.

 Estimates are not comparable to other geographic levels due to methodology differences that may exist between different data sources.

Some estimates presented here come from sample data, and thus have sampling errors that may render some apparent differences between geographies statistically indistinguishable. Click the Quick Info  icon to the left of each row in TABLE view to learn about sampling error.

The vintage year (e.g., V2017) refers to the final year of the series (2010 thru 2017). *Different vintage years of estimates are not comparable.*

Fact Notes

- (a) Includes persons reporting only one race
- (b) Hispanics may be of any race, so also are included in applicable race categories
- (c) Economic Census - Puerto Rico data are not comparable to U.S. Economic Census data

Value Flags

- Either no or too few sample observations were available to compute an estimate, or a ratio of medians cannot be calculated because one or both of the median estimates falls in the lowest or upper interval of an open ended distribution.
- D** Suppressed to avoid disclosure of confidential information
- F** Fewer than 25 firms
- FN** Footnote on this item in place of data
- NA** Not available
- S** Suppressed; does not meet publication standards
- X** Not applicable
- Z** Value greater than zero but less than half unit of measure shown


QuickFacts data are derived from: Population Estimates, American Community Survey, Census of Population and Housing, Current Population Survey, Small Area Health Insurance Estimates, Small Area Income and Poverty Estimates, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits.

QuickFacts

Grand Forks city, North Dakota; Bismarck city, North Dakota; Fargo city, North Dakota


QuickFacts provides statistics for all states and counties, and for cities and towns with a *population of 5,000 or more*.


Table

ALL TOPICS	Grand Forks city, North Dakota	Bismarck city, North Dakota	Fargo city, North Dakota
Population estimates, July 1, 2016, (V2016)	57,339	72,417	120,762
 PEOPLE			
Population			
Population estimates, July 1, 2017, (V2017)	NA	NA	NA
Population estimates, July 1, 2016, (V2016)	57,339	72,417	120,762
Population estimates base, April 1, 2010, (V2017)	NA	NA	NA
Population estimates base, April 1, 2010, (V2016)	52,919	61,325	105,554
Population, percent change - April 1, 2010 (estimates base) to July 1, 2017, (V2017)	NA	NA	NA
Population, percent change - April 1, 2010 (estimates base) to July 1, 2016, (V2016)	8.4%	18.1%	14.4%
Population, Census, April 1, 2010	52,838	61,272	105,549
Age and Sex			
Persons under 5 years, percent	▲ 6.2%	▲ 6.7%	▲ 6.8%
Persons under 18 years, percent	▲ 19.0%	▲ 21.6%	▲ 19.9%
Persons 65 years and over, percent	▲ 11.1%	▲ 16.0%	▲ 10.9%
Female persons, percent	▲ 48.6%	▲ 50.9%	▲ 49.6%
Race and Hispanic Origin			
White alone, percent (a)	▲ 87.5%	▲ 91.1%	▲ 87.1%
Black or African American alone, percent (a)	▲ 3.0%	▲ 1.6%	▲ 4.6%
American Indian and Alaska Native alone, percent (a)	▲ 2.9%	▲ 3.9%	▲ 1.2%
Asian alone, percent (a)	▲ 2.7%	▲ 1.0%	▲ 3.4%
Native Hawaiian and Other Pacific Islander alone, percent (a)	▲ 0.1%	▲ 0.1%	▲ 0.0%
Two or More Races, percent	▲ 2.9%	▲ 2.1%	▲ 3.0%
Hispanic or Latino, percent (b)	▲ 3.6%	▲ 2.2%	▲ 3.0%
White alone, not Hispanic or Latino, percent	▲ 85.1%	▲ 89.5%	▲ 85.5%
Population Characteristics			
Veterans, 2012-2016	3,696	4,607	5,957
Foreign born persons, percent, 2012-2016	4.5%	2.5%	7.9%
Housing			
Housing units, July 1, 2016, (V2016)	X	X	X
Owner-occupied housing unit rate, 2012-2016	45.5%	63.1%	43.1%
Median value of owner-occupied housing units, 2012-2016	\$172,700	\$205,500	\$178,300
Median selected monthly owner costs -with a mortgage, 2012-2016	\$1,349	\$1,388	\$1,358
Median selected monthly owner costs -without a mortgage, 2012-2016	\$513	\$458	\$490
Median gross rent, 2012-2016	\$772	\$798	\$727
Building permits, 2016	X	X	X
Families & Living Arrangements			
Households, 2012-2016	23,829	30,553	51,354
Persons per household, 2012-2016	2.17	2.19	2.16
Living in same house 1 year ago, percent of persons age 1 year+, 2012-2016	74.7%	82.8%	72.9%
Language other than English spoken at home, percent of persons age 5 years+, 2012-2016	6.5%	4.9%	9.4%
Education			
High school graduate or higher, percent of persons age 25 years+, 2012-2016	93.8%	92.7%	93.9%
Bachelor's degree or higher, percent of persons age 25 years+, 2012-2016	35.0%	34.5%	38.2%
Health			
With a disability, under age 65 years, percent, 2012-2016	7.8%	7.3%	7.4%
Persons without health insurance, under age 65 years, percent	▲ 8.8%	▲ 8.8%	▲ 9.8%

Economy			
In civilian labor force, total, percent of population age 16 years+, 2012-2016	71.1%	70.8%	74.2%
In civilian labor force, female, percent of population age 16 years+, 2012-2016	68.0%	67.7%	70.9%
Total accommodation and food services sales, 2012 (\$1,000) (c)	173,404	236,578	389,121
Total health care and social assistance receipts/revenue, 2012 (\$1,000) (c)	647,871	1,078,011	1,860,300
Total manufacturers shipments, 2012 (\$1,000) (c)	564,078	D	2,601,405
Total merchant wholesaler sales, 2012 (\$1,000) (c)	697,757	1,346,847	4,124,858
Total retail sales, 2012 (\$1,000) (c)	1,501,753	1,948,724	3,299,921
Total retail sales per capita, 2012 (c)	\$28,093	\$30,096	\$30,060
Transportation			
Mean travel time to work (minutes), workers age 16 years+, 2012-2016	13.2	15.8	15.2
Income & Poverty			
Median household income (in 2016 dollars), 2012-2016	\$47,593	\$60,320	\$48,060
Per capita income in past 12 months (in 2016 dollars), 2012-2016	\$28,513	\$35,145	\$30,826
Persons in poverty, percent	▲ 20.6%	▲ 8.7%	▲ 14.6%
BUSINESSES			
Businesses			
Total employer establishments, 2016	X	X	X
Total employment, 2016	X	X	X
Total annual payroll, 2016 (\$1,000)	X	X	X
Total employment, percent change, 2015-2016	X	X	X
Total nonemployer establishments, 2015	X	X	X
All firms, 2012	4,533	6,996	11,347
Men-owned firms, 2012	2,479	3,673	6,252
Women-owned firms, 2012	1,260	2,486	3,404
Minority-owned firms, 2012	226	255	552
Nonminority-owned firms, 2012	4,027	6,303	10,133
Veteran-owned firms, 2012	459	769	1,093
Nonveteran-owned firms, 2012	3,748	5,627	9,300
GEOGRAPHY			
Geography			
Population per square mile, 2010	2,654.5	1,986.4	2,162.0
Land area in square miles, 2010	19.91	30.85	48.82
FIPS Code	3832060	3807200	3825700

Value Notes

 Estimates are not comparable to other geographic levels due to methodology differences that may exist between different data sources.

Some estimates presented here come from sample data, and thus have sampling errors that may render some apparent differences between geographies statistically indistinguishable. Click the Quick Info  icon to the left of each row in TABLE view to learn about sampling error.

The vintage year (e.g., V2017) refers to the final year of the series (2010 thru 2017). *Different vintage years of estimates are not comparable.*

Fact Notes

- (a) Includes persons reporting only one race
- (b) Hispanics may be of any race, so also are included in applicable race categories
- (c) Economic Census - Puerto Rico data are not comparable to U.S. Economic Census data

Value Flags

- Either no or too few sample observations were available to compute an estimate, or a ratio of medians cannot be calculated because one or both of the median estimates falls in the lowest or upper interval of an open ended distribution.
- D** Suppressed to avoid disclosure of confidential information
- F** Fewer than 25 firms
- FN** Footnote on this item in place of data
- NA** Not available
- S** Suppressed; does not meet publication standards
- X** Not applicable
- Z** Value greater than zero but less than half unit of measure shown

QuickFacts data are derived from: Population Estimates, American Community Survey, Census of Population and Housing, Current Population Survey, Small Area Health Insurance Estimates, Small Area Income and Poverty Estimates, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits.



PEPCUMGRH

Housing Unit Estimates for the 100 Fastest Growing Counties With 5,000 or More Housing Units: April 1, 2010 to July 1, 2017 - United States -- County

2017 Population Estimates

Geography: United States

Rank	Geography	Housing Unit Estimate		Change, 2010 to 2017	
		April 1, 2010 Estimates Base	July 1, 2017	Number	Percent
	United States				
1	McKenzie County, North Dakota	3,089	6,736	3,647	118.1
2	Williams County, North Dakota	10,465	19,608	9,143	87.4
3	Stark County, North Dakota	10,736	14,653	3,917	36.5
4	Dallas County, Iowa	27,261	36,844	9,583	35.2
5	Sumter County, Florida	53,026	70,580	17,554	33.1
6	Hays County, Texas	59,407	78,509	19,102	32.2
7	Fort Bend County, Texas	196,723	252,998	56,275	28.6
8	Forsyth County, Georgia	64,052	81,271	17,219	26.9
9	Broomfield County, Colorado	22,637	28,539	5,902	26.1
10	Wasatch County, Utah	10,573	13,302	2,729	25.8
11	Madison County, Idaho	11,287	14,112	2,825	25.0
12	Morton County, North Dakota	12,079	15,093	3,014	25.0
13	Ward County, North Dakota	26,744	33,103	6,359	23.8
14	Comal County, Texas	47,106	57,937	10,831	23.0
15	Mountrail County, North Dakota	4,119	5,050	931	22.6
16	Montgomery County, Texas	177,653	217,051	39,398	22.2
17	Rockwall County, Texas	27,932	33,992	6,060	21.7
18	Loudoun County, Virginia	109,455	132,965	23,510	21.5
19	Cass County, North Dakota	67,939	82,328	14,389	21.2
20	Collin County, Texas	300,846	363,568	62,722	20.8
21	Denton County, Texas	256,171	309,325	53,154	20.7
22	Bryan County, Georgia	11,835	14,222	2,387	20.2
23	Burleigh County, North Dakota	35,755	42,756	7,001	19.6
24	Williamson County, Tennessee	68,523	81,756	13,233	19.3
25	Boone County, Indiana	22,753	27,048	4,295	18.9
26	St. Johns County, Florida	89,824	106,530	16,706	18.6
27	Hamilton County, Indiana	106,772	126,594	19,822	18.6
28	Columbia County, Georgia	48,628	57,474	8,846	18.2
29	Washington County, Utah	57,735	68,226	10,491	18.2
30	Williamson County, Texas	162,737	192,217	29,480	18.1
31	West Baton Rouge Parish, Louisiana	9,324	10,949	1,625	17.4
32	Chambers County, Texas	13,293	15,598	2,305	17.3

Rank	Geography	Housing Unit Estimate		Change, 2010 to 2017	
		April 1, 2010 Estimates Base	July 1, 2017	Number	Percent
33	Gallatin County, Montana	42,289	49,444	7,155	16.9
34	Guadalupe County, Texas	50,016	58,427	8,411	16.8
35	Ascension Parish, Louisiana	40,774	47,534	6,760	16.6
36	Douglas County, Colorado	106,860	124,466	17,606	16.5
37	Utah County, Utah	148,386	172,791	24,405	16.4
38	Wilson County, Tennessee	45,585	53,012	7,427	16.3
39	Onslow County, North Carolina	68,241	79,305	11,064	16.2
40	Osceola County, Florida	128,170	148,901	20,731	16.2
41	Travis County, Texas	441,314	512,388	71,074	16.1
42	Wake County, North Carolina	371,858	431,281	59,423	16.0
43	Hancock County, Mississippi	21,868	25,334	3,466	15.8
44	New Kent County, Virginia	7,296	8,449	1,153	15.8
45	Bossier Parish, Louisiana	49,351	57,090	7,739	15.7
46	Walton County, Florida	45,133	52,167	7,034	15.6
47	Montgomery County, Tennessee	70,110	81,005	10,895	15.5
48	Brazos County, Texas	77,705	89,749	12,044	15.5
49	Brazoria County, Texas	118,324	136,364	18,040	15.2
50	Richland County, Montana	4,550	5,243	693	15.2
51	Hoke County, North Carolina	18,194	20,951	2,757	15.2
52	Kendall County, Texas	14,058	16,187	2,129	15.1
53	Scott County, Kentucky	19,309	22,223	2,914	15.1
54	Oconee County, Georgia	12,387	14,256	1,869	15.1
55	Lancaster County, South Carolina	32,688	37,607	4,919	15.0
56	Rutherford County, Tennessee	102,962	118,422	15,460	15.0
57	Effingham County, Georgia	19,887	22,844	2,957	14.9
58	Brunswick County, North Carolina	77,482	88,977	11,495	14.8
59	Lincoln County, South Dakota	17,874	20,525	2,651	14.8
60	Long County, Georgia	6,023	6,915	892	14.8
61	Jasper County, South Carolina	10,300	11,816	1,516	14.7
62	Uintah County, Utah	11,971	13,726	1,755	14.7
63	Franklin County, Washington	24,423	27,958	3,535	14.5
64	Minnehaha County, South Dakota	71,558	81,859	10,301	14.4
65	Berkeley County, South Carolina	73,380	83,911	10,531	14.4
66	Livingston Parish, Louisiana	50,177	57,263	7,086	14.1
67	Weld County, Colorado	96,286	109,869	13,583	14.1
68	Johnson County, Iowa	55,967	63,859	7,892	14.1
69	York County, South Carolina	94,186	107,313	13,127	13.9
70	Union County, South Dakota	6,280	7,141	861	13.7
71	Lafayette County, Mississippi	22,735	25,778	3,043	13.4
72	Ada County, Idaho	159,473	180,722	21,249	13.3
73	Durham County, North Carolina	120,248	136,131	15,883	13.2
74	Polk County, Texas	22,684	25,675	2,991	13.2
75	Benton County, Arkansas	93,095	105,269	12,174	13.1
76	Webb County, Texas	73,495	83,082	9,587	13.0
77	Grand Forks County, North Dakota	29,345	33,112	3,767	12.8

Rank	Geography	Housing Unit Estimate		Change, 2010 to 2017	
		April 1, 2010 Estimates Base	July 1, 2017	Number	Percent
78	Custer County, South Dakota	4,629	5,221	592	12.8
79	Tooele County, Utah	19,455	21,913	2,458	12.6
80	Ellis County, Texas	54,364	61,214	6,850	12.6
81	Midland County, Texas	54,346	61,132	6,786	12.5
82	Madison County, Mississippi	38,558	43,371	4,813	12.5
83	Grand County, Utah	4,816	5,414	598	12.4
84	Russell County, Alabama	24,597	27,636	3,039	12.4
85	Craighead County, Arkansas	40,516	45,493	4,977	12.3
86	Denver County, Colorado	285,635	320,545	34,910	12.2
87	Sussex County, Delaware	123,028	138,002	14,974	12.2
88	Stafford County, Virginia	43,979	49,299	5,320	12.1
89	Fredericksburg city, Virginia	10,438	11,696	1,258	12.1
90	Kootenai County, Idaho	63,166	70,758	7,592	12.0
91	Larimer County, Colorado	132,720	148,549	15,829	11.9
92	Warren County, Kentucky	47,219	52,791	5,572	11.8
93	Pottawatomie County, Kansas	8,628	9,644	1,016	11.8
94	Cherokee County, Georgia	82,370	92,057	9,687	11.8
95	Bell County, Texas	125,437	140,157	14,720	11.7
96	Davis County, Utah	97,577	108,875	11,298	11.6
97	McClain County, Oklahoma	13,996	15,616	1,620	11.6
98	Suffolk city, Virginia	33,031	36,851	3,820	11.6
99	Hidalgo County, Texas	248,289	276,743	28,454	11.5
100	Chatham County, North Carolina	28,750	32,043	3,293	11.5

Note: Areas are included in this table if their estimated housing units exceed the stated threshold at any point in the time series. The estimates are based on the 2010 Census and reflect changes to the April 1, 2010 housing units due to the Count Question Resolution program and geographic program revisions. All geographic boundaries for the 2017 housing unit estimates series are as of January 1, 2017. For the housing unit estimates methodology statement, see <http://www.census.gov/programs-surveys/popest/technical-documentation/methodology.html>.

Suggested Citation:

Housing Unit Estimates for the 100 Fastest Growing Counties With 5,000 or More Housing Units: April 1, 2010 to July 1, 2017

Source: U.S. Census Bureau, Population Division

Release Date: May 2018



Analytics and Research

North Dakota

At a Glance

State Chartered Bank Overview

	2018Q1	2017Q1	2016Q1	2015Q1	2014Q1
Total Assets (millions)	22,759	21,392	20,211	19,649	17,483
Institutions (#)	69	69	69	71	74
Count of New Institutions (<3 Years)	0	0	0	0	0
Institution (# - YoY Change)	0	0	(2)	(3)	(1)
Institution is Subchapter S	44	45	45	47	51

2018Q1 Breakdown by Asset Categories

	Institutions (#)	Total Assets (millions)
Up to \$50 Million	12	433
\$50 Million to \$100 Million	19	1,327
\$100 Million to \$300 Million	25	4,316
\$300 Million to \$1 Billion	6	3,190
\$1 Billion to \$2 Billion	5	5,987
\$2 Billion to \$10 Billion	2	7,506
Total	69	22,759

State's National Rank

24

By # of Institutions

42

By Total Assets

of 4 & 5 Rated Banks

0	0	0	0	0
2013	2014	2015	2016	2017

CHAPTER 43-23.3 REAL ESTATE APPRAISERS

43-23.3-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Analysis" means a study of real estate other than estimating value.
2. "Appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, real estate. An appraisal may be classified by subject matter into either a valuation or an analysis.
3. "Appraisal assignment" means an engagement for which a person is employed or retained to act, or would be perceived by the public as acting, as a disinterested party in rendering an unbiased supportable appraisal.
4. "Appraisal foundation" means the appraisal foundation incorporated as an Illinois corporation on November 30, 1987.
5. "Appraisal report" means any communication of an appraisal.
6. "Appraisal subcommittee" means the appraisal subcommittee of the federal financial institutions examination council.
7. "Appraiser" means a person who engages in appraisal activity for valuable consideration.
8. "Apprentice appraiser" means a person who holds a valid permit as an apprentice appraiser.
9. "Board" means the North Dakota real estate appraiser qualifications and ethics board.
10. "Certified appraiser" means a person who holds a valid permit as a certified residential or general appraiser.
11. "Certified general appraiser" means a person who holds a valid permit as a certified general appraiser.
12. "Certified residential appraiser" means a person who holds a valid permit as a certified residential appraiser.
13. "Licensed appraiser" means a person who holds a valid permit as a licensed appraiser.
14. "Permit" means the document issued by the board, verifying that the person named on the permit has fulfilled all prerequisites to practice either as an apprentice appraiser, a licensed appraiser, or a certified appraiser.
15. "Real estate" means an identified parcel or tract of land including improvements, and interests, benefits, and rights inherent in the ownership of real estate.
16. "Uniform standards of professional appraisal practices" means standards of appraisal promulgated by the appraisal foundation as adopted and modified by the board. The standards adopted and modified by the board must meet the minimum standards adopted by the appraisal foundation.
17. "Valuation" means an estimate of the value of real estate or real property.

43-23.3-02. North Dakota real estate appraiser qualifications and ethics board.

1. The governor shall appoint the board. The board must consist of five members. One member must represent the public; one member must be a representative of the financial industry; and three members must be appraisers, at least one of which is experienced in the appraisal of agricultural property.
 - a. Each appraiser member of the board must be either a licensed or certified appraiser, but at least two of the appraiser members must be certified appraisers.
 - b. The governor shall appoint the financial industry representative from a list of qualified individuals submitted by the North Dakota bankers associations, the credit union association of the Dakotas, and the North Dakota farm credit system associations. Each of these entities may submit two names of candidates to the governor. The public member of the board may not be engaged in the practice of real estate appraising.
2. The term of each member is five years. A member may not serve more than two consecutive five-year terms, after which at least two years must pass before the

governor may reappoint that former member to the board. The governor shall appoint members so the terms of no more than two members expire each year. A member of the board continues to hold office until the appointment and qualification of a successor. The governor may remove a board member for cause.

3. Annually the members shall elect a chairman from among the members. At least two of the members who are appraiser members must be present in order for a quorum to exist. The members are entitled to receive compensation for each day actually engaged in the service of the board and actual and necessary traveling expenses at the rate allowed other state officials, paid from the fees collected by the board.

