



2016 Proposed Legislation Summary (REQ03907)

The purpose of this bill draft is to update the Nebraska Real Property Appraiser Act (“Act”) for compliance with Title XI of the Financial Institutions reform, Recovery, and Enforcement Act of 1989 (“Title XI”), the Real Property Appraiser Qualification Criteria effective January 1, 2015 (“2015 Criteria”), 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 to not be compliance 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, 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 are included in REQ03907:

- The definition of 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 to the 2016-17 edition that becomes effective on January 1, 2016.
- 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.
- 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.
- 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.
- Neb. Rev. Stat. § 76-2221 (1) is modified to clarify that only a credentialed real property appraiser who is a salaried employee of the entities defined in a through d of this section, that 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 Neb. Rev. Stat. § 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 Neb. Rev. Stat. § 76-2222 (1) is updated to allow for any certified real property appraiser to be selected as one of the three congressional representatives. Currently, the language allows for only certified general real property appraisers. It is the Board's position that this requirement restricts the number of quality candidates available to apply for appointment to sit on the Board.
- The language in Neb. Rev. Stat. § 76-2227 (1), (2), (3) is updated to include all types of credentials applicable to the provision. This change is made to allow for the background requirements currently found in Neb. Rev. Stat. §§ 76-2227.01 through 76-2233 to be consolidated in 76-2227.
- The background requirements currently found in Neb. Rev. Stat. §§ 76-2227.01 through 76-2233 for an initial, upgrading, and renewal of a credential is consolidated under Neb. Rev. Stat. § 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 Neb. Rev. Stat. § 76-2227.01. After evaluating the burden placed on potential applicants for this credential, the Board felt that removal of the above mentioned requirements 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. Neb. Rev. Stat. § 76-2228.01 (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 Neb. Rev. Stat. § 76-2236 (4).
- Language was updated in Neb. Rev. Stat. § 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 Neb. Rev. Stat. § 76-2241 (g) to be consistent with Neb. Rev. Stat. § 76-2241 (h), which includes the inactive credentialing fee.