

ONE HUNDRED SIXTH LEGISLATURE - SECOND SESSION - 2020
COMMITTEE STATEMENT
LB775

Hearing Date: Monday January 27, 2020
Committee On: Banking, Commerce and Insurance
Introducer: Williams
One Liner: Change Real Property Appraiser Act provisions

Roll Call Vote - Final Committee Action:

Advanced to General File

Vote Results:

Aye:	8	Senators Gragert, Howard, Kolterman, La Grone, Lindstrom, McCollister, Quick, Williams
Nay:		
Absent:		
Present Not Voting:		

Oral Testimony:

Proponents: Senator Matt Williams Tyler Kohtz	Representing: Introducer Nebraska Real Property Appraiser Board
Opponents:	Representing:
Neutral:	Representing:

Summary of purpose and/or changes:

The purpose of LB775 is to update the Nebraska Real Property Appraiser Act ("Act") for compliance with Title XI of the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("Title XI"), the Uniform Standards of Professional Appraisal Practice ("USPAP"), and the Policy Statements of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council ("ASC Policy Statements"). 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 not to be compliant with Title XI by the Appraisal Subcommittee, the Appraisal Subcommittee may remove all Nebraska credentialed appraisers from the Federal Registry, resulting in no appraisers qualified to appraise real property in connection with federally related transactions. Such action would have a substantial negative impact on the mortgage loan activity in Nebraska. Along with the changes required by the Appraisal Subcommittee, USPAP, and the ASC Policy Statements, LB775 also includes minor changes to address administration of the Act.

The following language changes are included in LB775:

"Real property" is added before the word "appraiser" where only "appraiser" exists to harmonize provisions throughout the Act, and to utilize the definition of "real property appraiser" as defined in Neb. Rev. Stat. Sec. 76-2216 (page 2, line 9, 27; page 3: line 2; page 4: line 1; page 9: line 9; page 14: lines 1, 13, 14-15; page 16: lines 12-13, 17, 18, 25, 30; page 17: lines 3, 5, 10, 11, 13, 22, 30; page 18: lines 3, 10, 15; page 36: line 10; page 39: lines 11-12).

The phrase "must be" is stricken and replaced with word "is" in the definition of "appraisal" found in Neb. Rev. Stat. Sec. 76-2204 to reflect the language in the 2020-2021 edition of USPAP (page 2: lines 16-17).

The phrase "not limited to value," is added to the definition of "assignment results" found in Neb. Rev. Stat. Sec. 76-2207.17 to reflect the language in the 2020-2021 edition of USPAP (page 3: lines 6-7).

The phrase "a real property appraiser" is moved from after to before "by employment or contract," the word "whether" is added, and the phrase "The client may engage and communicate with the appraiser" is stricken in the definition of "client" found in Neb. Rev. Stat. Sec. 76-2207.22 to reflect the language in the 2020-2021 edition of USPAP (page 3: lines 14-17).

The word "permit" is replaced with "credential" to utilize the definition of "credential" found in Neb. Rev. Stat. Sec. 76-2207.25 for clarity and consistency in the definition of "credential holder" found in Neb. Rev. Stat. Sec. 76-2207.26. (page 3: line 24).

"2019" is updated to "2020" in the definition of "Financial Institutions Reform, Recovery, and Enforcement Act of 1989" in Neb. Rev. Stat. Sec. 76-2207.30 (page 4: line 5).

The word "activity" is replaced with "practice" to establish the harmonized definition "real property appraisal practice" from the repealed definition "appraisal practice" and the modified definition "real property appraisal activity" in Neb. Rev. Stat. Sec. 76-2215. The intent and meaning of the definitions "appraisal practice" and "real property appraisal activity" are substantially similar, but used both separately and in unison throughout the Act. The intent of the harmonized definition, "real property appraisal practice," is to provide clarity and consistency throughout the Act. The phrases "performed by a real property appraiser," "and reporting," and "or an appraisal review" are added, and the word "identified" is stricken (page 4: lines 13-19).

Terms and phrases "appraisal practice," "real property appraisal activity," "appraisal practice or real property appraisal activity," "a valuation assignment, evaluation assignment, or appraisal review assignment," "an assignment not limited to value for an appraisal assignment, and not limited to an opinion about the quality of another appraiser's work for an appraisal review assignment," "appraising," "the appraisal of, and review of appraisal of," "the appraisal of," "appraise," "real property appraisal activities or other related activities," "the making of an appraisal," and "practice" are modified to harmonize provisions throughout the Act, and to utilize the defined term "real property appraisal practice" found in Neb. Rev. Stat. Sec. 76-2215 for clarity and consistency throughout the Act (page 2: lines 15-16, 24-26, 28-29; page 3: 8-11, 24; page 4: lines 10, 13, 17-18; page 8: lines 11-12; page 14: 11-12; page 16: lines 9-10; page 18: line 5, 8; page 20: line 28; page 21: lines 26-27; page 25: lines 27-28; page 28: lines 4-5, 9-10; page 30: lines 4-5, 9, 15-16; page 31: lines 5, 11, 17; page 33: 3-4, 22-23; page 37: line 13; page 38: line 23; page 40: line 1; page 41: line 4, 8-9, 20-21; page 42: lines 2-4).