43-23.3-03. Powers and duties of the board.

1. The board, or the board's designated representative, shall:
 - a. Define apprentice appraiser, licensed appraiser, certified residential appraiser, and certified general appraiser; determine the type of educational experience, appraisal experience, and equivalent experience that meet the requirements of this chapter; establish application procedures; and establish standards for approval and disapproval of applications for permits.
 - b. Establish examination specifications for each category of licensed and certified appraiser and administer examinations.
 - c. Approve or disapprove applications for permits, issue pocket cards and permits to practice, and maintain a registry of the names and addresses of individuals holding permits.
 - d. Discipline permittees.
 - e. Hold meetings, hearings, and examinations in places and at times as the board designates and maintain records of board activities.
 - f. Adopt rules, pursuant to chapter 28-32, necessary to implement this chapter or carry out the requirements imposed by federal law.
 - g. Adopt rules that clearly and concisely establish the standards for approval and disapproval of applications for permits. The rules must include a requirement that an application disapproval clearly specify the basis for the disapproval.
 - h. Keep permittees informed of board activities, including providing notification of board member terms and any upcoming board vacancy; internet posting of meeting notices and minutes; and internet posting of proposed and final rule changes.
2. The board, or the board's designated representative, may:
 - a. Promote research and conduct studies relative to real estate appraising and sponsor educational activities.
 - b. Contract for services necessary to carry out this chapter.
3. The board, or the board's authorized representative, may investigate and gather evidence concerning alleged violations of the provisions of chapter 43-23.3 or the rules of the board. Board investigative files are exempt records as defined in subsection 5 of section 44-04-17.1, but a copy of the investigative file must be provided to a licensee if a complaint is filed against the licensee by the board.

43-23.3-03.1. Public records exception.

Documents obtained by the board as part of the licensing, investigation, or disciplinary process which are deemed confidential under the uniform standards of professional appraisal practices are exempt records as defined in subsection 5 of section 44-04-17.1.

43-23.3-04. Permit required - Exemptions.

Except as provided in this section, a person may not directly or indirectly engage in, advertise, conduct the business of, or act in any capacity as an apprentice, licensed, or certified appraiser without first obtaining a permit as provided in this chapter. An appraiser, apprenticed, licensed, or certified in another state may not engage in, advertise, conduct the business of, or act in any capacity as an appraiser in this state without first obtaining a temporary permit under

section 43-23.3-11 or a permit under section 43-23.3-04.1. This chapter does not apply to a licensed real estate broker or salesperson who, in the ordinary course of business, gives an opinion to a potential seller or third party as to the recommended listing price of real estate or an opinion to a potential purchaser or third party as to the recommended purchase price of real estate. However, the opinion as to the listing price or the purchase price may not be referred to as an appraisal. This chapter does not apply to a person who, in the ordinary course of business, gives an opinion of the value of real estate to that person's employer.

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

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

43-23.3-05. Permit process.

An individual who desires to engage in the practice of real estate appraisal shall apply for a permit on forms prescribed by the board and submit the required fee.

43-23.3-06. Classes of permits.

The board may issue apprentice, license, and certification permits for appraisers.

1. An apprentice appraiser must meet the minimum requirements established by the board for a permit. An apprentice appraiser may only assist a licensed or a certified appraiser in the performance of an appraisal assignment.
2. A licensed appraiser must meet the minimum requirements established by the board for a permit.
3. A certified residential appraiser must meet the minimum requirements established by the board for a permit. The board's requirements may not exceed the appraisal foundation qualification criteria. The board shall review periodically the appraisal foundation appraisal qualification criteria to ensure the board's rules do not exceed the appraisal qualification criteria.
4. A certified general appraiser must meet the minimum requirements established by the board for a permit. The board's requirements may not exceed the appraisal foundation qualification criteria. The board shall review periodically the appraisal foundation appraisal qualification criteria to ensure the board's rules do not exceed the appraisal qualification criteria.

43-23.3-07. Examination requirement.

The board shall issue a permit to practice as a licensed, certified residential, or certified general appraiser to an individual who has demonstrated the following qualifications through a written examination process:

1. Knowledge of technical terms used in or related to real estate appraising, appraisal report writing, and economic concepts relating to real estate.
2. Understanding of the principles of land economics, appraisal processes, and of problems likely to be encountered in gathering, interpreting, and processing of data in carrying out appraisal disciplines.
3. Understanding of the uniform standards of professional appraisal practices.
4. Knowledge of theories of depreciation, cost estimating, methods of capitalization, the mathematics of real estate appraisal, and other principles and procedures determined by the board to be appropriate for the appreciable classification of permit.
5. Basic understanding of real estate law.
6. Understanding of the types of misconduct for which disciplinary proceedings may be initiated against an appraiser.

43-23.3-08. Application prerequisites.

An applicant for a permit as an apprentice, licensed, certified residential, or certified general appraiser must successfully complete the education requirements established by the board.

43-23.3-09. Appraisal experience.

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

43-23.3-10. 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.

43-23.3-11. Temporary permit.

1. The board may issue a temporary permit to an applicant who is apprenticed, licensed, or certified in good standing by another state. The board may deny a temporary permit to an applicant whose permit, apprenticeship, 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 applicant.
3. The board may issue a temporary permit to an applicant if the applicant agrees in writing to abide by this chapter and to submit to the jurisdiction of the board.
4. The board shall issue a temporary permit to an applicant who has complied with this section. The board may require the applicant to pay a fee. The board shall determine the amount of the fee and the duration of the temporary permit.

43-23.3-12. Permit renewal.

To renew a permit, the permittee shall apply to the board and pay the required fee. With the application for renewal, the appraiser shall present evidence of having completed the continuing education requirements for renewal. The board may adopt rules to allow permits to be assigned to inactive status. Permits assigned to inactive status are subject to disciplinary action and activation of an inactive permit may be subject to a denial by the board.

43-23.3-13. Principal place of business.

A permittee shall notify the board of the address of the permittee's place of business. Within twenty days of a change in the address of the place of business, the permittee shall give written notification of the change to the board and pay the change of address fee.

43-23.3-14. Permit number displayed with signature.

A permittee shall place the permittee's permit number adjacent to the permittee's signature on an appraisal report, contract, or other writing used by the permittee in conducting appraisal activities.

43-23.3-15. Use of designation.

The terms "apprentice appraiser", "licensed appraiser", "certified residential appraiser", "certified general appraiser", and "certified appraiser" may only be used to refer to an individual who holds a permit under this chapter and may not be used following or immediately in connection with the name or signature of any other individual or person or in a manner that might be interpreted as referring to any other individual or person other than the individual who holds the permit. This section does not prohibit a licensed or certified appraiser from signing an appraisal report on behalf of a corporation, limited liability company, partnership, or firm.

43-23.3-16. Action for fee.

No claim for relief may be instituted in any court of this state for compensation for an act done or service rendered as an apprentice, licensed, or certified appraiser unless the appraiser held a permit to practice under this chapter at the time of offering to perform the act or service or procuring a promise to contract for the payment of compensation for a contemplated act or service as an apprentice, licensed, or certified appraiser.

43-23.3-17. Retention of records.

An apprentice, licensed, or certified appraiser shall retain, for at least five years, originals or copies of all written contracts engaging the permittee's services for appraisal work and all reports and supporting data assembled and formulated by the permittee in preparing the reports. The period for retention of records applies to each engagement of the services of the permittee and commences upon the date of the submission of the appraisal to the client unless, within that period, the permittee is notified that the appraisal report is involved in litigation, in which event the period for the retention of records commences on the date of the final disposition of the litigation. The permittee shall make available for inspection and copying by the board on reasonable notice all records required to be maintained.

43-23.3-18. Standards of professional appraisal practice.

An apprentice, licensed, or certified appraiser shall comply with the standards of professional appraisal practice and ethical rules specified by the uniform standards of professional appraisal practice and all other standards and ethical requirements adopted by the appraisal foundation.

43-23.3-19. Continuing education.

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.

43-23.3-20. Fees.

The board may charge apprentice, licensed, and certified permittees and educational providers or promoters reasonable fees to help offset costs of operating the board. The board shall establish the charges by rule.

43-23.3-21. Disposition of fees.

The board, or its designated representative, shall deposit all fees collected by the board in a separate account. Disbursements from the account may not exceed the moneys credited to it. The board's designated representative shall review and pay appropriate charges against the account for services provided to the board.

43-23.3-22. Disciplinary proceedings.

1. The board may deny an application for, refuse to renew, suspend, or revoke a permit, impose a monetary fine, or issue a letter of reprimand, when the applicant or permittee has:
 - a. Procured or attempted to procure a permit by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification, or through fraud or misrepresentation.
 - b. Failed to meet the minimum qualifications established under this chapter.
 - c. Paid money other than provided for by this chapter to any member or employee of the board to procure a permit.
 - d. Been convicted, including a conviction based upon a plea of guilty or nolo contendere, of a felony or of a crime that is substantially related to the qualifications, functions, and duties of a person developing and communicating appraisals to others.
 - e. Performed an act involving dishonesty, fraud, or misrepresentation with the intent to benefit substantially that person or another person, or with the intent to injure substantially another person.
 - f. Violated any standard for the development or communication of appraisals as provided in this chapter.
 - g. Failed or refused without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal.
 - h. Acted with gross negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal.
 - i. Willfully violated this chapter or rules of the board.
 - j. Accepted an appraisal assignment when the employment is contingent upon the reporting of a predetermined estimate, analysis, or opinion, or if the fee is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment.
 - k. Violated the confidential nature of governmental records to which the person gained access through employment or engagement as an appraiser by a governmental agency.
 - l. Had entry of a civil judgment against the person on grounds of fraud, misrepresentation, or deceit in the making of an appraisal.
2. In a disciplinary proceeding based upon a civil judgment, the permittee must be afforded an opportunity to present matters in mitigation and extenuation, but may not collaterally attack the civil judgment.
3. A signed or unsigned allegation from the public is not a complaint until the board determines there is reasonable cause to initiate a disciplinary proceeding against one or more applicants or permittees.

43-23.3-23. Penalties.

A person acting or purporting to act as an apprentice, licensed, or certified appraiser without holding a permit to practice is guilty of a class A misdemeanor. An appraiser, apprenticed, 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 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.

43-23.3-24. Criminal history record checks.

The board shall require an applicant for a permit, under sections 43-23.3-04.1, 43-23.3-07, 43-23.3-08, and 43-23.3-09, and may require a permittee to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be

conducted in the manner provided in section 12-60-24. All costs associated with obtaining a background check are the responsibility of the applicant or permittee.

CHAPTER 43-23.5
APPRAISAL MANAGEMENT COMPANIES

43-23.5-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Appraisal firm" means any person or entity that exclusively employs persons on an employer and employee basis for the performance of real estate appraisal services in the normal course of its business and the real estate appraisal services being performed are in accordance with the uniform standards of professional appraisal practices.
2. "Appraisal management company" means, in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party that oversees a network or panel of more than fifteen certified or licensed appraisers in this state or twenty-five or more nationally within a given year, that is authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter or other principal in the secondary mortgage markets that engages in appraisal management services.
3. "Appraisal management services" means to, directly or indirectly, perform any of the following functions on behalf of a lender, financial institution, client, or any other person in conjunction with a consumer credit transaction that is secured by a consumer's primary dwelling:
 - a. Administer an appraiser panel.
 - b. Recruit, retain, or select appraisers.
 - c. Qualify, verify licensing or certification, and negotiate fees and service level expectations with persons who are part of an appraiser panel.
 - d. Contract with appraisers to perform appraisal assignments.
 - e. Receive an order for an appraisal from one person, and deliver the order for the appraisal to an appraiser that is part of an appraiser panel for completion.
 - f. Manage the process of having an appraisal performed, including providing administrative duties, such as receiving appraisal orders and reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed.
 - g. Track and determine the status of appraisal orders.
 - h. Conduct an appraisal review or other quality control of a completed appraisal prior to the delivery of the appraisal to the person that ordered the appraisal.
 - i. Provide a completed appraisal performed by an appraiser to one or more clients.
4. "Appraisal review" means the act or process of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraisal assignment related to the appraiser's data collection, analysis, opinions, conclusions, estimate of value, or compliance with the uniform standards of professional appraisal practice. This term does not include:
 - a. A general examination for grammatical, typographical, or other similar errors.
 - b. A general examination for completeness, including regulatory client requirements, or both, as specified in the agreement process that does not communicate an opinion.
5. "Appraiser panel" means a network of licensed or certified appraisers who have:
 - a. Responded to an invitation, request, or solicitation from an appraisal management company, in any form, to perform appraisals for persons that have ordered appraisals through the appraisal management company, or to perform appraisals for the appraisal management company directly, on a periodic basis, as requested and assigned by the appraisal management company.
 - b. Been selected and approved by an appraisal management company to perform appraisals for any client of the appraisal management company that has ordered an appraisal through the appraisal management company, or to perform

- appraisals for the appraisal management company directly, on a periodic basis, as assigned by the appraisal management company.
6. "Board" means the North Dakota real estate appraiser qualifications and ethics board.
 7. "Controlling person" means:
 - a. An officer, director, or owner of greater than a ten percent interest of a corporation, partnership, or other business entity seeking to act as an appraisal management company in this state.
 - b. An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter a contractual relationship with other persons for performance of services requiring registration as an appraisal management company and has the authority to enter agreements with appraisers for the performance of appraisals.
 - c. An individual who possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of an appraisal management company.
 8. "Federal financial institutions regulatory agencies" includes the board of governors of the federal reserve system, the federal deposit insurance corporation, the office of the comptroller of the currency, and the national credit union administration.
 9. "Federally related transaction" means any real estate-related financial transaction which a federal financial institutions regulatory agency or the resolution trust corporation engages in, contracts for, or regulates, and requires the services of an appraiser.
 10. "Real estate-related financial transaction" means any transaction involving:
 - a. The sale, lease, purchase, investment in, or exchange of real property, including interests in property or the financing thereof.
 - b. The refinancing of real property or interests in real property.
 - c. The use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

43-23.5-02. Rulemaking authority.

The board shall have the authority to adopt rules that are reasonably necessary to implement, administer, and enforce the provisions of this chapter.

43-23.5-03. Registration required.

It is unlawful for a person to directly or indirectly engage or to attempt to engage in business as an appraisal management company, to directly or indirectly perform or to attempt to perform appraisal management services, or to advertise or hold itself out as engaging in or conducting business as an appraisal management company without first obtaining a registration issued by the board.

43-23.5-04. Registration process.

An applicant for registration as an appraisal management company shall submit to the board an application on forms prescribed by the board and pay a fee established by the board. The forms shall require information necessary to determine eligibility for registration.

43-23.5-05. Consent to service of process.

An applicant for registration as an appraisal management company that is not domiciled in this state shall complete an irrevocable consent to service of process, as prescribed by the secretary of state.

43-23.5-06. Expiration of registration.

Registrations will expire on September thirtieth of each year. The expiration date of the registration must appear on the registration and no other notice of its expiration need be given to the registrant.

43-23.5-07. Exemptions.

The provisions of this chapter shall not apply to:

1. An appraisal firm.
2. A financial institution, including a department or unit within the institution, that is regulated by an agency of this state or the United States government.
3. A person who enters an agreement with an appraiser for the performance of an appraisal that upon completion results in a report signed by both the appraiser who completed the appraisal and the appraiser who requested completion of the appraisal.
4. An appraisal management company with an appraisal panel of not more than fifteen certified or licensed appraisers in this state or twenty-five or more nationally within a given year.
5. An appraisal management company that is a subsidiary owned and controlled by a financial institution that is subject to appraisal independence standards at least as stringent as those under chapter 43-23.5-21, if regulated by an agency of this state, or the Truth in Lending Act [15 U.S.C. 1601 et seq.], if regulated by the United States government.

43-23.5-08. Owner requirements.

1. An appraisal management company applying for, holding, or renewing a registration under this chapter shall not be more than ten percent owned by:
 - a. A person who has had an appraiser license or certification in this state or in any other state refused, denied, canceled, revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently granted or reinstated.
 - b. An entity that is more than ten percent owned by any person who has had an appraiser license or certification in this state or any other state refused, denied, canceled, revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently granted or reinstated.
2. Each person that owns more than ten percent of an appraisal management company applying for, holding, or renewing a registration under this chapter shall:
 - a. Be of good moral character.
 - b. Submit to a criminal background investigation for an initial application or as required by the board.
3. Each appraisal management company applying for a registration or for renewal of a registration under this chapter shall certify to the board on a form prescribed by the board that the company has reviewed each entity that owns more than ten percent of the appraisal management company and that no entity that owns more than ten percent of the appraisal management company is more than ten percent owned by any person that has had an appraiser license or certification in this state or any other state refused, denied, canceled, revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently granted or reinstated.

43-23.5-09. Controlling person.

An appraisal management company applying for a registration or for renewal of a registration in this state shall designate one controlling person that shall serve as the main contact for all communication between the board and the company. The controlling person shall:

1. Remain in good standing in this state or in any other state that the controlling person holds a licensure or certification permit from; however, nothing in this chapter shall require that a designated controlling person hold an appraiser license or certification in any jurisdiction.
2. Have never had an appraiser license or certification in this state or any other state refused, denied, canceled, revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently reinstated or granted.
3. Be of good moral character.
4. Submit to a criminal background investigation for an initial application or as required by the board.

43-23.5-10. Employee requirements.

An appraisal management company that applies to the board for a registration or to renew a registration to do business in this state as an appraisal management company may not:

1. Knowingly employ any person for the performance of appraisal or appraisal management services who has had an appraiser license or certification in this state or any other state refused, denied, canceled, revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently reinstated or granted.
2. Knowingly enter any independent contractor arrangement, whether in verbal, written, or other form, for the performance of appraisal or appraisal management services, with any person that has had an appraiser license or certification in this state or any other state refused, denied, canceled, revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently reinstated or granted.
3. Knowingly enter any contract, agreement, or other business relationship, whether in verbal, written, or any other form, with any entity that employs, has entered an independent contract arrangement, or has entered any contract, agreement, or other business relationship, whether in verbal, written, or any other form, for the performance of appraisal or appraisal management services, with any person that has had an appraiser license or certification in this state or any other state refused, denied, canceled, revoked, or surrendered in lieu of a pending disciplinary proceeding in any jurisdiction and not subsequently reinstated or granted.

43-23.5-11. Appraiser engagement.

Before or at the time of placing an assignment with an appraiser on the appraiser panel of an appraisal management company, the appraisal management company shall verify that the appraiser receiving the assignment holds a permit in good standing in this state.

43-23.5-12. Appraisal review.

Any employee of, or independent contractor to, the appraisal management company that performs an appraisal review for a property located in this state must be:

1. A certified or licensed appraiser in good standing in this state.
2. A certified or licensed appraiser in good standing in another state.

43-23.5-13. Verification of licensure or certification.

1. An appraisal management company registered in this state may not enter any contract or agreement with an appraiser for the performance of appraisals unless the company verifies that the appraiser is licensed or certified in good standing in this state.
2. An appraisal management company seeking to be registered in this state or to renew a registration in this state shall certify to the board on a form prescribed by the board that the company has a system and process in place to verify that an individual being added to the appraiser panel of the company for appraisal services holds a permit in good standing in this state.

43-23.5-14. Appraisal management company certification of appraisal review system.

Each appraisal management company seeking to be registered or to renew a registration in this state shall certify to the board on a form prescribed by the board that the company has a system in place to perform an appraisal review of the work product of a statistically significant number of appraisal reports submitted by independent appraisers performing appraisals for the appraisal management company on a periodic basis to validate that the appraisals are being conducted in accordance with the uniform standards of professional appraisal practice, and chapter 43-23.3, and the rules adopted under this chapter. An appraisal management company shall report to the board the results of any appraisal reviews in which an appraisal is found to be substantially noncompliant with the uniform standards of professional appraisal practice.

43-23.5-15. Retention of records.

1. Each appraisal management company seeking to be registered or to renew an existing registration in this state shall certify to the board on a form prescribed by the board that the company maintains a detailed record of each service request that the company receives for appraisal of real property located in this state.
2. An appraisal management company registered in this state shall retain for five years all records required to be maintained under this chapter as described in rules. This five-year period shall commence on the date of the final action by the appraisal management company for each individual transaction or, if the appraisal management company is notified that the transaction is involved in litigation, the five-year period shall commence on the date the litigation is finally disposed.
3. All records required to be maintained by the registered appraisal management company may be made available for inspection and copying by the board on reasonable notice to the appraisal management company.

43-23.5-16. Fee disclosure system requirement.

1. An appraisal management company registered in this state shall disclose to its clients the fees paid for appraisal management services and the fees paid to the independent appraiser for the completion of an appraisal assignment.
2. An appraisal management company registered in this state shall not prohibit an independent appraiser that is part of an appraiser panel from recording the fee that the appraiser was paid by the appraisal management company for the performance of the appraisal within the communication of the appraisal.

43-23.5-17. Requirement of appraisal management company's payment to appraiser.

