

**Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine**

HOUSE BILL NO. 1164  
(Industry, Business and Labor Committee)  
(At the request of the Real Estate Commission)

AN ACT to amend and reenact section 43-23-14.1 of the North Dakota Century Code, relating to handling of funds by real estate brokers.

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

**SECTION 1. AMENDMENT.** Section 43-23-14.1 of the North Dakota Century Code is amended and reenacted as follows:

**43-23-14.1. Handling of funds by brokers.** ~~Every~~ Except as otherwise provided in this section, every broker shall, at all times, maintain in ~~his~~ the broker's name or firm name, a separate trust account designated as such in a federally insured financial institution in this state in which ~~he~~ the broker shall immediately place as a demand deposit all funds not ~~his~~ the broker's own coming into ~~his~~ the broker's possession, in accordance with rules ~~and regulations promulgated~~ adopted by the commission. This requirement extends to funds in which ~~he~~ the broker may have some future interest or claim and includes, ~~but is not limited to,~~ earnest money deposits. Provided, the deposit of funds may be made in an interest-bearing account in a federally insured bank, trust company, savings and loan association, or credit union if all parties having an interest in the funds have ~~se~~ agreed in writing and if a copy of the agreement is maintained on file by the broker. ~~No~~ A broker may not commingle ~~his~~ the broker's personal funds or other funds in a trust account, except that a broker may deposit and keep a sum not to exceed ~~one~~ five hundred dollars in ~~such~~ the account from ~~his~~ the broker's personal funds, which sum must be specifically identified and deposited to cover service charges related to the trust account. In conjunction with ~~such~~ the account, ~~he~~ the broker shall maintain at ~~his~~ the broker's usual place of business, books, records, contracts, and other necessary documents so that the adequacy of ~~such~~ the account may be determined at any time. Trust accounts and other records must be open to inspection by the commission and its duly authorized agents at all times during regular business hours at the broker's usual place of business.

A broker who does not accept trust funds in real estate brokerage transactions and who has applied for and received a waiver from the real estate commission is not required to maintain a designated trust account. However, if a broker does not maintain a trust account and later receives trust funds in a real estate brokerage transaction, the broker shall open a designated trust account as required by this section and deposit any trust funds in accordance with rules adopted by the commission.

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1164.

House Vote:      Yeas    95      Nays    0      Absent    3

Senate Vote:    Yeas    47      Nays    0      Absent    2

\_\_\_\_\_  
Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 1999.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 1999.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 1999,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State