

ONE HUNDRED FOURTH LEGISLATURE - SECOND SESSION - 2016
COMMITTEE STATEMENT
LB731

Hearing Date: Monday January 25, 2016
Committee On: Banking, Commerce and Insurance
Introducer: Johnson
One Liner: Change provisions relating to the Real Property Appraiser Act

Roll Call Vote - Final Committee Action:
Advanced to General File

Vote Results:

Aye: 8 Senators Campbell, Craighead, Fox, Gloor, Lindstrom, Scheer, Schumacher, Williams
Nay:
Absent:
Present Not Voting:

Verbal Testimony:

Proponents:

Senator Jerry Johnson
Marc Woodle
Director Tyler Kohtz

Representing:

Introducer
Nebraska Real Property Appraiser Board
Nebraska Real Property Appraiser Board

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

This bill updates the Nebraska Real Property Appraiser Act for compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Real Property Appraiser Qualification Criteria effective January 1, 2015, the Uniform Standards of Professional Appraisal Practice (USPAP), and the Policy Statements of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council. Title XI requires each state to prescribe appropriate standards for the performance of real estate appraisals in connection with federally related transactions. In addition, real estate appraisals are to be performed in accordance with generally accepted uniform appraisal standards, and are to be performed by an individual whose competency has been demonstrated, and whose professional conduct is subject to effective state supervision. If the State of Nebraska is found to not be compliance with Title XI by the Appraisal Subcommittee, the Appraisal Subcommittee may remove all Nebraska credential appraisers from the Federal Registry, resulting in no appraisers qualified to appraise real property in connection with federally related transactions, which is approximately 80% of all mortgage loan activity. Along with the changes required by the Appraisal Subcommittee, USPAP, the 2015 Criteria, and the ASC Policy Statements, the bill draft also includes minor changes to address administration of the act.

The following language changes to the act are included in the bill:

In section 76-2202, the reference to the Dodd-Frank Wall Street Reform and Consumer Protection Act is updated to mean the act as it existed on January 1, 2016.

The reference to the effective date of USPAP throughout is updated in section 76-2218.02 to the 2016-17 edition that becomes effective on January 1, 2016.

In sections 76-2207.13 and 76-2236, the reference to the date of course approval by the Appraiser Qualifications Board of The Appraisal Foundation for the 15-Hour, and 7-Hour, National Uniform Standards of Professional Appraisal Practice course is updated to January 1, 2016.

In section 76-2207.14, the definition of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is updated to mean the act as it existed on January 1, 2016.

In section 76-2217.03, the definition of "signature" is modified to include the language "and compliance with the Uniform Standards of Professional Appraisal Practice" to further clarify the responsibility accepted by signing a report.

Section 76-2221(1) is modified to clarify that only a credentialed real property appraiser who is a salaried employee of the entities defined in subdivision (a) through (d) of this subsection, who does not sign a report as a credentialed real property appraiser, shall include the disclosure, "This opinion of value may not meet the minimum standards contained in the Uniform Standards of Professional Appraisal Practice and is not governed by the Real Property Appraiser Act." Currently, it appears that this provision may apply to all salaried employees, regardless of one's status as a credentialed real property appraiser.

A clarification is added in section 76-2221 for any person appointed to serve as an appraiser pursuant to section 76-706. If such person is a credential holder, he or she shall be subject to the scope of practice for his or her credential, and shall comply with certain requirements of USPAP.

The language in section 76-2222(1) is updated to provide that of the three certified real property appraisers appointed one from each congressional district, two no longer must be certified general real property appraisers.

The language in section 76-2227(1), (2), and (3) is updated to include all types of credentials. This change is made to allow for the background requirements currently found in sections 76-2227.01 to 76-2233 to be consolidated in section 76-2227.

The background requirements currently found in sections 76-2227.01 to 76-2233 for an initial, upgrading, and renewal of credential are consolidated under section 76-2227 to eliminate duplication under each section. Currently, the same language exists in each credential section. In addition, language is added to establish that an applicant or a credential holder must not possess a background that would call into question public trust or his or her fitness for credentialing. This addition is to satisfy the requirements of the newly added Guide Note 9 in 2015 Criteria.

The course completion time requirements, and the final exam requirements, are removed for the Real Property Associate in section 76-2227.01. This would result in qualifications that better align with the purpose of this credential.

In its June 19, 2015 ASC Compliance Review Report, the Appraisal Subcommittee stated, "All Trainee QE must be completed within the 5-year period prior to the date of submission of a Trainee appraiser application." It was the Appraisal Subcommittee's position that the act did not appropriately define this time requirement. Section 76-2228.01(1)(c)(i) is updated to clarify that this course shall be completed within two years preceding the submission of the application, which strengthens the existing language found in the act (the current requirement is two years).

Due to the burden placed on reciprocal credential holders, the 7-Hour Report Writing Update Course required every four years for renewal of a credential is changed to a report writing course of at least seven hours in section 76-2236(4).

Language is updated in section 76-2238(20) and (21) to state, "issued by another regulatory agency," instead of "held by another regulatory agency." The current language is grammatically incorrect.

The language "For a licensed residential real property appraiser, a certified residential real property appraiser, or a

certified general real property appraiser" concerning the inactive credential application fee is removed from section 76-2241(1)(g) to be consistent with section 76-2241(1)(h), which includes the inactive credentialing fee.

The bill carries the emergency clause.

Jim Scheer, Chairperson