1. An appraisal management company shall, except in bona fide cases of breach of contract or substandard performance of services, make payment to an independent appraiser for the completion of an appraisal or valuation assignment within forty-five days of the date on which the appraiser transmits or otherwise provides the completed appraisal or valuation assignment to the company or its assignee unless a mutually agreed-upon alternate arrangement has been previously established.
2. An appraisal management company seeking to be registered or to renew an existing registration in this state shall certify that the company will require appraisals to be conducted independently as required by the appraisal independence standards under section 129E of the Truth in Lending Act, including the requirements of payment or a reasonable and customary fee to independent appraisers when the appraisal management company is providing services for a consumer credit transaction secured by the principal dwelling of a consumer.

43-23.5-18. Appraisal management company registration numbers.

1. The board shall issue a registration number to each appraisal management company that is registered in this state.
2. The board shall maintain a list of the appraisal management companies that are registered with the board.
3. An appraisal management company registered in this state shall place its registration number on engagement documents utilized by the appraisal management company for procurement of appraisal services in this state.

43-23.5-19. Fees - Bonds.

1. The board may charge the appraisal management company reasonable fees to help offset costs of operating the board. The board shall establish fees by rule.
2. The board may require by rule a surety bond of not more than twenty-five thousand dollars.

43-23.5-20. Mandatory reporting.

An appraisal management company that has a reasonable basis to believe an appraiser has failed to comply with applicable laws or rules or has substantially violated the uniform standards of professional appraisal practice shall refer the matter to the board.

43-23.5-21. Prohibited conduct.

A violation of this section may constitute grounds for discipline against an appraisal management company registered in this state. However, an appraisal management company may request an appraiser provide additional information about the basis for a valuation, correct objective factual errors in an appraisal report, or consider additional appropriate property information. No employee, director, officer, agent, independent contractor, or other third party acting on behalf of an appraisal management company may:

1. Procure or attempt to procure a registration by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for registration, or through fraud or misrepresentation.
2. Willfully violate this chapter or rules of the board.
3. Improperly influence or attempt to improperly influence the development, reporting, result, or a review of an appraisal through intimidation, coercion, extortion, bribery, or any other manner, including:
 - a. Withholding payment for appraisal services.
 - b. Threatening to exclude an appraiser from future work or threatening to demote or terminate in order to improperly obtain a desired result.
 - c. Conditioning payment of an appraisal fee upon the opinion, conclusion, or valuation to be reached.
 - d. Requesting an appraiser to report a predetermined opinion, conclusion, or valuation or the desired valuation of any person or entity.
4. Require an appraiser to provide the appraisal management company with the appraiser's digital signature or seal.
5. Alter, amend, or change an appraisal report submitted by an appraiser without the appraiser's knowledge and written consent.
6. Except within the first ninety days after an independent appraiser is added to an appraiser page, remove an independent appraiser from an appraiser panel without prior written notice to the appraiser, with the prior written notice including evidence of the following, if applicable:
 - a. The appraiser's illegal conduct.
 - b. A violation of the uniform standards of professional appraisal practice, this chapter, or the rules adopted by the board.
 - c. Improper or unprofessional conduct.
7. Require an appraiser to sign any indemnification agreement that would require the appraiser to defend and hold harmless the appraisal management company or any of its agents or employees for any liability, damage, losses, or claims arising out of the services performed by the appraisal management company or its agents, employees, or independent contractors and not the services performed by the appraiser.
8. Prohibit lawful communications between the appraiser and any other person who the appraiser, in the appraiser's professional judgment, believes possesses information that would be relevant.
9. Engage in any other act or practice that impairs or attempts to impair a real estate appraiser's independence, objectivity, and impartiality.
10. Submit or attempt to submit false, misleading, or inaccurate information in any application for registration or renewal.
11. Fail to timely respond to any subpoena or any other request for information.
12. Fail to timely obey an administrative order of the board.
13. Fail to fully cooperate in any investigation.

43-23.5-22. Disciplinary proceedings.

The board may deny, suspend, revoke, impose a monetary penalty, issue a letter of reprimand, refuse to issue or renew the registration of an appraisal management company, or take other disciplinary action when:

1. The applicant or any partner has, within twelve months preceding the date of the application, violated any provision of this chapter.
2. The applicant is not of good moral character.
3. The applicant has been the holder of a registration revoked or suspended for cause, or surrendered in lieu of disciplinary proceedings.
4. The applicant, in the case of an application for renewal of any registration, would not be eligible for such registration on a first application.
5. The issuance of the registration applied for would result in a violation of any provision of this chapter or the rules adopted by the board.
6. In the conduct of affairs under the registration, demonstrated incompetency, or untrustworthiness, or conduct or practices rendering the registrant unfit to carry on appraisal management services or making continuance in the business detrimental to the public interest, or that the licensee is no longer in good faith carrying on appraisal management services, and for this conduct is found by the board to be a source of detriment, injury, or loss to the public.
7. Committed any act in violation of this chapter.
8. Violated any rule or regulation adopted by the board in the interest of the public and consistent with the provisions of this chapter.
9. Procured a registration or a renewal of a registration for the appraisal management company or committed any other act by fraud, misrepresentation, or deceit.

43-23.5-23. Criminal history background checks.

The board shall require an applicant for registration under section 43-23.5-03, an owner under section 43-23.5-08, or a controlling person under section 43-23.5-09 to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided in section 12-60-24. All costs associated with obtaining a background check are the responsibility of the applicant or the regulated individual.

43-23.5-24. Penalty.

Any person who performs appraisal management services without a certificate of registration as required by this chapter is guilty of a class A misdemeanor.

CHAPTER 6-03
POWERS, MANAGEMENT, AND OPERATION OF BANKS

6-03-01. Powers before receipt of certificate of authority.

No association may transact any business, except such as is incidental and necessarily preliminary to its organization, until it has been authorized by the secretary of state to commence the business of banking and has received a certificate of authorization, and such certificate has been returned by the commissioner with the commissioner's certificate that the capital stock and required surplus have been paid in full, that federal deposit insurance corporation insurance of deposits has been secured, and that all conditions of the law have been strictly complied with.

6-03-02. Powers.

After an association has made and filed articles of association and an organization certificate, it becomes a body corporate, and as such, and in the name designated in the certificate, it, subject to section 6-03-01, has the power to:

1. Have a perpetual existence, unless it is sooner dissolved according to the provisions of this title, or unless its franchise becomes forfeited by a violation of law.
2. Make contracts.
3. Sue and be sued.
4. Elect or appoint directors, such board to consist of any number of members, not less than three nor more than twenty-five, at least two-thirds of whom must be citizens of the United States, and, by such board of directors, to appoint a president, who must be a member of said board, and such other employees as may be required, to define their duties, to require bonds of them and fix the penalty thereof, and to dismiss such officers and employees, or any of them, and appoint others to fill their places.
5. Provide, by its board of directors, bylaws not inconsistent with the laws of this state to regulate the manner in which its directors and officers must be elected or appointed. Vacancies in the board of directors, not exceeding one-third of the whole membership thereof in any calendar year, must be filled by a majority vote of the remaining members. The bylaws must provide a method for filling vacancies exceeding that number.
6. Provide, by its board of directors, bylaws not inconsistent with the laws of this state to regulate the manner in which its stock and property must be transferred, its business conducted, and the privileges granted to it by law exercised and enjoyed.
7. Exercise, as determined by the board by order or rule, all the incidental powers as are necessary to carry on the business of banking, including discounting and negotiating promissory notes, bills of exchange, drafts, and other evidences of debt; receiving deposits; buying and selling exchange, coin, and bullion; loaning money upon real or personal security, or both; soliciting and receiving deposits in the nature of custodial accounts for the purpose of health savings or similar health care cost funding accounts, retirement fund contracts, or pension programs, and such custodial accounts are exempt from chapter 6-05; and providing services to its customers involving electronic transfer of funds to the same extent that other financial institutions chartered and regulated by an agency of the federal government are permitted to provide those services within this state. A bank that provides electronic funds transfer equipment and service to its customers, at premises separate from its main banking house or duly authorized facility approved by the state banking board, must make the equipment and service available for use by customers of any other bank upon the request of the other bank to share its use and the agreement of the other bank to share pro rata all costs incurred in connection with its installation and operation, and the electronic operations are not deemed to be the establishment of a branch, nor of a separate facility. The electronic operations at premises separate from its banking house or duly authorized facility must be considered a customer electronic funds transfer center and may be established subject to rules that the state banking board adopts.

8. Enter into contracts, incur obligations, and generally to perform all acts necessary or appropriate to take advantage of any and all memberships, loans, subscriptions, contracts, grants, rights, or privileges which may be or become available or may inure to banking institutions or to their depositors, creditors, stockholders, conservators, receivers, or liquidators under the provisions of the federal Act creating the federal deposit insurance corporation or under any other Act or regulation of Congress to aid, regulate, or safeguard banking institutions and their depositors, including any amendments thereto or substitution therefor, when authorized so to do by its board of directors.
9. Subscribe for and acquire any stock, debentures, bonds, or other types of securities of the federal deposit insurance corporation and to comply with the lawful regulations and requirements from time to time issued or made by such corporation.
10. Take, receive, and hold United States postal savings deposits and to take any action necessary to procure the deposit of the same.
11. Enter into the business of dealing in securities and stock for the purpose of purchasing and selling such securities and stock without recourse, solely upon the order, and for the account of individual and institutional customers and to provide portfolio investment advisory, management, information, forecasting, and research services to such customers in combination with or separate from such purchases and sales.
12. Exercise fiduciary powers upon application as provided under section 6-05-01 as the board may prescribe by rule.
13. Invest all moneys received by it in a trust, in authorized securities, and be responsible to the owner or a third-party beneficiary for the validity, regularity, quality, value, and genuineness of these investments and securities at the time made and for the safekeeping of these securities and the evidences of the securities. When special directions are given in any order, judgment, decree, will, or other written instrument as to the particular manner or the particular class or kind of securities or property in which any investment may be made, a bank shall follow this direction and, in such case, it is not further responsible by reason of the performance of the trust. A bank may retain and continue any investment and security or securities coming into its possession in any fiduciary capacity. For the faithful discharge of its duties and the discharge of its trust, it is entitled to reasonable compensation or an amount as has been or may be agreed upon by the parties and all necessary expenses, with legal interest on those amounts. The trustee may acquire and retain securities of any open-end or closed-end management type investment company or investment trust registered under the Federal Investment Company Act of 1940 [Pub. L. 76-686; 54 Stat. 789; 15 U.S.C. 80a-1 - 80a-52]. The fact that the banking institution, or an affiliate of the banking institution, is providing services to the investment company or trust as investment advisor, sponsor, broker, distributor, custodian, transfer agent, registrar, or otherwise and receiving compensation for the services does not preclude the trustee from investing in the securities of that investment company or trust. The banking institution and trust shall disclose to all current income beneficiaries of the trust the rate, formula, and method of the compensation, and the relationship of ownership. No compensation or commission paid or agreed to be paid to it for the negotiation of a loan or the execution of a trust may be deemed interest within the meaning of the law, nor may any excess thereof over the legal rate be deemed usury.

6-03-02.1. Indemnification by banking association.

Each banking association has the same power to indemnify as provided for business corporations in section 10-19.1-91.

6-03-02.2. Issuance of certificates of deposit - Penalty.

Certificates of deposit, as defined in section 41-03-04, may only be issued in this state by financial institutions authorized to issue certificates of deposit and chartered to do business in this state under this chapter or as authorized under section 6-06-06.1. Any person violating this section is subject to a civil penalty not to exceed five thousand dollars.

6-03-02.3. Parity for state and national banks.

Subject to authorization by the state banking board, acting by order or rule, a state bank has the same powers as a national bank and may engage directly or indirectly in any activity in which a bank could engage if the state bank were nationally chartered.

6-03-03. Directors - Qualifying shares - Issue and transfer.

Repealed by S.L. 1985, ch. 116, § 2.

6-03-04. Director's oath of office - Filing.

Every director, when elected or appointed, shall take an oath that the director shall, so far as the duty devolves upon a director, diligently and honestly administer the affairs of the association and will not knowingly violate or willingly permit to be violated any of the provisions of this title. Such oath, subscribed by the director making it and certified by the officer before whom it was taken, at once must be transmitted to the commissioner to be filed in the commissioner's office.

6-03-04.1. Standard of conduct for directors of financial institutions.

1. A director shall discharge the duties of the position of director in good faith, in a manner the director reasonably believes to be in the best interests of the financial institution, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. A person who so performs those duties is not liable by reason of being or having been a director of the financial institution.
2. A director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by:
 - a. One or more officers or employees of the financial institution whom the director reasonably believes to be reliable and competent in the matters presented;
 - b. Counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence;
 - or
 - c. A committee of the board upon which the director does not serve, duly established by the board as to matters within its designated authority, if the director reasonably believes the committee to merit confidence.
3. Subsection 2 does not apply to a director who has specialized knowledge concerning the matter in question that makes the reliance otherwise permitted by subsection 2 unwarranted.
4. A director who is present at a meeting of the board when an action is approved by the affirmative vote of a majority of the directors present is presumed to have assented to the action approved, unless the director:
 - a. Objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate thereafter in the meeting, in which case the director shall not be considered to be present at the meeting for any purpose;
 - b. Votes against the action at the meeting; or
 - c. Is prohibited from voting on the action:
 - (1) By the articles;
 - (2) By the bylaws;
 - (3) As the result of a decision to approve, ratify, or authorize a transaction that meets the standards and follows the process stated in section 10-19.1-51 for a business corporation; or
 - (4) By a conflict of interest policy adopted by the board.
5. A director's personal liability to the financial institution or its shareholders for monetary damages for breach of fiduciary duty as a director may be eliminated or limited in the articles. The articles may not eliminate or limit the liability of a director:
 - a. For any breach of the director's duty of loyalty to the financial institution or its shareholders;

- b. For acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
 - c. For illegal distributions which a director who is present and not disqualified from acting has voted for or failed to vote against;
 - d. For any transaction from which the director derived an improper personal benefit; or
 - e. For any act or omission occurring prior to the date when the provision in the articles eliminating or limiting liability becomes effective.
6. In discharging the duties of the position of director, a director may, in considering the best interests of the financial institution, consider the interests of the financial institution's employees, customers, suppliers, and creditors; the economy of the state and nation; community and societal considerations; and the long-term and short-term interests of the financial institution and its shareholders, including the possibility these interests may be best served by the continued independence of the financial institution.

6-03-05. Loans on real estate - Regulation - Limitation.

- 1. Before any real estate loan equal to or more than two hundred fifty thousand dollars is made, an appraisal must be conducted by a licensed or certified appraiser if required by the federal Financial Reform, Recovery, and Enforcement Act of 1989 [Pub. L. 101-73; 103 Stat. 512; 12 U.S.C. 3332 et seq.].
- 2. Before any real estate loan that does not meet the requirements of subsection 1 is made, a bank must obtain an appropriate evaluation of real property collateral for transactions if an appraisal by a licensed or certified appraiser is not obtained.
- 3. Regardless of the value of a real estate loan, the commissioner may issue an order requiring an appraisal by a licensed or certified appraiser when necessary to address safety and soundness concerns. Any real estate loan made must conform to loan-to-value limits as established by rule by the state banking board under chapter 28-32.

6-03-05.1. Additional optional loans and advances.

Repealed by S.L. 1991, ch. 84, § 1.

6-03-05.2. Agricultural loan amortization and deferral.

Expired under S.L. 1989, ch. 99, § 3.

6-03-06. Sale of real estate loans.

In selling or disposing of loans made upon real estate security, no association has power to guaranty the payment or collection thereof except as necessary to sell residential mortgage loans on the secondary market, and any such guaranty made in violation of this provision is not binding on the association but is upon the officer or other person making the same.

6-03-07. Investment in banking facility, furniture, and fixtures - Limitation.

A state banking association may not invest more than sixty-five percent of the amount of its unimpaired capital stock, surplus, and undivided profits in a banking facility, furniture, fixtures, and equipment without the approval of the commissioner or the state banking board.

6-03-08. Powers as to other real estate.

Every state banking association has the power to purchase, hold, and convey other real estate as herein provided, and not otherwise:

- 1. Such as is mortgaged to it in good faith by way of security for loans or for debts previously contracted.
- 2. Such as is conveyed to it in good faith in satisfaction of debts previously contracted in the course of its dealings.

3. Such as it purchases at sales under judgments, decrees, or mortgages held by the association or purchases to secure debts due to it.

Upon transfer to other real estate owned, a current appraisal must be conducted by an individual who is independent of the transaction. Notwithstanding other sections of this chapter, a bank may apply to the commissioner for authority to exchange its interest in real property acquired in satisfaction of a debt previously contracted for an interest in an entity that would dispose of the real property. If the commissioner's decision with respect to an application is unfavorable, the applicant bank may appeal the decision to the state banking board by filing a notice of appeal with the commissioner within twenty business days after the commissioner has notified the applicant bank of the decision.

6-03-09. Holding of real estate - Limitation.

No banking association may hold the possession of any real estate under mortgage, nor title and possession of any real estate purchased to satisfy indebtedness, for a longer period than five years from the date of acquiring title thereto unless such time has been extended by certificate of the commissioner.

6-03-10. Violation of powers - Penalty.

Any banking association violating the provisions of the preceding sections of this chapter relating to powers, at the discretion of the state banking board, shall forfeit its charter. Any officer, director, or employee who knowingly violates or permits the violation of any of such provisions is guilty of a class B misdemeanor.

6-03-11. Conversion, consolidation, or merger.

Any two or more banking institutions upon making application to the state banking board may consolidate or merge if authorized by the board into one banking institution under the charter of either existing banking institution on such terms and conditions as lawfully may be agreed upon by a majority of the board of directors of each banking institution proposing to consolidate or merge subject to rules adopted by the state banking board. Before becoming final, such consolidation or merger must be ratified and confirmed by the vote of the shareholders of each such banking institution owning at least two-thirds of its capital stock outstanding at a meeting to be held on the call of the directors. Notice of such meeting and of the purpose thereof must be given to each shareholder of record by registered or certified mail at least ten days prior to the meeting. The shareholders may unanimously waive such notice and may consent to such meeting and consolidation or merger in writing. The capital stock and surplus of such consolidated banking institution must not be less than that required under this title for the organization of a banking institution of the class of the largest consolidating banking institution. Immediately after the consolidation or merger a full report thereof, including a statement of the assets and liabilities of the consolidated banking institution, must be made to the commissioner by the surviving banking institution. Any banking institution may without approval by any state authority convert into or merge or consolidate with a national banking association as provided by federal law. A national bank proposing to merge into a state-chartered bank shall grant the commissioner discretionary authority to conduct an examination. The commissioner shall set fees for such examination at an hourly rate sufficient to cover all reasonable expenses of the department of financial institutions associated with the examination. Fees must be collected by the commissioner and deposited in the financial institutions regulatory fund.

6-03-12. Transfer of assets on consolidation or merger.

All of the rights, property, franchises, and interests of the consolidating or merging bank or trust company are deemed to be transferred to and vested in the bank or trust company into which it is consolidated or merged without other instrument of transfer. The consolidated bank or trust company shall hold and enjoy the same and all rights, property, franchises, and interests in the same manner and to the same extent as were held and enjoyed by the bank or trust company so consolidated or merged therewith, including the holding and performing by any

bank or trust company of any and all trust and fiduciary relations whatsoever as to and for which either or any of the banks or trust companies so consolidating or merging may have been appointed, nominated, or designated by any will, agreement, conveyance, or otherwise, whether or not such trust or fiduciary relationship has come into being or has taken effect at the time of the consolidation or transfer. The merging bank or trust company, however, shall transfer all of its real property to the consolidated bank or trust company by good and sufficient deed of conveyance, and for that and other purposes, it remains a body corporate until dissolved in the manner provided in chapter 6-07, or if no assets or liabilities remain, until the certificate is canceled by the secretary of state.

6-03-13. Conversion to national bank - Sale of bank - Removal to new location.

An association organized to do business in any city in this state, and which has sold or converted its business to a national bank or to any other banking association which is continued at the same place, may not use its charter to recommence business at another place without first obtaining the consent of the state banking board. When a banking association which has not so converted or sold its business is located at a place where there is not, or can reasonably project that there will not be, sufficient business for the profitable conduct of a bank, such association may apply to the state banking board for authority to remove its business to some other place within the state and to change its name if desired, and upon the approval of such application, by the board and the proper amendment of the articles of incorporation, the board may issue authority for such removal and change. No such association, however, is permitted to remove its business to any city unless it has the full amount of capital stock and surplus required by this title for a new organization in such city. A banking association may apply to the state banking board for authority to move its main office to any location currently being operated by the banking association as a facility or to another location within the same corporate city limits.

6-03-13.1. Separate facilities authorized.

