

Sixtieth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1119

Introduced by

Industry, Business and Labor Committee

(At the request of the State Real Estate Commission)

1 A BILL for an Act to amend and reenact sections 43-23-03, 43-23-05.1, and 43-23-10,
2 subdivision o of subsection 1 of section 43-23-11.1, section 43-23-16, and subsection 5 of
3 section 43-23.2-02 of the North Dakota Century Code, relating to the state real estate
4 commission.

5 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

6 **SECTION 1. AMENDMENT.** Section 43-23-03 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **43-23-03. Commission office - ~~Secretary-treasurer~~ Executive director.** The
9 commission shall employ ~~a secretary-treasurer~~ an executive director who shall furnish bond as
10 required by the commission and who shall keep a record of all proceedings, transactions,
11 communications and official acts of the commission, be custodian of all moneys received for
12 licenses which must, by the ~~secretary-treasurer~~ executive director, be deposited for
13 safekeeping in depositories designated by the commission. The ~~secretary-treasurer~~ executive
14 director must be custodian of all records of the commission and perform such other duties as
15 the commission may require. The commission is authorized to fix the salary of the
16 ~~secretary-treasurer~~ executive director, to employ such other employees as may be necessary
17 to properly carry out the provisions of this chapter, to fix salaries and prescribe duties of such
18 employees and to make such other expenditures as are necessary to carry out the provisions of
19 this chapter. The commission shall meet annually and upon call by the ~~secretary-treasurer~~
20 executive director upon a written request of three or more members of the commission. The
21 place of meeting of the said commission must be at the office of the ~~secretary-treasurer~~
22 executive director. The location of the office of the ~~secretary-treasurer~~ executive director must
23 be at such places within the state as the commission may designate. The commission shall

maintain all files, records, and property of the commission at the office of the
~~secretary treasurer~~ executive director.

SECTION 2. AMENDMENT. Section 43-23-05.1 of the North Dakota Century Code is
amended and reenacted as follows:

**43-23-05.1. ~~Salesperson license issued to an organization~~ Organization of
salesperson or broker associate permitted to be licensed - Fees.**

1. The commission may ~~grant~~ license an organization of a salesperson ~~license to an~~
~~organization~~ or broker associate if:
 - a. The organization is owned solely by ~~one~~ an individual who is licensed as a
salesperson or broker associate, or by that individual and that individual's
spouse, or by that individual and other salespersons and broker associates
within the same firm as that individual;
 - b. The organization does not engage in any real estate ~~transaction~~ transactions
as a third-party agent or in any other capacity requiring a license under this
chapter; and
 - c. The organization does not advertise or otherwise portray to the public that the
organization is a real estate broker or real estate brokerage firm.
2. The employing or associating broker of a salesperson ~~that is~~ or broker associate
who is part of an organization is not relieved of any obligation to supervise the
employed or associated salesperson or broker associate or of any other
requirements under this chapter.
3. An individual who forms ~~a salesperson~~ an organization is not by nature of that act
relieved of any personal liability for licensed activities.
4. The commission may adopt rules establishing a one-time license fee for an
organization licensed as a salesperson or broker associate.

SECTION 3. AMENDMENT. Section 43-23-10 of the North Dakota Century Code is
amended and reenacted as follows:

43-23-10. Nonresident brokers - Reciprocity - Consent to service. A nonresident
broker regularly engaged in the real estate business as a vocation and who maintains a definite
place of business and is licensed in some other state, which offers the same privileges to the
licensed brokers of this state, may not be required to maintain a place of business within this

1 state. The commission shall recognize the license issued to a real estate broker by another
2 state as satisfactorily qualifying the nonresident broker for license as a broker; provided, that
3 the nonresident broker has qualified for license in the broker's own state and also that the other
4 state permits licenses to be issued to licensed brokers in this state. Every nonresident
5 applicant shall file an irrevocable consent that suits and actions may be commenced against
6 such applicant in the proper court of any county of the state in which a claim for relief may arise,
7 in which the plaintiff may reside, by the service of any process or pleading authorized by the
8 laws of this state, on any member of the commission, or the ~~secretary-treasurer~~ executive
9 director, said consent stipulating and agreeing that such service of such process or pleading
10 shall be taken and held in all courts to be as valid and binding as if due service had been made
11 upon said applicant in this state. The consent must be duly acknowledged. Any service of
12 process or pleading must be by duplicate copies, one of which must be filed in the office of the
13 commission and the other immediately forwarded by registered mail to the last-known main
14 office of the applicant against whom said process or pleading is directed, and no default in any
15 such proceedings or action may be taken except upon affidavit or certificate of the commission
16 or the ~~secretary-treasurer~~ executive director, that a copy of said process or pleading was
17 mailed to the defendant as herein required, and no judgment by default may be taken in any
18 such action or proceeding until after thirty days from the date of mailing of such process or
19 pleading to the nonresident defendant.

20 **SECTION 4. AMENDMENT.** Subdivision o of subsection 1 of section 43-23-11.1 of the
21 North Dakota Century Code is amended and reenacted as follows:

- 22 o. Failure by a broker to deliver to the ~~seller~~ party or parties represented by the
23 broker a complete detailed closing statement in every real estate transaction,
24 at the time said transaction is consummated, ~~a complete, detailed closing~~
25 ~~statement~~, showing all of the receipts and disbursements handled by such
26 broker for the seller; ~~also failure to deliver to the buyer a complete statement~~
27 ~~showing all money received in said transaction from such buyer and how and~~
28 ~~for what the same was disbursed~~ party or parties represented by the broker,
29 and to retain true copies of such statements in the broker's files.

30 **SECTION 5. AMENDMENT.** Section 43-23-16 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **43-23-16. Licensee list.** The ~~secretary-treasurer~~ executive director shall publish, at
2 least annually, a list of the names and addresses of all licensees licensed by the board under
3 the provisions of this chapter, together with such other information relative to the enforcement
4 of the provisions of this chapter as the board may deem of interest to the public. One of such
5 lists must be mailed to the recorder in each county, unless the board of county commissioners
6 designates a different official, and must be held as a public record. Such lists must also be
7 mailed provided by the ~~secretary-treasurer~~ executive director to any person in this state upon
8 request, and to all licensed brokers without charge.

9 **SECTION 6. AMENDMENT.** Subsection 5 of section 43-23.2-02 of the North Dakota
10 Century Code is amended and reenacted as follows:

- 11 5. The ~~secretary-treasurer~~ executive director of the commission shall furnish a bond
12 in the amount of sixty thousand dollars, upon such conditions as the commission
13 may prescribe.