The phrase "is a credential holder" is added, and subdivisions (1), (2), (3) are stricken from the definition of "real property appraiser" found in Neb. Rev. Stat. Sec. 76-2216 to provide clarity and simplify the definition (page 4: lines 22-28).

The language found in subsection (1), "engages in real property appraisal activity;" subsection (2), "advertises or holds himself or herself out to the general public as a real property appraiser;" and subsection (3), "offers, attempts, or agrees to perform or performs real property appraisal activity" stricken from Neb. Rev. Stat. Sec. 76-2216 is incorporated into Neb. Rev. Stat. Sec. 76-2220(2), Neb. Rev. Stat. Sec. 76-2233.02(3), and Neb. Rev. Stat. Sec. 76-2246 as the language pertains directly to these provisions (page 5: lines 29-31 through page 6: line 1; page 33: lines 2-3; page 41: lines 19-20).

"An appraisal or appraisal review" is replaced by "assignment results" to utilize the definition of "assignment results" found in Neb. Rev. Stat. Sec. 76-2207.17 for clarity and consistency in the definition of "report" found in Neb. Rev. Stat. Sec. 76-2216.02 (page 5: lines 1-2, 3-4).

"An appraisal is" and "analyses, opinions, or conclusions concerning real estate or real property" is replaced by "assignment results" to utilize the definition of "assignment results" found in Neb. Rev. Stat. Sec. 76-2207.17 for clarity and consistency in Neb. Rev. Stat. Sec. 76-2221(3) regarding a person who provides assistance exempt from the Act (page 7: lines 8-9, 13-14).

The internal reference to the Uniform Standards of Professional Appraisal Practice is updated to the 2020-21 edition of USPAP as of January 1, 2020 in Neb. Rev. Stat. Sec. 76-2218.02 (page 5: line 9).

The word "all" is stricken and the words "aspects" and "services" were changed to the singular form in the definition of "valuation services" found in Neb. Rev. Stat. Sec. 76-2219.01 to reflect the language in the 2020-2021 edition of USPAP (page 5: lines 12-13).

The words "analyses" and "opinion," along with the phrase "as it applies to an assignment" is stricken, and the phrases "data, information, and" and "and to show compliance with the Uniform Standards of Professional Appraisal Practice" are added in the definition of "workfile" found in Neb. Rev. Stat. Sec. 76-2219.02 to reflect the language in the 2020-2021 edition of USPAP (page 5: lines 17-21).

The phrase "by performing any action described in section 76-2216 without the appropriate credential" was stricken from Neb. Rev. Stat. Sec. 76-2220(3) due to the modification of the definition of "real property appraiser" (page 6: lines 11-12).

"Real property appraisal practice" is added before "assignments" in Neb. Rev. Stat. Sec. 76-2227(5) to clarify the nature of such assignment being performed by a person (page 12: line 24).

"Assignment" is added after "real property appraisal practice", and "appraise" is replaced by "engage in" for clarity and consistency in Neb. Rev. Stat. Sec. 76-2228.01(7) pertaining to the scope of practice for the trainee real property appraiser (page 16: lines 8-13).

"An appraiser holding a valid" is stricken before and "credential" is stricken after "certified residential real property appraiser," as the stricken language serves no purpose in Neb. Rev. Stat. Sec. 76-2231.01(4) (page 25: lines 19-20).

"An appraiser holding a valid" is stricken before and "credential" is stricken after "certified general real property appraiser," as the stricken language serves no purpose in Neb. Rev. Stat. Sec. 76-2232(2) (page 27: lines 26-27).

Subdivisions (13), (14), (15), and (16) are stricken from Neb. Rev. Stat. Sec. 76-2238 as these specific acts are included in the Uniform Standards of Professional Appraisal Practice (page 37: lines 29-31 through page 38: lines 1-13).

"Valuation" is added before "services" in Neb. Rev. Stat. Sec. 76-2228(9) to clarify the nature of such service being performed by a real property appraiser (page 37: line 17).

Neb. Rev. Stat. Sec. 76-2205.01 is outright repealed as the definition of "appraisal practice" is incorporated into the definition of "real property appraisal practice" found in Neb. Rev. Stat. Sec. 76-2215 (page 50: lines 17-18).

Neb. Rev. Stat. Sec. 76-2216.03 is outright repealed as the definition of "scope of work" no longer appears in the Act (page 50: lines 17-18).

Neb. Rev. Stat. Secs. 76-3202, 76-3203.01, 76-3207, 76-3210 of the Appraisal Management Company Registration Act are amended to incorporate the changes listed above (pages 42-50).

Matt Williams, Chairperson