Upon compliance with section 6-03-13.3, any bank organized under chapter 6-02 and under the supervision of the state banking board, and any national bank doing business in this state, may maintain and operate separate and apart from its banking house facilities, in addition to such service at its main banking house. Any activity incidental to the business of banking may be transacted at a separate facility, including receiving deposits of every kind and nature, cashing checks or orders to pay, issuing exchange, making loans, renting safe deposit boxes, exercising fiduciary powers if authorized by the board, and receiving payments payable at the bank. Whenever any banking institution that has been granted approval to establish and maintain a facility deems it advisable to discontinue the maintenance of the facility, the banking institution may apply to the commissioner or state banking board for cancellation and the commissioner or board may order the cancellation approval within the time the board specifies. The banking institution shall provide notice of the application as required by the board by rule.

6-03-13.2. Further limitations upon facility.

Repealed by S.L. 1991, ch. 86, § 4.

6-03-13.3. Facts considered for approval.

Whenever any bank desires to maintain and operate a facility separate and apart from its banking house, pursuant to section 6-03-13.1, or to move a facility previously established to another location, it shall apply to the commissioner or the comptroller of the currency, as the case may be, for such authority and provide the commissioner with such relevant information as the commissioner may reasonably request. In determining whether to approve the application for such facility, the commissioner shall take into consideration the following facts:

1. The convenience, needs, and welfare of the people of the community and area served.
2. The financial strength of the bank in relation to the cost of establishing and maintaining such separate facility.
3. Whether other banks will be seriously injured by the approval of the application.

When considering an application for relocating an existing facility to another location within the same corporate city limits, the commissioner may consider only subsection 2 as a factor for approval.

Upon approval by the state banking board of a merger application under section 6-03-11, the former main office and facilities of the banking institutions being merged will become facilities of the surviving banking institution and the banking institution is not required to file an application under this section.

If the commissioner's decision with respect to an application is unfavorable, the applicant bank may appeal the decision to the state banking board by filing a notice of appeal with the commissioner within twenty days after the commissioner has notified the applicant bank of the decision.

If an interested party files a protest with respect to an application, the matter will be referred to and decided by the state banking board.

6-03-13.4. Effect of authority.

Every paying and receiving station, banking house or office, or drive-in and walkup facility existing on August 1, 1996, must be considered a separate facility approved by the state banking board or the comptroller of the currency, as the case may be, under this chapter. A facility approved under this section may continue to provide from the facility those services or functions as were permitted to be provided before August 1, 1996. National banking associations located in this state have the same, but no greater, right by virtue of sections 6-03-13.1 and 6-03-13.3 as banks organized under the laws of this state.

6-03-13.5. National bank, federal savings association, or state savings and loan association conversion to state bank.

A national bank, federal savings association, or state savings and loan association located in this state which follows the procedure prescribed by federal law to convert into a state bank must be granted a state charter if it meets the provisions of the North Dakota Century Code for the incorporation and chartering of a new state bank. Any requirement that shares must be paid in cash may be satisfied by the exchange of shares of the converted state bank for those of the converting national bank, federal savings association, or state savings and loan association, which may be valued at no more than their fair cash market value. The procedure for incorporation of a state bank may be modified by the board to the extent made necessary by the difference between an ordinary incorporation and a conversion and no public hearing need be held on a conversion application. A national bank, federal savings association, or state savings and loan association proposing to convert into a state-chartered bank shall grant the commissioner discretionary authority to conduct an examination. The commissioner shall set fees for the examination at an hourly rate sufficient to cover all reasonable expenses of the department of financial institutions associated with the examination. Fees must be collected by the commissioner, transferred to the state treasurer, and deposited in the financial institutions regulatory fund.

6-03-13.6. Branch conversions.

Notwithstanding section 6-03-13.1, any bank organized under chapter 6-02, any national bank doing business in this state, or any bank established in this state by any bank holding company doing business in this state as of January 1, 1995, may convert a branch of a federal savings and loan association located in this state which was in existence as of March 1, 1995, purchased by the bank between January 1, 1995, and August 1, 1996, into a facility of the bank to be maintained at the same branch location if the acquisition and conversion does not violate the deposit limitations provisions contained in sections 6-08-30 and 6-08.3-03.1 and the acquisition and conversion of the branch is approved by the appropriate regulatory agencies.

6-03-14. Paying and receiving stations authorized.

Repealed by S.L. 1995, ch. 79, § 24.

6-03-14.1. Maintenance of facilities of merged banks.

Repealed by S.L. 1995, ch. 79, § 24.

6-03-14.2. Subsidiary depository institutions as agents.

Any bank subsidiary of a bank holding company may receive deposits, renew time deposits, close loans, service loans, and receive payments on loans and any other obligations as an agent for a depository institution affiliate, subject to any requirements established by the board by rule. Notwithstanding any other law, a bank acting as an agent under this section may not be considered to be a branch of the affiliate. However, a depository institution may not conduct any activity as an agent that it is prohibited from conducting as a principal under any federal or state law.

6-03-15. Application to state banking board to establish stations.

Repealed by S.L. 1995, ch. 79, § 24.

6-03-15.1. Temporary relocation of bank operations.

In the event of an emergency, a bank may apply to the commissioner to relocate its main banking house or facility until the former location is repaired to allow bank operations to resume. No notice or public hearing need be held to act upon the temporary relocation request.

6-03-15.2. Operations during epidemic or emergency - Notice to commissioner.

A bank that operates physical facilities in any area that is experiencing an epidemic or other emergency may adjust the bank's operations in any manner that is reasonable to protect the bank's customers, employees, assets, or business. Under this section a bank may temporarily close or relocate offices, employees, or operations; restrict access to offices or services; and change the manner in which the bank provides banking services. A bank shall notify the commissioner of any actions the bank takes under the authority of this section. The bank shall give the commissioner notice promptly and in any case within three business days of the bank's decision to adjust the bank's operations. The notice must describe the bank's actions and the expected duration of the bank's adjusted operations. Unless extended by the commissioner, a bank's authority to change the bank's operations under this section may not exceed sixty days.

6-03-16. Investigation and procedure on application to establish station.

Repealed by S.L. 1995, ch. 79, § 24.

6-03-17. Transaction of business at and regulation of station.

Repealed by S.L. 1995, ch. 79, § 24.

6-03-18. When station must be discontinued - Revocation of permit.

Repealed by S.L. 1995, ch. 79, § 24.

6-03-19. Cancellation of station permit on application to board.

Repealed by S.L. 1995, ch. 79, § 24.

6-03-20. Impairment of capital - Notice to commissioner - Penalty.

The president, cashier, or other officer in active charge of any state banking association shall notify the commissioner immediately by certified mail of any impairment of capital or reduction of capital stock thereof, and any such officer failing so to do is guilty of a class B misdemeanor.

6-03-21. Impairment of capital - Dividends stopped - Action by board - Restoration.

Whenever the capital of any state banking association becomes impaired or the capital stock reduced below the amount required by this title or by the articles of incorporation, no dividend may be declared nor distribution of profits made thereafter while any debts of the association remain unsatisfied, nor until the impairment or deficiency is made good. Whenever it

appears that the capital of any state banking association has become impaired or its capital stock reduced, the commissioner shall report the same to the state banking board immediately. The commissioner thereupon shall issue and enforce the necessary order restraining the declaring of dividends and requiring that the impairment or deficiency be made good. The impairment or deficiency must be made good within sixty days thereafter, or the commissioner, upon the order or direction of the state banking board, may take charge of the state banking association and proceed to liquidate the association as in case of insolvency.

6-03-22. Impairment of capital - Stock assessments - Notice and limitation.

When the capital of any association becomes impaired or when its capital stock is reduced below the amount required by this title or its articles of incorporation, the board of directors of the association has the power, and it is its duty, immediately to make a pro rata assessment upon all the outstanding stock of the association to make good such impairment or deficiency, and to serve notice thereof by registered or certified mail upon each stockholder of record, directed to such stockholder at the stockholder's address last known to the board. Any such assessment or assessments may not exceed in the aggregate one hundred percent of the face value of the stock in the first year and may not exceed twenty-five percent in any succeeding year. The notice must specify the date on which the assessment is due and payable, and such date may not be less than ten days nor more than thirty days after the date of mailing the notice of assessment.

6-03-23. Capital stock may be increased.

Any association may provide, either by its articles of incorporation, by subsequent resolution, or by written agreement of the holders of a majority of its stock, for an increase in its capital stock from time to time subject to the limitations of this title. No increase in capital stock is valid until the whole amount has been paid in, in cash, and such payment certified under oath by the president or cashier of the association to the secretary of state, nor until the secretary of state executes a certificate specifying that this chapter has been complied with, the amount of the increase in capital stock, and that the increase has been paid in as part of the capital of the association, nor until a copy of such certificate has been filed with the state banking board.

6-03-24. Capital stock may be reduced.

Any association may reduce its capital stock to any sum not less than the amount required to authorize the formation of any association by vote of its shareholders owning two-thirds of its stock. No such reduction may be made, however, until the amount thereof proposed is reported to the state banking board and its approval in writing obtained. No such reduction may affect the liability of shareholders for any debts of the association incurred prior to the reduction, and every such reduction must be certified to and a copy of the certificate filed in the same manner as for an increase of capital stock before it becomes valid.

6-03-25. Approval of increase or reduction by stockholders - Notice of stockholders' meeting.

An increase or reduction of the capital stock of any association is not valid unless approved by the stockholders of the association at a meeting called for that purpose. Notice of the time and place of the meeting stating its object and the amount to which it is proposed to increase or reduce the capital stock of the association must be served personally or by registered or by certified mail on each stockholder of the association at least thirty days prior to the time set for such meeting. The notice must be given to stockholders whose places of residence are unknown or who are not residents of this state by publication of the notice at least once prior to the meeting in a legal newspaper of the county in which the principal office of the association is situated. A vote in favor of an increase in capital stock is not effective until the proceedings of the meeting showing the names of all of the stockholders voting for the increase and the amount of stock owned by each have been entered upon the records of the association.

6-03-26. Meeting not required when all stockholders agree in writing to increase or reduction.

If all the stockholders of an association agree in writing to an increase or reduction in its capital stock, no meeting need be called for the purpose of effecting the increase or reduction. The directors shall file such written agreement, together with the certificate required under sections 6-03-23 and 6-03-24, with the secretary of state, who thereupon shall issue the secretary of state's certificate that the provisions of this title have been complied with.

6-03-27. List of shareholders to be kept and filed.

1. The president of every banking institution formed pursuant to the provisions of this title, at all times, shall keep a true and correct list of the names and post-office addresses of all shareholders of such banking institution, with the amount of stock held by each, the date of transfer, and to whom transferred, which list shall be verified on the thirty-first day of December of each year. A copy of the verified list shall be filed in the office of the commissioner on the same date.
2. The commissioner may request at least annually a list of all shareholders of a bank holding company controlling a state-chartered banking institution.

6-03-28. Shares - Value and transfer - Shareholder's obligation.

The capital stock of each association must be divided into shares of not less than ten dollars each and is deemed personal property and transferable on the books of the association in such manner as may be prescribed by its bylaws or articles of incorporation. A transfer of shares is not valid except between the parties to the transfer until the transfer is entered upon the books of the association and is not valid against the association or any creditor of the association while the registered holder of the shares is indebted to the bank as principal debtor, surety, guarantor, or otherwise. No dividend, interest, or profit may be paid on any stock of the bank or bank holding company as long as any past-due liability of the shareholder continues, but such dividend, interest, or profit must be retained by the association and applied to the discharge of the past-due liability. Every person or corporation becoming a shareholder by any transfer shall succeed, in proportion to the shares acquired by that shareholder, to all rights and liabilities of prior holders of the shares existing by reason of ownership of the shares and no change may be made in the articles of incorporation or bylaws of the association by which the rights, remedies, or security of its existing creditors shall be impaired.

6-03-29. Responsibility of shareholders - Double liability.

Repealed by S.L. 1953, ch. 96, § 3.

6-03-29.1. Responsibility of shareholders.

Repealed by omission from this code.

6-03-30. Shareholder's liability - Limitation - Publication of notice.

Repealed by omission from this code.

6-03-31. Delinquent stock - Sale - Notice.

Whenever any shareholder or shareholder's assignee fails to pay any assessment of the stock when the assessment is required to be paid, the board of directors of the association may sell at public or private sale, whichever appears to it best for all concerned, so much of the stock, at the best price obtainable, as is necessary to pay the assessment and costs of the sale. The sale must be made on a day certain to be fixed by the board not less than thirty days after the day set for the payment of the assessment. Notice of the time and place of the sale must be given to the shareholder in the manner following:

1. In the event of a private sale, by forwarding the notice to the person or persons in whose name the stock stands on the books of the association, at least twenty days prior to the date fixed for the sale, by registered or certified mail addressed to the shareholder's address last known to the board of directors.

2. In the event of a public sale, by one publication of a notice thereof, at least twenty days prior to the date fixed for such sale, in a newspaper published in the county wherein the association is located.

A sale of stock as herein provided effects an absolute cancellation of the outstanding certificate or certificates in the hands of the delinquent shareholder, or the delinquent shareholder's assignee or pledgee, and a new certificate must be issued by the association and delivered to the purchaser for the number of shares purchased, and a new certificate for the remaining shares, if any, must be issued to the shareholder and delivered to the shareholder, or the shareholder's assignee or pledgee, upon the surrender of the original certificate or certificates involved. Any proceeds of such sale remaining after the delinquent assessment and the expenses of the sale have been fully paid must be paid over to the shareholder, or the shareholder's assignee or pledgee.

6-03-32. When no bids for purchase of delinquent stock.

If no bidder who will pay to the association the amount due on the stock and the costs and expenses of sale for the transfer of the stock to that person appears at the time and place set for the sale, no sale may be made, and all the shares of the shareholder must be forfeited to the association together with all amounts previously paid thereon. The association forthwith shall cancel such shares upon its books and records and shall deduct the same from its capital stock and immediately shall notify the commissioner in writing of the action taken. The record of the association's stock book showing the sale or cancellation of stock is prima facie evidence of the regularity of the proceedings of the sale or cancellation.

6-03-33. Loans on shares prohibited - Disposal of stock acquired.

No association or banking institution may make any loan or discount on the security of the shares of its own stock or of the stock of any holding company which controls the association or banking institution, nor be a purchaser or holder of any such shares, unless such security or purchase is necessary to prevent loss upon a debt previously contracted in good faith. Stock so acquired must be sold or disposed of at public or private sale within thirty days after it is acquired, and if not sold within such time, it must be canceled and deducted from the capital stock of the association, banking institution, or holding company, and the association, banking institution, or holding company shall notify the commissioner in writing of such cancellation. For the purpose of this section, "control" means ownership, or control directly, indirectly, or through the actions of one or more persons of the power to vote twenty-five percent or more of any class of voting securities of the association or banking institution, of the power to control in any manner the election of a majority of the directors of the association or banking institution, or to direct the management or policies of the association or banking institution.

6-03-34. Surplus fund required - Dividends only out of earnings not required for surplus.

The board of directors of any association organized under this title may declare and pay dividends out of the net profits of the association subject to the limitations of this chapter. Every such association, as its board of directors deems advisable, shall ascertain, set apart, and convert into a surplus fund at least fifty percent of its net earnings until such surplus fund equals one hundred percent of its common stock, and no dividend may be declared upon its stock except from the remaining fifty percent of its net earnings.

6-03-35. Surplus fund exempt from taxation.

The surplus fund of any association organized under this title, in an amount not exceeding one hundred percent of its capital stock, is exempt from taxation and must not be taken into account in determining the taxable value of the shares of stock of the association.

6-03-36. Capital must be maintained - Dividends prohibited under certain conditions.

1. No director or officer of an association may permit the impairment of an association's capital by the payment of dividends or otherwise.

2. Except as provided in subsection 4, no dividend may be paid which exceeds the following amount:
 - a. An association's net profits for the period beginning January first of the year for which the proposed dividends are declared and ending as reported in the most recent quarter-end call report; plus
 - b. The association's net profits for the preceding two calendar years as reported in the year-end call report; less
 - c. Any required transfers to:
 - (1) Surplus; and
 - (2) Funds for the retirement of preferred stock, capital notes, and debentures.
3. For the purpose of this section, "net profits" means the institution's net profits after taxes prior to extraordinary items less dividends as reported on the call reports.
4. Payment of a dividend which exceeds the calculated amount in subsection 2 may be made only with prior approval of the commissioner or state banking board.

6-03-37. Reserve funds.

Every banking association shall have on hand at all times in available funds an amount which meets the requirements of the board of governors of the federal reserve system.

6-03-37.1. Bank loans of excess reserves.

Obligations representing loans from one business day to the next to any state-chartered bank or national banking association of excess reserve balances from time to time maintained under the provisions of section 6-03-37, as amended, may not be deemed loans or additions to any loans for the purposes of section 6-03-59.

6-03-38. Assets not to be used in other business - Exceptions - Penalty.

Except as otherwise authorized under this title, a bank may not employ its money or other assets as principal, directly or indirectly, in trade or commerce, nor may a bank employ or invest any of its assets or funds in the stock of any corporation, limited liability company, bank, partnership, firm, or association. However, to the extent a bank subject to the laws of the federal government is permitted to do so, a state bank may purchase shares of stocks, or any other type of securities offered by small business investment companies organized and licensed under Public Law No. 85-699, known as the Small Business Investment Company Act of 1958 [72 Stat. 689; 15 U.S.C. 661 et seq.], and the Small Business Equity Enhancement Act of 1992 [Pub. L. 102-366; 106 Stat. 1007-1020; 15 U.S.C. 661 et seq.], and any amendments thereto, or chapter 10-30, but in no event may any state bank hold securities of small business investment companies in an amount determined by the state banking board, but in no event more than ten percent of the bank's capital and surplus. A bank may not invest the bank's assets or funds in speculative margins of stock, bonds, grain, provisions, produce, or other commodities, except that it is lawful for a bank to make advances for grain or other products in store or in transit to market. A bank may invest in subsidiary organizations, when the activities of such organizations are incidental or complementary to the bank's activities, with the specific approval of the state banking board for each such subsidiary. The state banking board has the same power to make rules for the subsidiary organizations, and to examine the organizations' records and affairs, as it has for other financial corporations under section 6-01-04. If the state banking board determines that such investments would be detrimental to the interests of a bank's depositors, the state banking board may direct the bank to divest itself of such subsidiary investments. Any officer, director, or employee of any bank who invests or uses the bank's funds contrary to this title is guilty of a class A misdemeanor.

6-03-39. Investment in federal reserve bank stock authorized.

A bank shall have authority to invest such part of its funds in stock of the federal reserve bank of this district as may be necessary to permit the bank to become a member of the federal reserve association, and such stock may be carried as a part of the bank's assets.

6-03-40. Investment in capital stock of certain agricultural credit corporations authorized - Limitations.

Repealed by S.L. 1947, ch. 108, § 1.

6-03-40.1. Liquidation of investments in agricultural credit corporations - Penalty.

Repealed by S.L. 1969, ch. 108, § 1.

6-03-41. Issuance of capital notes or debentures - Not subject to double liability.

With the approval of the commissioner, any banking institution, through action by its board of directors taken at any time and without requiring any action by its stockholders, may issue and sell its capital notes or debentures. All capital notes or debentures are subordinate and subject to the claims of depositors, and at the time of issue may be subordinated and subjected to the claims of other creditors, but in no case may be subject to assessment. The holders of capital notes or debentures as such are not responsible individually for any debts, contracts, or engagements of the issuing institution.

6-03-42. Capital notes or debentures included in capital - Retirement.

The term "capital" as used in this title embraces the amount of outstanding capital notes and debentures legally issued by any banking institution. The capital stock of a banking institution is unimpaired when the amount of such capital notes and debentures as represented by sound assets exceeds the impairment as found by the commissioner. The commissioner must approve of any retirement of any capital notes or debentures and may require the bank to issue some other form of capital before retiring the capital notes or debentures.

6-03-43. Preferred stock authorized - Notice to and consent of stockholders.

Any banking institution, with the consent of the commissioner and upon the written consent of all of its stockholders, or by vote of its stockholders owning a majority of the stock of such institution, may issue preferred stock of one or more classes in such amount, upon such conditions and limitations and with such par value as shall be approved by the commissioner. When it is necessary to call a meeting of the stockholders to approve the issuance of preferred stock, the board of directors of the institution shall cause notice of the meeting to be served on each stockholder by registered or certified mail addressed to the stockholder's last-known post-office address at least sixty days prior to the meeting. After an institution has been authorized to issue preferred stock, its board of directors may make necessary amendments to the articles of incorporation of the institution. Notice to and approval by the stockholders of an institution which has not issued common stock is not required before preferred stock may be issued.

6-03-44. Preferred stock included in capital - Reduction of common stock.

The preferred stock lawfully issued by a banking institution must be included in determining whether such banking institution has complied with the minimum capital stock requirements provided in this title. Such preferred stock may be used in the capital structure of such institution in the reduction of the common stock or in addition thereto. This section may not be construed as in any manner decreasing the amount of capital required of an institution under the laws of this state.

6-03-45. Preferred stock - Rights of holders - Nonassessable.

The holders of preferred stock are entitled to all rights and privileges and are subject to all limitations and restrictions with respect to dividends, voting, conversion rights, control of management, retirement and replacement of stock, rights and preferences in case of liquidation, and such other rights or privileges as may be fixed and provided in the articles of incorporation of the issuing institution. Preferred stock is nonassessable, and the holders thereof individually are not responsible as such holders for any debts, contracts, or engagements of the bank.

6-03-46. Exchange of preferred stock for capital notes or debentures.

Any banking institution, after first obtaining the consent and approval of the commissioner, may exchange its preferred stock for its capital notes or debentures.

6-03-47. Investment in loans and obligations secured by federal or state government.

Banks, trust companies, the Bank of North Dakota, building and loan associations, insurance companies, and other organizations in this state whose mortgage lending is regulated by law, or that are duly qualified federal housing administration mortgagees, are authorized to make, buy, or sell any loan, advances of credit, and obligations representing loans and advances of credit that are insured or guaranteed, or where there is a commitment to insure or guarantee, in part or in full, or conditionally, by the United States, its instrumentalities, this state, or its instrumentalities.

6-03-47.1. Investment in loans secured by federal or state government.

Repealed by S.L. 1969, ch. 112, § 1.

6-03-47.2. Investments of state banks.

In addition to the other powers authorized by law under this title, any state banking association may invest its funds in:

1. Bonds, notes, or debentures of any corporation rated at "A" or higher by a nationally recognized rating service approved by the commissioner, provided that the lesser of the book value or face value of the investments at the time of purchase may not exceed for any one corporation twenty-five percent of the unimpaired capital and surplus of the banking association.
2. Equity and debt instruments of corporations or projects designed primarily to promote community welfare such as economic rehabilitation and development of low-income areas, subject to approval and regulation of the state banking board but not to exceed for the total of all investments under this subsection, ten percent of the combined capital and surplus of the banking association.
3. Investments, in either equity or debt instruments or securities, offered by small business investment companies organized and licensed by the Small Business Administration under the Small Business Investment Company Act of 1958 [Pub. L. 85-699; 72 Stat. 689; 15 U.S.C. 661 et seq.], and the Small Business Enhancement Act of 1992 [Pub. L. 102-366; 106 Stat. 1007-1020; 15 U.S.C. 661 et seq.], and any amendments thereto.

6-03-47.3. Bank investment in investment company shares.

Financial institutions under the jurisdiction of the state banking board may invest in shares of investment companies registered under the Investment Companies Act of 1940 and which invest only in investments otherwise permitted under this chapter. The state banking board may issue rules and regulations governing investments by North Dakota financial institutions in shares of registered investment companies.

6-03-47.4. Bank investment in federal agricultural mortgage corporation stock.

Financial institutions under the jurisdiction of the state banking board may invest in stock and equity instruments of the federal agricultural mortgage corporation. The state banking board may adopt rules governing investments by North Dakota financial institutions in the stock and equity instruments of the federal agricultural mortgage corporation.

6-03-48. Investment in notes or bonds secured by insured mortgage - Debentures of federal housing administrator authorized.

Banks, savings banks, trust companies, savings and loan associations, executors, administrators, guardians, trustees, and other fiduciaries, the state of North Dakota and its political subdivisions, institutions, and agencies thereof, and all other persons, associations, and corporations subject to the laws of this state may invest the funds and moneys in their custody

or possession eligible for investment in notes or bonds secured by mortgage or deed of trust insured by the federal housing administrator, in debentures issued by the federal housing administrator, and in securities issued by national mortgage associations.

6-03-49. Federal housing administrator - Insured bonds and notes - Debentures - Security for deposits.

Notes and bonds insured and debentures issued by the federal housing administrator are eligible as collateral to secure the deposit of public or other funds, as deposits with any public official or department, and for investment of capital, surplus, reserve, or other funds where such investment is limited to designated securities.

6-03-49.1. Bank investment in service corporation - Service corporation services and activities.

Subject to the approval of the state banking board, any bank may invest not more than ten percent of paid-in and unimpaired capital and unimpaired surplus in stocks, bonds, debentures, or other obligations of any North Dakota corporation organized as a bank service corporation having its principal place of business in the state and operated exclusively for the purpose of providing for such bank and one or more other banks, bank services which the banks would otherwise be required or permitted to provide for on an individual bank basis. The term bank services in this section includes services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices and similar items, or any other clerical, bookkeeping, accounting, statistical, or similar functions performed by a bank. Payment for rent earned, goods sold and delivered, or services rendered prior to the making of the payment is not an investment.

A bank service corporation may be chartered under the laws of this state with shareholders limited to state and national banks located within the state and corporations that are organized as associations of state and national banks located within the state to provide all the services, except deposit taking, that all the banks that are its shareholders can offer directly to their own customers at any place in the state where they can offer their services, including owning and administering a credit card program for customers of banks and engaging in activities incidental to banking services and other activities that further or facilitate the corporate purposes of a bank or subsidiaries of a bank, so long as such services may be lawfully performed by both its national bank shareholders under the laws of the United States and its state bank shareholders under the laws of this state.

6-03-50. Exceptions from restrictive provisions.

No law of this state requiring security upon which loans or investments may be made, or limiting the making of loans to shareholders or members of the lender, or prescribing the nature, amount or forms of such security, or prescribing or limiting interest rates upon loans or investments, or prescribing or limiting the period for which loans or investments may be made, may be deemed to apply to loans or investments made pursuant to sections 6-03-47, 6-03-48, and 6-03-49.

6-03-51. Borrowing, normal and emergency - Limitations.

Any state banking association has power to borrow money subject to the limitations of this chapter. Money borrowed from correspondent banks must be evidenced by the promissory note or notes of the borrowing association, and no such association may issue its certificate of deposit for money so borrowed or otherwise conceal the true nature of the transaction. Nothing herein affects the right of a state banking association to receive bona fide deposits from banks or other persons.

6-03-52. Borrowing and rediscounting - Authorization by directors.

No banking association may borrow money, rediscount paper with recourse on it, or pledge securities for money borrowed or rediscounted paper, except in accordance with express authority conferred by resolution of its board of directors indicating the officer or officers who are

authorized to borrow, rediscount, and pledge and the extent of their authority. Every such resolution must be entered in the minute book of the association, but a copy of such resolution certified as such by an officer of the association, authenticated by the seal of the association and accepted and acted upon by another bank or other lender in good faith is conclusive evidence of the existence and terms of the resolution.

6-03-53. Borrowing and rediscounting - Report required.

Whenever a state banking association borrows money or rediscounts with recourse such association shall immediately make a full written report of the transaction to the commissioner upon the commissioner's request, which report must include a full description of all collateral security given or to be given by such association for the credit obtained.

6-03-54. Pledge - Ratio to assets.

It is unlawful for any state banking association to pledge or hypothecate more than one and one-half dollars of the face value of any of its assets for each one dollar of money borrowed, except with written authority from the commissioner.

6-03-54.1. Pledges of bank securities to secure repayment of deposits by a federally recognized Indian tribe.

A bank, upon the deposit with it of funds by a federally recognized Indian tribe, or an officer, employee, or agent thereof in that person's official capacity, may give security for the safekeeping and repayment of the funds deposited by a pledge of securities of the same kind and to the same extent as is authorized by section 21-04-09 in the case of deposits of public funds by public corporations.

6-03-55. Powers of pledgee of bank assets.

Holders of pledged or hypothecated notes or other evidences of indebtedness pledged by state banking associations have the right to collect and enforce payment, and to renew or extend the time of payment thereof for a period not longer than fifteen months, if no endorser, guarantor, or joint maker would be released by such renewal or extension. Such holders also have the right:

1. To accept from the makers of such pledged or hypothecated notes or other evidences of debt, security, or additional security for the payment thereof.
2. To execute and give discharges and releases of instruments and securities to the maker upon payment in full thereof.
3. To sell, assign, and transfer any note with the security pledged therefor.

The pledgee is entitled to be reimbursed from the pledged assets, or from the proceeds of the sale thereof, for the reasonable and necessary expenses incurred and expended in collecting, renewing, securing, and otherwise protecting the assets pledged or hypothecated to the pledgee.

6-03-56. Unlawful borrowing, rediscounting, endorsing, pledging by officers, employees, and accessories - Penalty.

Any officer, director, agent, or employee of any state banking association who borrows money for, or on behalf or in the name of such association or obligates any such association upon rediscounted paper, or pledges any of the assets of such association in violation of the provisions of this chapter is guilty of a class A misdemeanor and is personally liable to the association for any loss it sustains on account of such illegal action, but no such violation may affect the validity of any loan, endorsement, or pledge in the hands of any federal reserve bank or federal lending agency or commercial bank correspondent who loaned money to the association or discounted its paper in good faith and in reliance upon a certified copy of a resolution complying with section 6-03-52.

6-03-57. Foreclosure of pledge contracts.

Except as otherwise provided in chapter 6-07, no pledge made by an association may be foreclosed except by an action in equity brought in the district court of the county in which the pledgor association is located, except where assets are pledged by a state banking association in order to secure borrowed money or the obligation of the association on rediscounted paper, the rights of the pledgee must be determined by the terms of the agreement of pledge, and if the pledged assets are outside of this state, the foreclosure of the pledge is governed by the laws of the state where the pledge is located.

6-03-58. Unlawful rediscounts, borrowings, and pledgings.

It is unlawful for any state banking association, either directly or indirectly, to make any rediscount or contract to borrow money, nor may it borrow money, nor pledge or hypothecate, nor contract to pledge or hypothecate, any of its assets except in accordance with the provisions of this chapter.

6-03-59. Loan limitation to one borrower or concern.

The total direct, indirect, or contingent liability of any borrower to any state banking association shall not exceed at any time twenty-five percent of the association's tier 1 capital as of the most recent report of condition and income. For the purpose of this section, the total liability of a borrower includes the liabilities of any separate borrowers for which the repayment of separate loans or extensions of credit is substantially from the same source and any credit exposure to a borrower arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction between the state banking association and the borrower.

6-03-59.1. Leasing of personal property - Limitation on term and amount.

A bank may become the owner and lessor of personal property upon the specific request of and for the use of a customer. The term of the lease may not exceed twenty years and all such leases must provide for the payment of at least annual rentals, the total of which must at least equal the cost to the bank of the personal property so leased. The total leasing obligation or rentals to a bank will be a part of the total liability limitations of any borrower as set forth in section 6-03-59.

6-03-59.2. Lease financing of public facilities.

A state-chartered bank may purchase or construct a municipal building, school building, or other similar public facility and, as holder of legal title, lease the facility to a municipality or other public authority having resources sufficient to make all rental payments as they become due. The lease agreement must provide that the lessee will become the owner of the building or facility upon the expiration of the lease. All leases provided in accordance with this section must be subject to the bank's legal lending limit.

6-03-60. Loans to and purchases from directors, executive officers, and principal shareholders - Restrictions - Conditions - Penalty - Civil liability.

At no time may any combination of loans or extensions of credit or both made by a state banking association to an officer of that association exceed the limitation on loans to one person or concern specified in section 6-03-59, federal law, or federal rule.

No director, officer, or employee of a bank shall sell to such bank, directly or indirectly, any mortgage, bond, note, stock, or other property whatsoever without first obtaining the written approval of the board of directors. The action of the board of directors in connection with the loans and discounts required under this section shall be made a matter of permanent record in the minute books of the banking association. Any shareholder, officer, or director of any banking association who knowingly shall violate the provisions of this section shall be held liable in the person's personal and individual capacity for all loss or damage which the association or any person shall sustain in consequence thereof and shall be guilty of a class B misdemeanor. The

commissioner may require, at any time, the payment or repurchase of loans, securities, or obligations herein referred to.

6-03-61. Excessive loan - Validity - Penalty - Personal liability.

Whenever a state banking association allows any person, copartnership, or corporation to become indebted to it, directly or indirectly, in excess of the amount, exclusive of interest, permitted by this title, the officer, director, or employee thereof willfully permitting or approving such loan is guilty of a class B misdemeanor, and in addition thereto, is liable personally to the association for the amount of such loan in excess of the statutory limit. Unauthorized loans, however, are not invalid.

6-03-62. Interest on loans - Rate.

An association may demand and receive for loans on personal security, or for discounting notes, bills, or other evidences of debt, such rate of interest as may be agreed upon, not exceeding the amount authorized by law to be contracted for, and it may receive such interest according to the ordinary usage of banking associations and for not more than one year in advance.

6-03-63. Interest on deposits - Rates payable - Penalty.

No state banking association may pay interest on deposits, directly or indirectly, at rates greater than authorized by the state banking board. The board's authorization of interest rates is not subject to the public notice and public hearing requirements of chapter 28-32. Any officer, director, or employee of any association violating the provisions of this section, directly or indirectly, is guilty of a class B misdemeanor.

6-03-64. Payment of deposits made by fiduciaries, officers, minors, and associations.

Deposits made by a person as executor, administrator, guardian, conservator, or in any other representative capacity or official position, with a bank, are payable to that person in such capacity, or if made to an account upon which a minor may order payments as an account owner, may be paid to the minor although the minor has no guardian or conservator or if the minor has a guardian or conservator, it is not necessary to obtain the consent of the guardian or conservator to such payment, but a payment order or receipt or acquittance authorized by the minor is valid and binding. Deposits made by a corporation, association, or society are payable to any person authorized by its board of directors or trustees to receive the same.

6-03-65. Deposit in trust - To whom paid.

Whenever any deposit is made with any banking association by any person in trust for another and no other or further notice of the existence and terms of a legal and valid trust has been given in writing to the bank, in the event of the death of the trustee, the deposit, or any part thereof, together with the dividends or interest thereon, may be paid to the person for whom the deposit was made.

6-03-66. Deposit in two or more names - To whom paid.

Repealed by S.L. 1973, ch. 257, § 82.

6-03-67. Appropriation of deposits unlawful - Exception - Liability therefor.

Except as provided in sections 6-07-52 and 30.1-31-20, it is unlawful for any banking association to charge any claim which it might have, or the claim of any other person, against a deposit made with the association, or to appropriate a deposit or any part of the deposit to the payment of any debt to the association, without legal process or the consent of the depositor. Any banking association that violates this section is liable to the party aggrieved for any damages caused by the violation.

6-03-67.1. Operation without federal deposit insurance prohibited - Liability - Penalty.

No state banking association shall, after July 1, 1978, engage in the business of banking without securing and continuing in force federal deposit insurance corporation insurance of deposits. Any officer or director of any state banking association who violates this section is guilty of a class A misdemeanor and shall be personally liable to any person aggrieved for any damages caused by the violation.

6-03-68. Collection of negotiable instruments by bank - Liability for negligence.

Repealed by S.L. 1965, ch. 296, § 32.

6-03-68.1. Settlement of check presented by or through federal reserve bank or Bank of North Dakota.

Except as to any check sent to it as a special collection item, no bank may settle any check drawn on it otherwise than at par when such check is presented by or through a federal reserve bank or the Bank of North Dakota.

6-03-69. Report of examining committee.

The board of directors shall submit to the commissioner a report of the examining committee on forms provided by the commissioner. The report must reflect the results of a careful and thorough examination of the assets of the bank, including loans and discounts of every nature and the securities and collaterals belonging to the bank. The valuation of the assets of the bank must be compared with the records of the bank. The report must be made a part of the minutes of a regular meeting of the board of directors. The commissioner may refuse to accept the report if found to be not in accordance with acceptable accounting principles.

Any of the following methods may be used to conduct the examination required by this section:

1. Examination by the board of directors or its examining committee. When this method is employed, the examination must be conducted and the report submitted in July of each year.
2. Examination on an annual basis by an independent certified public accountant or firms composed of such accountants, or auditors of the bank's holding company, if any.
3. Examination by an autonomous internal audit control system. The individual directing the internal audit control system shall submit to the board of directors each quarter an interim report as to the degree of compliance with the internal audit control system and shall express an opinion as to the adequacy of the internal controls. A complete report must be submitted annually to the board of directors.

6-03-70. Reports - Regular and special - Publication - Penalty.

Every state banking association shall respond to calls each year, the number to be determined by the commissioner. The commissioner shall prescribe the forms for such reports which must be the same forms as those for similar reports called by the federal deposit insurance corporation. The reports must exhibit in detail, under appropriate headings, the resources and liabilities of the association at the close of business on a past day specified by the commissioner, which must be the same day on which similar reports are required by the federal deposit insurance corporation. Each report must be verified by the oath of the president or the cashier and attested as correct by at least two of the directors and must be transmitted to the commissioner within thirty days after receipt of the request for the same. The commissioner may request an amended call for reports filed in error and may require republication of the call report containing material errors. At the discretion of the commissioner, a call may be complied with by submission of a photocopy of the call report submitted to the federal deposit insurance corporation or federal reserve bank or a printout retrieved from computer facilities in the department of financial institutions and connected to those of the federal deposit insurance corporation. The commissioner may call for a special report from any association whenever in the commissioner's judgment the same is necessary to obtain complete knowledge of the condition of the association. Every association which fails to make and transmit any report

required by this section shall forfeit and pay to the state treasurer for deposit in the financial institutions regulatory fund a penalty of two hundred dollars for each delinquency. The commissioner may waive the penalty for reports filed late, not exceeding three business days beyond the due date required by this section.

6-03-71. Bonds of officers and employees.

All officers and employees of any state banking association, before entering upon their duties, shall furnish a bond to the association in the sum and upon the conditions as required by the board of directors in keeping with rules established by the state banking board. All bonds must be approved by the board of directors of the association and are subject to the approval of the commissioner. A record of the approval of the bonds by the board of directors of the association must be made on the records of the bank, and the bonds must be filed with the commissioner. Stockholders of the banks are not eligible as bondsmen for the officers.

6-03-72. Certification of checks, drafts, and orders - Penalty.

It is unlawful for an officer, clerk, or agent of any state banking association to certify any check, draft, or order drawn upon the association unless the person drawing the same has on deposit with the association at the time of such certification an amount of money equal to the amount specified therein, and upon such certification, the amount of such certified check, draft, or order must be immediately charged against the account of such drawer. Any officer or employee of any banking association who willfully violates the provisions of this section is guilty of a class B misdemeanor.

6-03-73. Deferred posting authorized.

Repealed by S.L. 1965, ch. 296, § 32.

6-03-74. Definitions.

Repealed by S.L. 1965, ch. 296, § 32.

6-03-75. Varied by agreement.

Repealed by omission from this code.

6-03-76. Records search reimbursement.

Any financial institution authorized to do business in this state must be reimbursed as follows for all records searches done at the request of any state agency or any branch of the state government except the department of human services. Further, any federal agency or any branch of the federal government must also make such reimbursement if authorized to do so:

1. For search and processing time at the rate of thirty dollars per hour per person, computed on the basis of seven dollars and fifty cents per quarter hour, limited to the total amount of personnel time spent in locating, retrieving, reproducing, packaging, and preparing for shipment documents or information requested.
2. For making copies of duplicates of required or requested documents at the rate of fifteen cents per page.
3. For making copies of photographs, films, and other materials at the actual cost incurred by the financial institution.

The financial institution must be reimbursed for all actual mailing or transportation expenses incurred in conveying the requested or required materials to the requesting agency. The reimbursement provisions of this section shall not apply to standard confirmations.

CHAPTER 13-02-20
LOANS SECURED PRIMARILY BY REAL ESTATE

Section

13-02-20-01	Scope
13-02-20-02	Definitions
13-02-20-03	Loan-to-value Limitations
13-02-20-04	Excluded Transactions
13-02-20-05	Exceptions

13-02-20-01. Scope.

This chapter applies to loans that are dependent primarily upon real estate security.

History: Effective November 1, 1995.

General Authority: NDCC 6-01-04

Law Implemented: NDCC 6-03-05

13-02-20-02. Definitions.

1. "Construction loan" means an extension of credit for the purpose of erecting or rehabilitating buildings or other structures, including any infrastructure necessary for development.
2. "Extension of credit" or "loan" means the total amount of any loan, line of credit, or other legally binding lending commitment with respect to real property; and the total amount, based on the amount of consideration paid, of any loan, line of credit, or other legally binding lending commitment acquired by a lender by purchase, assignment, or otherwise.
3. "Improved property loan" means an extension of credit secured by one of the following types of real property:
 - a. Farmland, rangeland, or timberland committed to ongoing management and agricultural production;
 - b. One-to-four family residential property that is not owner-occupied;
 - c. Residential property containing five or more individual dwelling units;
 - d. Completed commercial property; or
 - e. Other income-producing property that has been completed and is available for occupancy and use, except income-producing owner-occupied one-to-four family residential property.
4. "Land development loan" means an extension of credit for the purpose of improving unimproved real property prior to the erection of structures. The improvement of unimproved real property may include laying placement of sewers, water pipes, utility cables, streets, and other infrastructure necessary for future development.
5. "Loan origination" means the time of inception of the obligation to extend credit, or when the last event or prerequisite, controllable by the lender, occurs causing the lender to become legally bound to fund an extension of credit.
6. "Loan-to-value" or "loan-to-value ratio" means the percentage or ratio that is derived at the time of loan origination by dividing an extension of credit by the total value of the property or properties, securing or being improved by the extension of credit, plus the amount of any readily marketable collateral or other acceptable collateral that secures the extension of credit.

The total amount of all senior liens on or interests in such property or properties should be included in determining the loan-to-value ratio. When mortgage insurance or collateral is used in the calculation of the loan-to-value ratio, and such mortgage insurance or collateral is later released or replaced, the loan-to-value ratio should be recalculated.

7. "One-to-four family residential property" means property containing fewer than five individual dwelling units, including manufactured homes permanently affixed to the underlying property.
8. "Other acceptable collateral" means any collateral in which the lender has a perfected security interest, that has a quantifiable value, and is accepted by the lender in accordance with safe and sound lending practices. Other acceptable collateral should be appropriately discounted by the lender consistent with the lender's usual practices for making loans secured by such collateral. Other acceptable collateral includes unconditional irrevocable standby letters of credit for the benefit of the lender.
9. "Owner-occupied" means, when used in conjunction with the term one-to-four family residential property, that the owner of the underlying real property occupies at least one unit of the real property as a principal residence of the owner.
10. "Readily marketable collateral" means insured deposits, financial instruments, and bullion in which the lender has a perfected interest. Financial instruments and bullion must be saleable under ordinary circumstances with reasonable promptness at a fair market value determined by quotations based on actual transactions, on an auction or similarly available daily bid and ask price market. Readily marketable collateral should be appropriately discounted by the lender consistent with the lender's usual practices for making loans secured by such collateral.
11. "Value" means an opinion or estimate, set forth in an appraisal or evaluation, whichever may be appropriate, of the market value of real property prepared in accordance with North Dakota Century Code section 6-03-05. For loans to purchase an existing property, the term "value" means the lesser of the actual acquisition cost or the estimate of value.

History: Effective November 1, 1995.

General Authority: NDCC 6-01-04

Law Implemented: NDCC 6-03-05

13-02-20-03. Loan-to-value limitations.

Except as provided in this section and section 13-02-20-04:

1. Loans secured by raw land may not exceed a sixty-five percent loan-to-value ratio.
2. Loans made for land development may not exceed a seventy-five percent loan-to-value ratio.
3. Construction loans for commercial, multifamily, condominiums, cooperatives, and other nonresidential property may not exceed an eighty percent loan-to-value ratio.
4. Construction loans for one-to-four family residential real property may not exceed an eighty-five percent loan-to-value ratio.
5. Improved property loans may not exceed an eighty-five percent loan-to-value ratio.
6. Owner-occupied one-to-four family and home equity loans may not exceed a ninety percent loan-to-value ratio. However, such loans may exceed the ninety percent loan-to-value limit provided the amount above this limitation is government guaranteed, or has an appropriate credit enhancement in the form of either mortgage insurance or readily marketable collateral.

History: Effective November 1, 1995.

General Authority: NDCC 6-01-04

Law Implemented: NDCC 6-03-05

13-02-20-04. Excluded transactions.

The loan-to-value ratios established in this chapter do not apply to loans that are insured or guaranteed, or where there is a commitment to insure or guarantee, in part or in full, or conditionally, by the United States, its instrumentalities, this state, or its instrumentalities.

History: Effective November 1, 1995.

General Authority: NDCC 6-01-04

Law Implemented: NDCC 6-03-05

13-02-20-05. Exceptions.

Exceptions may be made for the consideration of loan requests from credit worthy borrowers. However, any exceptions from the loan-to-value limits should not exceed, when aggregated with all other loans in excess of the loan-to-value limits, one hundred percent of total equity capital and reserves.

History: Effective November 1, 1995.

General Authority: NDCC 6-01-04

Law Implemented: NDCC 6-03-05

CHAPTER 13-03-02
LIMITING AND RESTRICTING THE AMOUNT THAT MAY BE LOANED ON REAL
PROPERTY SECURITY

Section

13-03-02-01	Aggregate Limited to Percent of Paid-In Shares and Deposits - Type of Lien [Repealed]
13-03-02-02	Requirements for Advancement of Money on Security of Real Property
13-03-02-03	Length of Term - Amortization - Limitation on Amount of Percent of Appraised Value
13-03-02-04	Limitation on Amount Loaned to One Member [Repealed]
13-03-02-05	Second Mortgages - Approval of Credit Union Board [Repealed]
13-03-02-06	Exemption From Restrictive Provisions
13-03-02-07	Exceptions

13-03-02-01. Aggregate limited to percent of paid-in shares and deposits - Type of lien.

Repealed effective August 1, 1998.

13-03-02-02. Requirements for advancement of money on security of real property.

No state-chartered credit union may advance money on security of real property until the following requirements are met:

1. The mortgage has been properly signed and recorded in the office of the county recorder where the real property is located.
2. The credit union must verify that the mortgagor is the owner of the real property in fee simple and the credit union must determine the order of priority of the lien established by the mortgage.
3. For real estate loans equaling two hundred fifty thousand dollars or more, a written appraisal must be obtained from the credit union's designated appraiser. The credit union's designated appraiser must be independent of the transaction and be state-certified or licensed, or if the loan is one million dollars or more, be state-certified. The written appraisal must comply with the uniform standards of professional appraisal practices and be filed with the loan documents. For real estate loans less than two hundred fifty thousand dollars, an evaluation of the property value must be well-documented, reasonably support the value assigned, and be included with the loan documents; the person performing the evaluation must be qualified to perform the evaluation and be independent of the transaction. However, this subsection does not apply to real estate loans subject to title 12, Code of Federal Regulations, part 722, promulgated by the national credit union administration board. For these loans, the credit union must comply with the federal requirements for transactions requiring a state-certified or licensed appraiser.
4. Adequate fire and tornado insurance has been obtained with a mortgage clause for the benefit of the credit union.
5. A note for the amount of the loan has been signed by the mortgagor or mortgagors consistent with the terms of the mortgage.

History: Amended effective May 1, 1982; November 1, 1985; October 1, 1994; August 1, 1998; December 1, 2002; January 1, 2013.

General Authority: NDCC 6-01-04

Law Implemented: NDCC 6-06-06

13-03-02-03. Length of term - Amortization - Limitation on amount of percent of appraised value.

1. All amortized loans secured by real property shall be limited to a term of forty years, and an amount of ninety percent of the appraised value of the real estate being mortgaged as security for the loan.
2. When a loan specified in subsection 1 is insured by private mortgage insurance, the permissible amount shall not exceed the amount that is covered by the insurance.
3. When a loan specified in subsection 1 is insured by private mortgage insurance, the permissible amount shall be extended to no more than ninety-five percent.

History: Amended effective June 1, 1979; May 1, 1981; December 1, 2002; October 1, 2008.

General Authority: NDCC 6-01-04

Law Implemented: NDCC 6-06-06

13-03-02-04. Limitation on amount loaned to one member.

Repealed effective January 1, 2013.

13-03-02-05. Second mortgages - Approval of credit union board.

Repealed effective November 1, 1985.

13-03-02-06. Exemption from restrictive provisions.

The limitations set out in sections 13-03-02-02 and 13-03-02-03 shall not apply to any federally guaranteed loan, however, such loans must conform to all federal requirements for the making of the guaranteed loan.

History: Effective June 1, 1979; amended effective June 1, 1983; November 1, 1985; August 1, 1998.

General Authority: NDCC 6-01-04

Law Implemented: NDCC 6-06-06

13-03-02-07. Exceptions.

A credit union may make an exception to the loan-to-value limits under section 13-03-02-03 for loans from creditworthy borrowers. However, a credit union may not make such an exception if the loan would exceed one hundred fifty percent of the credit union's net worth when the loan is aggregated with all other loans in excess of the loan-to-value limits.

History: Effective October 1, 1997; amended effective January 1, 2013.

General Authority: NDCC 6-01-04

Law Implemented: NDCC 6-06-06

Williston housing shortage could have regional repercussions

JESSICA HOLDMAN Bismarck Tribune Apr 7, 2018

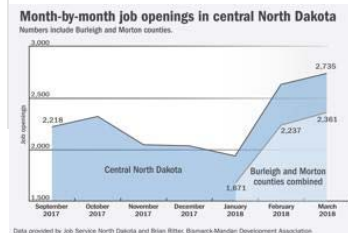


House builders, from left, Lee Fischer and Bryan Stevens, both of Feist Construction, along with Logan

Kalenze, Brandon and Robert Stambach, all of Gregory Builders, work on a twin home under construction on Superior Drive in north Bismarck on March 14. Those constructing homes in Williston would like to lure subcontractors away from Bismarck.

TOM STROMME, TRIBUNE

MORE INFORMATION



Bismarck-Mandan, Bakken jobs on the rise

Williston Realtors sold more homes in the first quarter of the year than in any other previously — even outselling 2012 and 2014 boom levels, according to numbers published Friday.

Homes that changed hands in the quarter numbered 110 — about 30 a month — said Williston’s Development Services Director Mark Schneider.

The city is in the midst of a single-family housing shortage that promises only to get worse as oil and gas activity picks up for the season. And while Williston area homebuilders are encouraged by city response to local affordable housing needs, officials are still unsure how incoming workers might be housed through the summer.

Apartments and hotels are at 90 to 95 percent occupancy already, Schneider said. Williston Area Builders Association President Mike Dolbec, of Windsong Custom Homes, expects those units will be full within a couple months.

Twenty-five single-family homes are listed for sale in the \$250,000 to \$330,000 range and 24 in the \$330,000 to \$400,000 range, according to the Multiple Listing Service.

It takes three to four months to build a new home but the current inventory could be gone in two, Schneider said.

About 18 people — builders, landowners, bankers, Realtors, an appraiser, city officials and a state senator — met for two hours last month to formulate a plan of attack.

“I’m very, very pleased,” Dolbec said of city and county officials offering help to builders. “There’s a lot of positives to getting all the parties involved.”

Some steps are being taken to reduce cost on building materials. For example, a less expensive type of rebar could be allowed by the city and a new type of concrete form that could allow basements without Sheetrock is being considered.

Dolbec said new ordinances since 2015 have added to the cost of homebuilding, so if the city is willing to relax some of the new requirements, such as not requiring landscaping by the builders, there could be some cost savings realized.

He said this is particularly important with high lot prices — about \$65,000 on average in the city and about \$70,000 for larger county lots — and higher costs for materials, such as the 40 percent increase for lumber over the past year.

The city’s next housing meeting will be in a couple weeks, Schneider said, but predictions are still daunting.

North Dakota Job Service’s Williston office has 2,000 job openings advertised. Each week of this school year, the Williston School District saw, on average, 19 new students. And a 2016 North Dakota State University study predicts 60 percent population growth in Williams County by 2029.

That’s about 1,600 new people per year, meaning more than 500 homes needed annually if the prediction holds, according to Schneider. The city has 732 buildable lots, complete with sewer and water available, but that won’t hold them through even next building season.

And for those homes on the market now: “We have inventory ... but what we have are homes that need a lot of work,” said Realtor Kassie Gorder of Basin Brokers.

Of the homes in the \$250,000 to \$330,000 range, a price range Gorder said is most attainable for the majority of the young families who are looking, 15 are more than 50 years old and four have been on the market more than 50 days. Only eight are less than 50 years old. In the \$330,000 to \$400,000 range, six are older than 50 years, one has been on the market more than 100 days, six are still being constructed and 11 are less than 50 years old.

There are some apartment buildings in town sitting vacant because the owners don’t have anyone to manage them, according to Gorder. With those in use, apartment occupancy could be lowered to a rate of about 80 percent. She said the owners had listed them for sale a while back but no buyers could be found. Now that they’re vacant, finding a buyer could be even harder.

There will be more homes on the market by fall, said Dolbec , indicating his company will build 40 to 50, but only 10 percent of those are without a buyer.

“One of the things that’s a real challenge for builders is to secure subcontractors,” Dolbec said. “I’m all for more builders coming into the region. More builders means more subs and subs can work for a number of builders.”

There are an additional 756 lots zoned in the area that still need roads. Schneider said three to four developers have been inviting builders from other North Dakota cities, trying to lure them to do the work.

Tory Otto, of Patriot Homes in Bismarck, met with one such developer. But with the higher costs of building in Williston, he says expectations may be unrealistic.

Otto said the developer was predicting building costs of \$110 to \$120 per square foot. But even in Bismarck, homes are being built for \$180 to \$190 per square foot. That doesn’t include the \$30,000 to \$40,000 more he’d have to add to the total cost for travel if he brought subcontractors to Williston.

Otto has been building some homes in Killdeer. He has good relationships with his subcontractors, and they're willing to go for a handful of projects.

“The housing market has not come back strong enough in Bismarck,” said Otto, pointing out that builders could find subcontractors willing to travel but it will add to the cost.

Reach Jessica Holdman at 701-250-8261 or
jessica.holdman@bismarcktribune.com

Jessica Holdman

Business Reporter

Powered By ZergNet



Garrison State Bank & Trust

Community Banking at its Best

JAN 24 2018

102 North Main PO Box 339
Garrison, North Dakota 58540-0339

January 20, 2018

DEPARTMENT OF FINANCIAL INSTITUTIONS
LISE KRUSE
2000 SCHAFFER STREET SUITE G
BISMARCK ND 58501-1204

Dear Lise:

This letter is in support of your request for an exemption threshold of \$1,000,000.00 for commercial loans and \$500,000.00 for non-commercial loans. At the present time, our institution has a very difficult time getting appraisals and getting appraisals in a timely manner. We are a small community of 1,550 residents located between Minot and Bismarck. Appraisers have told us that is more cost effective to stay in their home communities doing three to four appraisals rather than to come out and spend a whole day to do one appraisal. Also, comparable sales are more readily available in their larger communities than in our small community.

The proposed thresholds would mean that we could do our own evaluation or have our local realtor do a market analysis for us and take care of most of our needs. Looking at my numbers, at the \$1,000,000.00 commercial threshold we would be able to do about 95% of our loans with just a market analysis. The residential threshold of \$500,000.00 would allow us to do almost the full 100% of our loans with the market analysis. The only segment that will cause us some trouble is our Agricultural real estate loans. At the \$500,000.00 threshold, we would not be able to do many loans due to today's land values. At the \$1,000,000.00 threshold, we would be able to do about 80% with just a market analysis. I hope that this information is helpful in your efforts. Thank you.

Sincerely,

Bruce Schreiner
President



Security First Bank
OF NORTH DAKOTA

(701) 222-4444 Highway 83 North 3000 North 14th St PO Box 4250 Bismarck, North Dakota 58502

February 8, 2018

Commissioner Lise Kruse
ND Dept of Financial Institutions
2000 Schafer Street, Suite G
Bismarck, ND 58501

Commissioner Kruse,

We have an appraisal shortage in North Dakota, which I believe is largely due to the current requirements to become a licensed and/or certified appraiser. I also believe the shortage is being perpetuated by our existing appraisers. The appraisal profession would be desirable for new entrants, especially recent college graduates, until they find out the requirements to become an appraiser. These graduates are coming out of college with a significant amount of debt and are then asked to work for a very low unlivable wage as an apprentice for one to two years, if they are even lucky enough to be taken on by a certified appraiser. And, the reality is, existing appraisers have zero incentive to take on trainees, who may someday be on their own competing for business, so they don't, which is the crux of the issue – the existing appraisers have all the power to control the supply of appraisers.

In our specific market (Bismarck/Mandan/Center/New Salem, ND), the shortage has allowed our appraisers to charge significantly higher fees. Our residential home buyers are currently paying \$675 for a standard appraisal and up to \$1,000 for a rural or more complex property. Our mortgage department financed a home purchase in the Minneapolis metro area this fall and the appraisal cost was \$400. Appraisers in our area can and do charge significantly more, while often times providing poor customer service and poor turnarounds.

Long turnaround times negatively impact our borrowers – buyers lose out on purchases, borrowers pay higher interest rates because they cannot utilize a 60 day interest-rate lock and home builders cannot build as many homes. In North Dakota, our building season is already very short. Waiting six weeks, or sometimes as many as twelve, for an appraisal can make the difference between being able to get home started in the fall, so it can be worked on over the winter, or having to wait until the following spring.

In addition to the excessive cost and the long turnaround times, most of our appraisers cherry pick our appraisal requests. When we send an appraisal order, we are required by our regulators to choose an appraiser from a list of approved appraisers on a predetermined rotation. We have only have seven appraisers on our approved list for residential appraisals. The majority of the appraisers on our list will not travel to our two rural locations (only 30 and 45 minutes outside of Bismarck), will not appraise mobile homes, will not appraise high-value homes and/or will not appraise properties that are not "cookie cutter." Some avoid the unique properties because they are afraid of FNMA, who has started to crack down on substandard appraisals. Others, avoid the unique ones because they simply don't want to do them. The appraisal price is high for the easy ones and there are enough orders in the market that they can turn down the more time consuming ones, knowing an easier one will come.

If I were to cherry pick the tasks I wanted to do at work, I would be fired. We would love to remove these appraisers from our list, but we don't have anyone competent to replace them with, so we leave

them on and allow them to continue to provide us with poor customer service. Thus, there is no accountability for an appraiser to the bank. Of the seven appraisers on our rotation, only two will accept any type of order we send and both of these appraisers are near retirement age. These two often have eight to twelve week turnarounds because of their willingness to take on anything out of town or more time consuming. When a consumer buys a home, a purchase agreement is typically good for four to six weeks and an interest rate lock is usually good for 60 days. Having to wait eight to twelve weeks for an appraisal has caused consumers to lose out on purchasing a home to a cash buyer and has also caused consumers to pay higher interest rates when we are in a rising-rate environment.

On the Commercial side we have even fewer appraisers to choose from and for certain property types, we have to use out-of-state appraisers. Commercial appraisals cost thousands of dollars and can take several months to complete, which again causes our borrowers to lose out on purchases or to pay more for them.


We acknowledge that appraisers must be qualified to appraise and must gain competency through experience, but something needs to change. We need more appraisers and we need younger appraisers. Almost all the appraisers we work with are near retirement age. In five years and especially in ten years, the shortage will be disastrous. From our standpoint, many of our own lenders can determine and complete an evaluation on standard residential properties and some commercial properties. Our lenders have access, through their own portfolios and those of their co-workers, to comparable sales information, to building cost information and other pieces of relevant information.

I would say, without a doubt, that for residential loans less than \$500,000 and for commercial loans less than \$1,000,000, our own loan officers could put together an evaluation just as reliable as an appraisal. One of our lenders recently financed four condos for a home builder, for which he was required to order an appraisal. All four units sold, so four more were built at the same location and we needed another appraisal. Those four all sold too, so this spring our customer would like to build four more. And, we, of course, will need another appraisal. To us, it doesn't make any sense that we had to order three separate appraisals for the same project, but we were required to do it, so we did. And, it was an unnecessary expense for our customer. This is a perfect example of where an evaluation by a loan officer at our bank would be the common sense solution. We could do it faster, wouldn't charge our borrower for it and it would free up the current appraisers in our market helping decrease overall turnaround times.

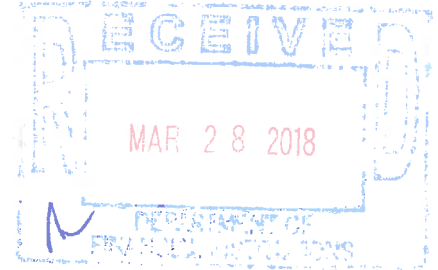
I do not believe that a waiver to simply allow out-of-state appraisers to operate in North Dakota would give us any relief. We are in the middle of the state, so these appraisers would have to be willing to give up their current practices to move to North Dakota, as travelling here for specific jobs would not make economic sense. And, since we are not in a current boom situation, we won't be viewed as a desirable enough location for an appraiser to give up their current place on appraisal rotations in their area.

Commissioner Kruse, I sincerely appreciate your willingness to listen and to help us find a solution for our appraiser shortage. If you have any questions, please feel free to contact me at any time.

Sincerely,



Sarah Getzlaff, CEO



March 15, 2018

Commissioner Lise Kruse
North Dakota Department of Financial Institutions
2000 Schafer Street, Suite G
Bismarck, ND 58501-1204

RE: Appraisal Regulation

Commissioner Kruse:

In response to the ND DFI's request for comments regarding appraisals, this letter outlines specific examples of issues that we and our borrowers have faced. These issues ultimately lead to rural North Dakotans having less access to financing, and financial institutions needing to cover additional expenses. This letter explains the issues that we see and provides suggestions on how the rule could be improved to allow our financial institutions to better serve our communities.

Lack of Appraisers

The lack of appraisers in this state is making consumer real estate lending in small communities and rural North Dakota problematic. Many appraisers choose to not take on rural work, because of underlying issues and complications when evaluating these rural properties. The issue lies with the lack of comparable sales within the defined parameters required. As comparable sales and other data fields are scarce, we are left without acceptable documentation to support value. This prevents good borrowers with good credit factors from qualifying for secondary market financing. Financial institutions are then left with either making an unqualified mortgage or providing other sources of credit with more restrictive terms which ultimately leads to the borrower turning the credit away.

Timeliness

Our lenders, along with other institutions, continue to struggle with timeliness as a result of having too few appraisers. The following is an example of how the lack of timeliness can negatively impact consumers.

Recently, a borrower waited months for an appraisal after it had been accepted by the appraiser. Once received, there were revisions and corrections the appraiser had to make, which took another month. The appraisal expired for secondary market approval due to the timeline. The appraiser then updated the appraisal with a new date and took new pictures all at the additional expense of the borrower. Appraisers are in demand so they can dictate time and price and, unfortunately, it is not in the consumer's best interest.

Additionally, it is often difficult to find an appraiser who is willing to take on farmsteads and other rural properties outside of towns. When we do find one, the timelines are very lengthy. For your convenience I have enclosed the "Appraisal Turn Times" to compare the various timeframes across ND markets.

Commercial and agricultural appraisals face different challenges. Wait times average two months for a commercial appraisal and three plus months for an agricultural appraisal. This is an issue for any purchase or refinance. To try to alleviate this issue, we are having to hire out of state appraisers for these properties, who don't necessarily have expertise in our local markets. The following is an example of a hardship faced by one of our clients that illustrates how appraisals can decrease access to capital.

An agriculture borrower needed a refinance and reorganization of his real estate because of a hardship. An appraisal request was made in April and the appraisal was received in June. The appraisal was needed to reorganize the debt first prior to extending operating dollars for the next year. This individual nearly missed the window to operate that year because of an untimely appraisal. This is not the fault of the appraiser. There are simply not enough appraisers in the state for timely responses on required properties.

Cost

Appraisals typically cost \$600-650 in the Minot market. Prices increase drastically when dealing with rural properties. The Glenburn area and east increase to \$700-800 with FHA compliant being around \$900. The Kenmare area is \$700-900 with FHA compliant being over \$1,000, and the Stanley area is \$1,000 with FHA being sometimes \$1,200-\$1,500. These prices fluctuate during the year with the summer months being in high demand. Different prices that fluctuate create a problem when complying with TRID, as appraisals are a zero tolerance item. If an appraisal is disclosed lower than the actual cost, the financial institution pays the difference. This is difficult to estimate with so many variables that are out of our control, such as – will the appraiser charge higher due to his work load or will he have to return because repairs are needed to the property and charge mileage again?

VA appraisals have specific issues and are often outsourced to the East because of the lack of appraisers. The VA allows appraisers to charge mileage if the subject property is more than 75 miles round trip. There are appraisers approved for counties all over the state regardless of their residence. If we order an appraisal for a Minot property in city limits, depending on the appraiser, we could be paying additional mileage fees. If these fees are not properly disclosed to the borrower upfront, we must cover the difference. The actual

mileage fees the appraiser will charge are not disclosed to the financial institutions up front which makes estimating costs properly very difficult.

The VA recently contacted us on a file in rural MN regarding an increase in appraisal costs. They couldn't find an appraiser to perform at the MN state rate, but found a nearby ND appraiser. A MN single family residence costs \$450 and a ND single family residence is \$675, unless in Fargo and Grand Forks metro areas, including Cass and Grand Forks counties which cost \$625. We were able to complete a change of circumstance to pass this fee along to our borrower/veteran due to the new information received.

Enclosed is the Fee and Timeliness Schedule, identified as VA appraisal fees, which show that ND and SD are the highest in price and the longest in timeliness. Often times with mileage, the required dollar amount and number of days is exceeded. ND is one of the highest for acceptable turnaround times with VA (15 days) and even then, if the appraisal is more complex, a rural property, or there is any other appraiser delay, it could be longer. Many times, we are outside the 15-day turnaround and VA has accepted due to these underlying issues. For your convenience I have also enclosed a "Price Per Product" worksheet to compare prices across various ND markets.

Recommendations

These issues could be resolved by having the Interagency Appraisal and Evaluation Guidelines modified to increase the dollar threshold from the \$250,000 requirement to \$750,000. This guideline is arbitrarily low and increasing it would alleviate the number of appraisals required in the state. Until this threshold is increased, an exemption from real estate requirements would be applicable. This exemption could be explicit towards certain transactions that have a low level of risk. These low risk loans could include 1-4 family homes and agricultural land.

Thank you for accepting comments on this issue. I would be happy to visit with you about any of these factors or examples. Please contact me at 701-420-6723.

Sincerely,



Tyler Neether
Vice President Business Lending

The purpose of this communication is to announce changes to appraisal fees and timeliness in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin.

Below, please find the new fee and timeliness schedule which will be effective on December 1, 2017, to allow program participants the opportunity to adjust to the new fee and timeliness schedule.

Fees and Timeliness for Origination and Liquidation Appraisals

State	Single Family Residence	Multi Family Residence	Individual Condominium	Manufactured Homes	Repair Inspection	Appraisal Timeliness
Illinois	\$425.00	\$600.00	\$425.00	\$425.00	\$125.00	10
Iowa	\$425.00	\$600.00	\$425.00	\$425.00	\$125.00	10
Kansas	\$450.00	\$600.00	\$450.00	\$450.00	\$125.00	10
Minnesota	\$450.00	\$600.00	\$450.00	\$450.00	\$125.00	10
Missouri	\$450.00	\$550.00	\$450.00	\$450.00	\$125.00	10
Nebraska	\$525.00	\$700.00	\$525.00	\$525.00	\$125.00	10
Nebraska *	\$475.00	\$650.00	\$475.00	\$475.00	\$125.00	10
North Dakota	\$675.00	\$850.00	\$675.00	\$675.00	\$125.00	15
North Dakota **	\$625.00	\$800.00	\$625.00	\$625.00	\$125.00	15
South Dakota	\$550.00	\$725.00	\$550.00	\$550.00	\$125.00	15
South Dakota ***	\$500.00	\$650.00	\$500.00	\$500.00	\$125.00	15
Wisconsin	\$450.00	\$550.00	\$450.00	\$450.00	\$125.00	10

* Nebraska maximum allowable fee in the Omaha and Lincoln metro areas, including Cass, Douglas, Dodge, Lancaster, Sarpy, Saunders, Seward, and Washington counties, is \$475.00

** North Dakota maximum allowable fee in the Fargo and Grand Forks metro areas, including Cass and Grand Forks counties, is \$625.00

*** South Dakota maximum allowable fee in the Sioux Falls metro area, including Minnehaha and Lincoln counties, is \$500.00

Price Per Product

Product pricing for ND

State	County	AppraisalType	AverageAmount
ND	Adams	1004 - URAR - Uniform Residential Appraisal Report	812.5
ND	barnes	1004 - URAR - Uniform Residential Appraisal Report	791.5625
ND	Barnes	1004C - Manufactured Home Appraisal Report	600
ND	Barnes	1004D - Appraisal Update and/or Completion Report	195
ND	Barnes	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	653.75
ND	Barnes	1025 - Small Residential Income Property Appraisal Report	775
ND	Barnes	1073 - Individual Condominium Unit Appraisal Report	700
ND	Benson	1004 - URAR - Uniform Residential Appraisal Report	866.6666
ND	Benson	1004D - Appraisal Update and/or Completion Report	200
ND	Benson	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	844.4444
ND	Billings	1004 - URAR - Uniform Residential Appraisal Report	883.3333
ND	Bottineau	1004 - URAR - Uniform Residential Appraisal Report	1078.3333
ND	Bottineau	1004D - Appraisal Update and/or Completion Report	350
ND	Bottineau	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	792.8571
ND	Bottineau	LAND- Land Appraisal	1000
ND	Bowman	1004 - URAR - Uniform Residential Appraisal Report	760
ND	Bowman	1004D - Appraisal Update and/or Completion Report	250
ND	Burke	1004 - URAR - Uniform Residential Appraisal Report	966.6666
ND	Burke	1004D - Appraisal Update and/or Completion Report	600
ND	Burke	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	900
ND	Burleigh	1004 - URAR - Uniform Residential Appraisal Report	643.3546
ND	Burleigh	1004C - Manufactured Home Appraisal Report	800
ND	Burleigh	1004D - Appraisal Update and/or Completion Report	153.0979
ND	Burleigh	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	652.0967
ND	Burleigh	1025 - Small Residential Income Property Appraisal Report	917.2413
ND	Burleigh	1073 - Individual Condominium Unit Appraisal Report	641.279
ND	Burleigh	2000 - One Unit Residential Appraisal Field Review Report	675
ND	Burleigh	30 - Property Inspection Report	135
ND	Burleigh	LAND- Land Appraisal	1150
ND	Cass	1004 - URAR - Uniform Residential Appraisal Report	570.4948
ND	Cass	1004C - Manufactured Home Appraisal Report	615
ND	Cass	1004D - Appraisal Update and/or Completion Report	129.4928
ND	Cass	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	570.0753
ND	Cass	1025 - Small Residential Income Property Appraisal Report	752.6
ND	Cass	1073 - Individual Condominium Unit Appraisal Report	569.1758
ND	Cass	2000 - One Unit Residential Appraisal Field Review Report	426.7857
ND	Cass	216 - Operating Income Statement	550
ND	Cavalier	1004 - URAR - Uniform Residential Appraisal Report	775
ND	Dickey	1004 - URAR - Uniform Residential Appraisal Report	564.1666
ND	Dickey	1004D - Appraisal Update and/or Completion Report	200
ND	Dickey	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	556.25
ND	Divide	1004 - URAR - Uniform Residential Appraisal Report	978.5714
ND	Divide	1004D - Appraisal Update and/or Completion Report	300
ND	Dunn	1004 - URAR - Uniform Residential Appraisal Report	678.9473
ND	Dunn	1004D - Appraisal Update and/or Completion Report	150
ND	Eddy	1004 - URAR - Uniform Residential Appraisal Report	900
ND	Eddy	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	800
ND	Emmons	1004 - URAR - Uniform Residential Appraisal Report	779.1666
ND	Emmons	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	812.5
ND	Foster	1004 - URAR - Uniform Residential Appraisal Report	784.0909
ND	Foster	1004D - Appraisal Update and/or Completion Report	380
ND	Foster	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	850
ND	Golden Valley	1004 - URAR - Uniform Residential Appraisal Report	750
ND	Golden Valley	1004D - Appraisal Update and/or Completion Report	220
ND	Grand Forks	1004 - URAR - Uniform Residential Appraisal Report	643.0519
ND	Grand Forks	1004C - Manufactured Home Appraisal Report	750

ND	Grand Forks	1004D - Appraisal Update and/or Completion Report	146.9767
ND	Grand Forks	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	721.5789
ND	Grand Forks	1007 - Single Family Comparable Rent Schedule	300
ND	Grand Forks	1025 - Small Residential Income Property Appraisal Report	784
ND	Grand Forks	1073 - Individual Condominium Unit Appraisal Report	631.25
ND	Grand Forks	2000 - One Unit Residential Appraisal Field Review Report	400
ND	Grand Forks	2055 - Exterior Only Inspection Residential Appraisal Report	502.5
ND	Grand Forks	LAND- Land Appraisal	800
ND	Grant	1004 - URAR - Uniform Residential Appraisal Report	621.1538
ND	Grant	1004D - Appraisal Update and/or Completion Report	236.6666
ND	Griggs	1004 - URAR - Uniform Residential Appraisal Report	733.3333
ND	Griggs	1004D - Appraisal Update and/or Completion Report	135
ND	Griggs	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	775
ND	Hettinger	1004 - URAR - Uniform Residential Appraisal Report	450
ND	Kidder	1004 - URAR - Uniform Residential Appraisal Report	820.7142
ND	Kidder	1004C - Manufactured Home Appraisal Report	466.6666
ND	Kidder	1004D - Appraisal Update and/or Completion Report	300
ND	Kidder	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	800
ND	Lamoure	1004 - URAR - Uniform Residential Appraisal Report	660
ND	Lamoure	1004D - Appraisal Update and/or Completion Report	162.5
ND	Lamoure	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	575
ND	Lamoure	2000 - One Unit Residential Appraisal Field Review Report	850
ND	Logan	1004 - URAR - Uniform Residential Appraisal Report	825
ND	Logan	1004D - Appraisal Update and/or Completion Report	250
ND	Logan	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	735.7142
ND	McHenry	1004 - URAR - Uniform Residential Appraisal Report	792.0454
ND	McHenry	1004D - Appraisal Update and/or Completion Report	337.5
ND	McHenry	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	773.8095
ND	McIntosh	1004 - URAR - Uniform Residential Appraisal Report	850
ND	McIntosh	1004C - Manufactured Home Appraisal Report	1000
ND	McIntosh	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	600
ND	McKenzie	1004 - URAR - Uniform Residential Appraisal Report	753.9617
ND	McKenzie	1004C - Manufactured Home Appraisal Report	785
ND	McKenzie	1004D - Appraisal Update and/or Completion Report	185.1351
ND	McKenzie	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	950
ND	McLean	1004 - URAR - Uniform Residential Appraisal Report	805.8571
ND	McLean	1004C - Manufactured Home Appraisal Report	830
ND	McLean	1004D - Appraisal Update and/or Completion Report	263.75
ND	McLean	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	844.7368
ND	Mercer	1004 - URAR - Uniform Residential Appraisal Report	729.5833
ND	Mercer	1004C - Manufactured Home Appraisal Report	716.6666
ND	Mercer	1004D - Appraisal Update and/or Completion Report	242.5
ND	Mercer	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	716.6666
ND	Mercer	1025 - Small Residential Income Property Appraisal Report	1800
ND	Mercer	1073 - Individual Condominium Unit Appraisal Report	750
ND	Morton	1004 - URAR - Uniform Residential Appraisal Report	646.2343
ND	Morton	1004C - Manufactured Home Appraisal Report	777.6315
ND	Morton	1004D - Appraisal Update and/or Completion Report	147.2205
ND	Morton	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	636.4864
ND	Morton	1025 - Small Residential Income Property Appraisal Report	885.7142
ND	Morton	1073 - Individual Condominium Unit Appraisal Report	635.7142
ND	Morton	2000 - One Unit Residential Appraisal Field Review Report	600
ND	Morton	LAND- Land Appraisal	400
ND	Mountrail	1004 - URAR - Uniform Residential Appraisal Report	945.5128
ND	Mountrail	1004D - Appraisal Update and/or Completion Report	288.8888
ND	Mountrail	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	860.5263
ND	Mountrail	1025 - Small Residential Income Property Appraisal Report	1650
ND	Nelson	1004 - URAR - Uniform Residential Appraisal Report	1066.6666
ND	Nelson	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	800
ND	Oliver	1004 - URAR - Uniform Residential Appraisal Report	740.3846
ND	Oliver	1004C - Manufactured Home Appraisal Report	850

ND	Oliver	1004D - Appraisal Update and/or Completion Report	200
ND	Oliver	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	681.25
ND	Pembina	1004 - URAR - Uniform Residential Appraisal Report	775
ND	Pembina	1004D - Appraisal Update and/or Completion Report	200
ND	Pembina	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	744.4444
ND	Pierce	1004 - URAR - Uniform Residential Appraisal Report	812.5
ND	Pierce	1004C - Manufactured Home Appraisal Report	750
ND	Pierce	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	683.3333
ND	Ramsey	1004 - URAR - Uniform Residential Appraisal Report	572.8846
ND	Ramsey	1004D - Appraisal Update and/or Completion Report	125
ND	Ramsey	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	641.875
ND	Ransom	1004 - URAR - Uniform Residential Appraisal Report	636.7647
ND	Ransom	1004C - Manufactured Home Appraisal Report	700
ND	Ransom	1004D - Appraisal Update and/or Completion Report	191.6666
ND	Ransom	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	713.4615
ND	Renville	1004 - URAR - Uniform Residential Appraisal Report	933.3333
ND	Renville	1004D - Appraisal Update and/or Completion Report	350
ND	Renville	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	764.5833
ND	Renville	LAND- Land Appraisal	900
ND	Richland	1004 - URAR - Uniform Residential Appraisal Report	578.3673
ND	Richland	1004C - Manufactured Home Appraisal Report	150
ND	Richland	1004D - Appraisal Update and/or Completion Report	154.5454
ND	Richland	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	608.3928
ND	Richland	2000 - One Unit Residential Appraisal Field Review Report	550
ND	Richland	Desk Review	450
ND	Richland	MC - Market Condition Addendum	450
ND	Rolette	1004 - URAR - Uniform Residential Appraisal Report	784.6153
ND	Rolette	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	1000
ND	Sargent	1004 - URAR - Uniform Residential Appraisal Report	658.3333
ND	Sargent	1004C - Manufactured Home Appraisal Report	625
ND	Sargent	1004D - Appraisal Update and/or Completion Report	143.75
ND	Sargent	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	575
ND	Sargent	2000 - One Unit Residential Appraisal Field Review Report	850
ND	Sheridan	1004 - URAR - Uniform Residential Appraisal Report	850
ND	Stark	1004 - URAR - Uniform Residential Appraisal Report	601.4285
ND	Stark	1004C - Manufactured Home Appraisal Report	625
ND	Stark	1004D - Appraisal Update and/or Completion Report	146.0526
ND	Stark	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	600
ND	Stark	1007 - Single Family Comparable Rent Schedule	700
ND	Stark	1025 - Small Residential Income Property Appraisal Report	800
ND	Stark	1073 - Individual Condominium Unit Appraisal Report	600
ND	Stark	2000 - One Unit Residential Appraisal Field Review Report	575
ND	Steele	1004 - URAR - Uniform Residential Appraisal Report	692.5
ND	Steele	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	800
ND	Stutsman	1004 - URAR - Uniform Residential Appraisal Report	670
ND	Stutsman	1004C - Manufactured Home Appraisal Report	666.6666
ND	Stutsman	1004D - Appraisal Update and/or Completion Report	141.1764
ND	Stutsman	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	632.5
ND	Stutsman	1025 - Small Residential Income Property Appraisal Report	650
ND	Stutsman	1073 - Individual Condominium Unit Appraisal Report	700
ND	Towner	1004 - URAR - Uniform Residential Appraisal Report	975
ND	Trails	1004 - URAR - Uniform Residential Appraisal Report	639.0163
ND	Trails	1004D - Appraisal Update and/or Completion Report	170
ND	Trails	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	655.2631
ND	Walsh	1004 - URAR - Uniform Residential Appraisal Report	729.8611
ND	Walsh	1004D - Appraisal Update and/or Completion Report	150
ND	Walsh	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	750
ND	Ward	1004 - URAR - Uniform Residential Appraisal Report	638.7173
ND	Ward	1004C - Manufactured Home Appraisal Report	764.2857
ND	Ward	1004D - Appraisal Update and/or Completion Report	183.983
ND	Ward	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	628.2742

ND	Ward	1025 - Small Residential Income Property Appraisal Report	842.8571
ND	Ward	1073 - Individual Condominium Unit Appraisal Report	621.5277
ND	Ward	2000 - One Unit Residential Appraisal Field Review Report	490
ND	Wells	1004 - URAR - Uniform Residential Appraisal Report	846.6666
ND	Wells	1004C - Manufactured Home Appraisal Report	850
ND	Wells	1004D - Appraisal Update and/or Completion Report	191.6666
ND	Wells	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	750
ND	Williams	1004 - URAR - Uniform Residential Appraisal Report	752.7777
ND	Williams	1004C - Manufactured Home Appraisal Report	833.3333
ND	Williams	1004D - Appraisal Update and/or Completion Report	168.0555
ND	Williams	1004MC - URAR w/Market Condition- Uniform Residential Appraisal Report	783.3333
ND	Williams	1025 - Small Residential Income Property Appraisal Report	950
ND	Williams	1073 - Individual Condominium Unit Appraisal Report	716.6666
ND	Williams	2000 - One Unit Residential Appraisal Field Review Report	600

May 30, 2018

Lise Kruse, Commissioner
ND Department of Financial Institutions
2000 Schafer Street, Suite G
Bismarck ND 58501

Ms. Kruse:

In support of your goal to uphold the best interests of the banking industry in North Dakota, I would like to comment on the various difficulties experienced by our financial institution as it relates to obtaining appraisals for federally related loan transactions.

Over the past few years we have experienced difficulty in obtaining licensed/certified appraisers in our rural banking markets. We have not lost borrowers because of this shortage, largely due to the quality service provided by our loan personnel and in part that the borrower would experience the same delays in dealing with another local financial institution.

There are times when we have found it difficult in our rural markets to secure a licensed/certified appraiser for 1-4 family real estate loan requests in a timely manner. For example, in our Jamestown market, the availability of licensed/certified appraisers is such that we often need to wait for an appraiser from South Dakota who comes to our area once a month. This does create a delay; similar however, to what the other local financial institutions may also be experiencing.

In order to provide our consumer borrowers the best rate available, we utilize programs on the secondary market as an option for 1-4 family real estate loans. They currently require a licensed or certified appraisal for all 1-4 family real estate purchase requests, regardless of the loan amount. With appraisers in short supply, this contributes to more delays.

Thank you again for your support of North Dakota financial institutions. If you have any questions, please contact me at 701-893-2769.

Sincerely,



Lois A. Bednar
SVP, Chief Risk Officer



www.betterstate.com
A Better State of Banking.

HAZEN OFFICE • 701-748-2233 • 877-684-2233
BEULAH OFFICE • 701-873-2221
STANTON OFFICE • 701-745-3245

209 Central Ave N • PO Box 468 • Hazen, ND 58545

June 15, 2018

North Dakota Department of Financial Institutions
Attn: I. Lise Kruse, Commissioner
2000 Schafer Street, Suite G
Bismarck, ND 58501-1204

Re: Application for Appraisal Waiver

Dear Ms. Kruse:

On behalf of the community banks in our most rural marketplaces in North Dakota, I extend our sincere thanks to you and your staff at our Department of Financial Institutions. Your willingness to pursue an appraisal waiver for the benefit of our banks, and the communities that we serve is very much appreciated.

I've often said that collaboration creates progression. We know that to be true through our first-hand experience in our rural environment on a variety of fronts, industries and projects. Through that experience, I *know* collaboration is what is going to be necessary to tackle the challenges we have garnering appraisals in North Dakota – especially rural North Dakota. We have a shortage of appraisers - further exacerbated when they are being asked to travel to rural communities, and even fewer FHA- and VA-certified appraisers. We have an environment in which the requirements for appraisals have become so constrictive that they create a barrier to entry to people who may otherwise be interested in this field, and ultimately make it extremely difficult to conform when trying to value a property in rural North Dakota.

The shortage of appraisers, coupled with the constrictive appraisal guidelines, conclusively puts our rural marketplaces at a disadvantage. Our farmers, ranchers, business owners, and aspiring home buyers often have to wait two to three months to get an appraisal. We have had agricultural appraisals that have taken six months. Not only is it difficult to find an appraiser to accept the appraisal request itself, sometimes they accept the request, only to later refuse it when they have done some initial legwork and can't find comparable sales that meet the respective program guidelines. It puts our rural customers at a disadvantage compared to their urban neighbors.

We took care of a customer in Turtle Lake, North Dakota, who was building a home in that rural community. The first, second and third appraisal request (to different appraisers) were rejected. Finally, at our fourth try, we got an appraiser to accept the request, primarily because they felt bad for the customer's delay and inability to get an appraiser to travel to their rural community. The customer waited three months to finally receive an appraisal, and then the valuation was \$130,000 less than their cost to build the home, because the appraiser couldn't find comparable sales that fit appraisal guidelines.

We have many other examples of appraisal requests that have been rejected. Often we have to try up to four appraisers, sometimes five, before we get someone to accept the request because they have more than enough work to keep themselves busy in our more urban markets, they don't want to travel to a rural community, and they struggle to find comparable sales in the marketplace that meet appraisal guidelines and are located within stated mileage limitations. The automated appraisal underwriting systems do not help us either.

It's very typical for us to wait two to three months for an ag or commercial appraisal. We have a very limited number of appraisers who will travel to a rural community, as their plates are full in the Bismarck/Mandan area, which is from where we typically pull our commercial and agricultural appraisers. Much like the challenges with our home appraisals, our customers most certainly pay a premium for a commercial or an ag appraisal, in addition to waiting nearly three times as long to receive an appraisal than they would if they lived in a more urban market.

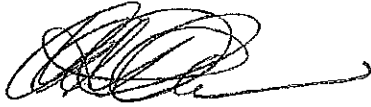
Although the pursuit of an appraisal waiver will not cure the challenges we have with one- to four-family residential real estate appraisals for mortgages we sell to our secondary market (which is primarily the Bank of North Dakota) as we would need to see changes to FHA and VA guidelines in addition to Freddie and Fannie, it *would* make a difference to our ag and commercial customers. In our rural communities, being able to complete an in-house valuation, or a Comparative Market Analysis instead of waiting on a full-blown appraisal for a loan of up to \$1 million involving ag land, or a commercial real estate property, would make a substantive difference. At the end of the day, it would benefit our customers and our community, which is the purpose for our existence.

In an industry, and a national economic and political environment where there is so much combativeness, and lack of unanimity, I am buoyed by this particular effort to work together to affect the greater good. The very fact that we had representation from the FDIC come to North Dakota to have a face-to-face meeting about appraisal challenges with local bankers, and our regulatory partners at the North Dakota Department of Financial Institutions is a strong step in the right direction towards collaboration, and effective and meaningful change. I hope we have an opportunity to engage the appraisal industry – perhaps the North Dakota Appraisal Board, and their corresponding national partner, the Appraisal Foundation - in conversation about what role they can play in this worthy undertaking. If we could ultimately bring FHA and VA, and Fannie

Mae and Freddie Mac to the table to affect programmatic change for our rural environments, that would be monumental collaboration, providing monumental benefit.

This is a great place to start, and I appreciate the opportunity to support this endeavor.

Sincerely,

A handwritten signature in black ink, appearing to read 'Christie H. Obenauer', with a long, sweeping horizontal line extending to the right.

Christie H. Obenauer
CEO & President
Union State Bank
christieo@usbhazen.com



July 23, 2018

Commissioner Lise Kruse
North Dakota Department of Financial Institutions
2000 Schafer Street, Suite G
Bismarck, ND 58501

Re: Application for Appraisal Waiver

Commissioner Kruse,

This letter follows our recent discussion in which you described the appraisal waiver your office is seeking on behalf of the North Dakota banks and their customers. Bell Bank supports your efforts. Your proposed waiver would relax our regulatory burden and allow us to complete real estate loan transactions faster and cheaper for our customers without taking on credit risk.

We have long recognized a shortage of both commercial and residential real estate appraisers within North Dakota. These problems become more acute on complex or specialized real estate projects or those located in more rural areas. At Bell, we have attempted to solve this problem by expanding our list of approved appraisers to include those from neighboring states. Our experience has shown that out-of-state appraisers provide faster service at a lower cost although we are accepting the added risk that these appraisers do not have the same market familiarity as local appraisers.

We had also hoped that the recent change to the appraisal regulation which increased minimum thresholds would help alleviate this situation. Although we appreciate the changes that were made, they did not go far enough. No change was made for 1-4 family loans and the de minimus increase for commercial loans to \$500,000 was too small to make a material impact on the appraisal workload given the average size of these projects. Your appraisal waiver will go further to allow us to value these smaller real estate loans using internal resources which we have the capacity and aptitude for, thus reducing costs and improving turn time for our customers.

Bell Bank applauds this effort which will allow us to better serve our customers by reducing the regulatory burden of the appraisal regulation without, in our judgement, taking on additional credit risk.

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard Solberg".

Richard Solberg
Chairman of the Board
Bell Bank

CHAPTER 32-19
FORECLOSURE OF REAL ESTATE MORTGAGES BY ACTION

32-19-01. Action to foreclose mortgage on real estate authorized.

The plaintiff shall bring an action in district court for the foreclosure of a mortgage upon real property.

32-19-02. Power of attorney required - Exceptions.

Repealed by S.L. 1981, ch. 355, § 1.

32-19-03. Who subject to deficiency judgment.

The plaintiff may not obtain a deficiency judgment in a foreclosure of residential property with four or fewer units of up to forty contiguous acres [16.19 hectares] containing a residence occupied by the owner as a homestead. The plaintiff may obtain a deficiency judgment on agricultural land of more than forty acres [16.19 hectares] but solely for the difference between the amount of the debt and the fair market value of the land at the time of commencement of the action. The plaintiff may obtain a deficiency judgment in all other cases for the difference between the appraised value, as determined by a licensed appraiser appointed by the court at the request of the plaintiff, and the amount determined due. The cost of the appraisal is an allowable cost in the foreclosure action.

32-19-04. What complaint shall state.

In an action for the foreclosure of a mortgage, the complaint must state sufficient allegations to identify the mortgage being foreclosed, to establish the applicable redemption period, and to determine whether a deficiency judgment will be sought and against which parties.

32-19-05. When judgment at law obtained.

Repealed by S.L. 2005, ch. 302, § 30.

32-19-06. What judgment must contain.

In any action for the foreclosure of a real estate mortgage, the court shall render judgment for the amount found to be due and the costs of the action, and shall order a sale of the premises to pay the amount adjudged to be due. The court may order delivery of the possession of the premises to the purchaser after the expiration of the redemption period unless otherwise ordered by the court pursuant to section 32-19-19. The judgment must provide that during the redemption period the debtor or owner of the premises is entitled to the possession, rents, use, and benefit of the real property sold except as provided by section 32-19-19.

32-19-06.1. Deficiency judgments on commercial real property.

In an action involving the foreclosure of a mortgage on commercial real property, the plaintiff shall state in the pleading whether a deficiency judgment will be sought and if sought shall identify the parties claimed to be personally liable and demand a deficiency judgment against those parties. Within twenty days after the completion of the appraisal, the appraiser shall provide the plaintiff and file with the clerk of court a written report, including the fair market value of the property. The plaintiff shall mail a copy of the appraisal to a party that may be personally liable at the party's last-known residences or business addresses by first-class mail. At the time of the entry of the judgment, the court shall include in its findings of fact the fair market value of the property and the amount of any prior liens on the property. If the fair market value and the amount of any prior liens are less than the amount found to be due to the plaintiff, the court shall identify each person who is liable for any deficiency after the sheriff's sale. The foreclosure judgment must be the balance then due and owing on the mortgage, plus costs. Upon entry of an order confirming the sheriff's sale, the clerk of court shall note the amount bid at the sheriff's sale, less the cost of the sheriff's sale as a credit on the foreclosure judgment, which credit may not be less than the fair market value established by the court. Any amount actually paid in excess of the foreclosure judgment constitutes surplus payable to the debtor pursuant to section

28-23-09. The clerk shall enter a money judgment to the extent of the deficiency against those parties found by the court to be personally liable, then the plaintiff may pursue the same remedies to collect the deficiency judgment as are available to collect other money judgments. The deficiency judgment must be for the entire amount found to be due the foreclosing party in the foreclosure judgment, together with interest at the rate provided in the note secured by the mortgage, less the amount credited by the clerk of court. In addition to the appraisal, the court in its determination of the fair market value of the property may consider affidavits from the parties or other proof of paramount liens and other matters that may affect the value.

32-19-06.2. Deficiency judgments on agricultural land.

If the complaint in an action to foreclose on agricultural land of more than forty acres [16.19 hectares] has provided for a deficiency judgment, a separate action for the deficiency must be brought within ninety days after the sheriff's sale. In the separate action, a deficiency judgment may be entered, but may not be in excess of the amount by which the sum adjudged to be due and the costs of the action exceed the fair market value of the mortgaged premises. There is not a presumption that the premises sold for the fair market value. The court may not render a deficiency judgment unless the fair market value as determined by the court is less than the sum adjudged to be due and costs of the action. Fifteen days' notice of the time and place for determination of fair market value must be given to all parties against whom personal judgment is sought. Any party may offer evidence to show the fair market value even though that party may not have otherwise appeared in the action for a deficiency judgment. Any deficiency judgment obtained may only be enforced by execution within three years from the date of entry of the judgment. If the judgment is not collected within three years, the judgment expires. As used in this section, "fair market value" means the most probable price that real property can be sold for in the open market by a willing seller to a willing buyer, neither acting under compulsion and both exercising reasonable judgment.

32-19-07. Other suits permitted.

Notwithstanding any other provision of state law, if a promissory note or other obligation and a mortgage, other than a first mortgage, upon real estate have been given to secure a debt contracted on or after August 1, 1993, a mortgagee may bring an action on the promissory note if the mortgagee waives the right to foreclose the mortgage given to secure the note. Allowing a mortgagee to bring an action on the promissory note or other obligation of the mortgagor if the mortgagee waives the right to foreclosure of the mortgage given to secure the note applies only to residential real property consisting of four or fewer residential units.

32-19-08. Sales made by whom and where - Notice.

A sale of mortgaged premises under a judgment of foreclosure must be made in the county where the premises or some part of the premises are situated. The sale must be made by the sheriff of that county, the sheriff's deputy, or by some person appointed by the court for that purpose, upon the notice and in the manner prescribed by law for the sale of real property upon execution.

32-19-09. Certificate of sale - Deed and effect.

At the sheriff's sale, the person making the sale must give to the purchaser a certificate of sale as provided by section 28-23-11, and at the expiration of the time for the redemption, if not redeemed, the person making the sale, or the successor in office, must give the purchaser, the purchaser's heirs, or assigns, or to any person who has acquired the title of the purchaser by redemption or otherwise, a deed. The deed vests in the grantee all the right, title, and interest of the mortgagor in and to the property sold, at the time the mortgage was executed or subsequently acquired by the mortgagor and is a bar to all claim, right, or equity of redemption in or to the property by the parties to the action, their heirs and personal representatives, and also against all persons claiming under them, or any of them, subsequent to the commencement of the action.

32-19-10. Application of proceeds.

The proceeds of every foreclosure sale must be applied to the discharge of the debt adjudged by the court to be due and of the costs, and if there is any surplus, it must be brought into court subject to the order of the court. If the surplus is less than one thousand dollars and an application to receive the surplus is not filed with the court within sixty days after deposit, the court shall order the funds forfeited to the general fund of the county.

32-19-11. When surplus invested.

If the surplus is one thousand dollars or more and is not applied for within ninety days, the court may direct the same to be deposited at interest for benefit of the defendant, the defendant's representatives, or assigns, subject to the order of the court.

32-19-12. Complaint dismissed on payment of installments due.

Repealed by S.L. 2005, ch. 302, § 30.

32-19-13. When payment stays proceedings.

Repealed by S.L. 2005, ch. 302, § 30.

32-19-14. Referee to view premises.

Repealed by S.L. 2005, ch. 302, § 30.

32-19-15. Successive judgments and sales.

Repealed by S.L. 2005, ch. 302, § 30.

32-19-16. Sale of whole on first default.

Repealed by S.L. 2005, ch. 302, § 30.

32-19-17. Rebate on undue part.

Repealed by S.L. 2005, ch. 302, § 30.

32-19-18. Redemption.

A party in a foreclosure action or the successor of a party may redeem from the foreclosure sale within sixty days after the sale, except for agricultural land. Agricultural land may be redeemed within three hundred sixty-five days after the filing of the summons and complaint in the office of the clerk of district court or the time of the first publication of the notice by advertisement. The final date for redemption of agricultural land may not be earlier than sixty days after the sheriff's sale. The owner of the property has a paramount right to redeem upon paying the amount bid at the sheriff's sale plus interest on that amount at the same rate as the obligation secured by the mortgage. Persons holding subordinate liens on the property may redeem in the order of priority as determined by the order of attachment to the property. This redemption has the effect of a redemption as of the date of deposit, subject to the subsequent payment of any additional amount, if any, determined to be due as of that date.

32-19-18.1. Payment to redeem.

A person redeeming from a sheriff's sale may pay the required amount either to the holder of the certificate or to the sheriff. If there is a dispute as to the amount required to redeem, the person attempting to redeem shall deposit with the sheriff the amount the person calculates to be due and a written description of the basis for the calculation. The deposit has the effect of a redemption as of the date of deposit, subject to the subsequent payment of any additional amount determined to be due as of that date.

32-19-19. Injury to property restrained - Abandoned real property.

The court, by injunction, on good cause shown, may restrain the party in possession from doing any act to the injury of real property during the existence of the lien or foreclosure of a mortgage thereon and until the expiration of the time allowed for redemption. If before the

sheriff's sale the mortgagee or after the sheriff's sale the holder of the sheriff's certificate of sale reasonably believes that the property is abandoned, the mortgagee or holder of the sheriff's certificate may petition the court to determine abandonment. A notice of hearing must be sent by mail to the last-known address of the mortgagor or the party entitled to possession of the real property at least ten days prior to the date of the hearing to determine abandonment. Service by mail is complete upon mailing. If the court determines that the real property is abandoned, the court may grant the mortgagee or holder of the sheriff's certificate immediate possession and use of the property and all benefit and rents from the property until expiration of the redemption period. The court may proceed at the hearing to consider remedies to prevent waste. The provisions of this section concerning abandoned real property do not apply to agricultural property as defined by section 57-02-01.

32-19-20. Notice before foreclosure.

At least thirty days and not more than ninety days before the commencement of any action or proceeding for the foreclosure of a mortgage on real estate, a written notice shall be served on the title owner of record of the real estate.

32-19-21. Contents of notice.

The notice before foreclosure shall contain:

1. A description of the real estate.
2. The date and amount of the mortgage.
3. The amount due to bring the installments of principal and interest current as of a date specified, and the amount advanced by the mortgagee for taxes, insurance, and maintenance, separately itemized.
4. A statement that if the amount due is not paid within thirty days from the date of the mailing or service of the notice proceedings will be commenced to foreclose the mortgage.

32-19-22. Notice may be served by mail.

The notice before foreclosure may be served by mail, as provided in rule 4 of the North Dakota Rules of Civil Procedure, addressed to the owner of record at the owner's post-office address in the mortgage or by the records in the chain of title of the recorder of the county where the real estate is situated. If the post-office address is not shown in the mortgage or in the records, the notice may be served as provided in rule 4 of the North Dakota Rules of Civil Procedure, addressed to the owner of record at the post office nearest any part or tract of the real estate.

32-19-23. When notice not required.

If the record title to real estate is in the name of a deceased person, notice before foreclosure need not be served unless a personal representative of the estate is appointed in the county in which the real estate is situated. The certificate of the judge or clerk of the district court serving the county in which the real estate is situated stating that a personal representative has not been appointed is sufficient evidence of that fact.

32-19-24. Service of notice on personal representative.

If a personal representative of the estate of the deceased owner has been appointed in the county where the real estate is situated, the notice before foreclosure must be served upon the personal representative. Service may be made by registered mail, as provided in rule 4 of the North Dakota Rules of Civil Procedure, addressed to the personal representative's post-office address as shown by the records of the district court by which the personal representative was appointed.

32-19-25. Notice may be served personally.

Service of the notice before foreclosure may be made upon the title owner of record or upon the personal representative of the owner's estate by personal service within or without this state in the manner provided by law for the service of a summons in a civil action.

32-19-26. Actual receipt of notice always sufficient.

In any case, service of the notice before foreclosure is sufficient if it actually was received by the title owner or by the personal representative of the owner's estate. A United States post-office registry return receipt showing that the envelope containing the notice has been delivered to the record title owner or to the personal representative of the owner's estate, or to the agent of either, is prima facie evidence that the owner or the owner's administrator or executor received the same.

32-19-27. Proofs relative to notice - How made and filed.

Proof of service of notice before foreclosure may be made by the return of a sheriff or other officer, or by affidavit of the person making personal service or mailing such notice. Proof of death of the title owner of record may be made by a certified copy of the death certificate or by affidavit of any person having knowledge of the fact. Proof of any other fact necessary to show that the notice was properly served may be made by certificate of a proper officer or of an abstracter or by affidavit of any person having knowledge of the facts. Such proofs together with the notice shall be filed with the complaint in any action for the foreclosure of a mortgage and shall be recorded with the notice and certificate of sale in foreclosures by advertisement.

32-19-28. Default may be cured.

If the record title owner or the personal representative of the owner's estate, within thirty days from the service of notice before foreclosure, performs the conditions or complies with the provisions upon which default in the mortgage occurred, the mortgage must be reinstated and remain in full force and effect the same as though a default had not occurred in the mortgage.

32-19-29. Summons - How served.

The summons in a foreclosure action must be served in the same manner as in any civil action.

32-19-30. Service by publication - How made.

Repealed by S.L. 2005, ch. 302, § 30.

32-19-31. Summons to be published.

Repealed by S.L. 2005, ch. 302, § 30.

32-19-32. Copy of summons and complaint to be mailed.

Repealed by S.L. 2005, ch. 302, § 30.

32-19-33. Personal service equivalent to publication.

Repealed by S.L. 2005, ch. 302, § 30.

32-19-34. Personal service of summons and complaint may be made in any event.

Repealed by S.L. 2005, ch. 302, § 30.

32-19-35. Service by publication - When completed.

Service by publication is completed upon the expiration of thirty-six days after the first publication of the summons, or in case of personal service of the summons and complaint upon the defendant outside of the state, upon the expiration of fifteen days from such service.

32-19-41. Abandoned personal property - Disposal by record title owner.

The grantee in a sheriff's deed that has been recorded, or after receipt and recording of a deed in lieu of foreclosure, may retain and dispose of without legal process any personal property left on the real property thirty days after the issuance of a sheriff's deed. If the total estimated value of the personal property is five hundred dollars or more, the record title owner shall make reasonable efforts to notify in writing the mortgagor or person who was entitled to possession of the real property during the redemption period by certified mail at least fifteen days before disposing of the personal property. Service by mail is complete upon mailing. The record title owner is entitled to the proceeds from the sale of the personal property, after all costs incidental to removal, storage, disposal, and sale of the property have been deducted. This section applies only to tracts of land not exceeding forty acres [16.19 hectares].