



North Dakota Real Estate Commission
1120 College Dr Ste 204
Bismarck ND 58501
701.328.9737

www.realestatend.org

Testimony in favor of House Bill 1258 with amendment – updates to real estate license law

By Jeanne Prom, Executive Director, jeprom@nd.gov 328.9737

North Dakota Real Estate Commission

House Industry, Business and Labor Committee

Representative Mike Lefor, Chair

2:00 p.m., January 19, 2021

Good afternoon, Chairman Lefor and members of the House Industry, Business and Labor Committee. I am Jeanne Prom, executive director of the North Dakota Real Estate Commission. The Governor-appointed five-member commission serves to protect the public by licensing and setting standards for real estate licensees through NDCC Chapter 43-23, the real estate license law.

The N.D. Real Estate Commission urges a Do Pass recommendation on House Bill 1258 with the amendment proposed by Representative Louser. HB 1258 updates NDCC 43-23, the real estate license law.

Review of NDCC 43-23

Over the past year, the N.D. Real Estate Commission, in their regular open meetings, reviewed NDCC Chapter 43-23 with the N.D. Association of REALTORS® and others. HB 1258 is result of this review.

The commission was very committed to an open, inclusive, and thorough review of the entire license law and its rules in NDCC Chapter 70. The intent of the line-by-line public review was to assure the consumer continues to be protected, which is the commission's legal charge. The intent also was to identify how to modernize and clarify the law by eliminating language no longer needed, and to add language to include, for example, electronic methods of doing business.

The changes are not sweeping changes expanding the authority of the commission or the scope of real estate practice. The changes are updates to existing law and summarized on the next pages.

Members of the North Dakota Real Estate Commission are: Sandra Meyer, Chair; Steven Bitz, Vice Chair; members: Steven Link, Tate Cymbaluk, Scott Breidenbach. Special Assistant Attorney General: Connie Hofland. Staff: Jeanne Prom, executive director.

Summary of proposed changes to NDCC 43-23

Modernization – 12 changes

Removing language no longer necessary – adopting our own seal, requiring commission to meet in their office, outdated education terms, nonresident applicants' state of residence must offer same privileges and licenses to our licensees, referencing the national association code of ethics.

Removing language that does not reflect electronic methods used now – applications must be in writing on forms, licensee list mailed.

Adding or changing language that reflects electronic or other methods used now – licenses can be listed on broker website, shortened timelines as documentation now submitted electronically, licensee list published.

Removing “employ,” “employment,” and “employer” – most licensees are independent contractors.

Removing real estate trust account committee and requirement that trust accounts are interest-bearing – significant amount of earnest money submitted to title companies.

Removing old dates– 8 dates -- effective dates that are in the past.

Clarification – 8 changes

Eliminates duplicative or inexact language – removing duplicative “salesperson” reference in language about firm licensing, added amendment to remove requirement about tests on courses for continuing education.

Adding language -- referencing 43-23-10, non-resident broker's place of business, brokers must notify commission in writing of licensee's termination, earnest money submitted to title company must be tracked, “research and recovery” before “fund.”

Updates language – the prohibited discrimination language changed to match N.D. Human Rights Act, transferred licensed issued to a new broker.

Changes dollar amounts – 2 changes

Changes in compensation language from specific \$50 amount to not to exceed daily legislative rate, upper limit of fines raised from \$2,500 to \$5,000.

Change in deadline – 1 change

Changes from March 1 to January 15 deadline when a late license renewal can be submitted.

Change in subdivided lands act – 1 change

Change to require that the commission go to the courts if an emergency temporary cease and desist order is needed to stop violations of the subdivided lands act chapter.

Word changes – nearly every page

The Legislative Council added word changes to align with style standards, but the rewording does not otherwise change the law.

The N.D. Real Estate Commission urges a Do Pass recommendation on HB 1258 with the amendment offered by Rep. Louser. Thank you, Chairman Lefor and the House Industry, Business and Labor Committee for your consideration of these updates to NDCC 43-23. Thanks to Rep. Louser, Rep. Adams, and the other co-sponsors for sponsoring this legislation. All co-sponsors also are real estate licensees, former licensees or otherwise associated with the business. The commission also thanks the ND Association of REALTORS® and licensees for their significant work on this review.

The attached table provides specifics on the proposed changes for your reference. I am available for your questions now or at jeprom@nd.gov or 328.9737.

Page	Lines	Proposed amendments to NDCC 43-23 in HB 1258	Purpose	Section
1	20-23	Removing language no longer necessary – adopting our own seal. (Commission uses State Seal.)	modernization	1
2	15-16	Removing language no longer necessary – that commission must meet in its office. (Commission has authority to meet other places.)	modernization	2
2	22-25	Changing dollar amount language – for commission compensation from specific \$50 to language setting upper limit not to exceed daily compensation rate of member of legislative assembly, and is determined by commission at annual budget meeting. (Updates dollar amount language from 1981.)	change in dollar amount	3
3	9	Removing duplicative salesperson language in line 9. (Salesperson language is already in lines 10-11.)	clarification	4
3	27-28	Removing old date – Removes effective date from the past. (Does not change the two-year salesperson experience requirement to apply to be a broker.)	removing old date	5
4	1-2	Removing old date – Removes effective date from the past. (Does not change the requirement for broker applicants to have substantially equivalent experience to two years as a salesperson.)	removing old date	5
5	4-12	Removing language no longer necessary – Removes outdated terms and extra language with “education.” (Education still required, but unnecessary terms and explanations are removed.)	modernization	6
5	8-9	ADDED AMENDMENT – Removing inexact language -- about requirement about testing on continuing education courses. (Continuing education credit can be earned without passing a course test.)	clarification	6
5	27	Removing language that does not reflect electronic methods used now – about applications required to “be in writing upon blanks prepared by the commission.”	modernization	7
6	3-4, 8	Removing language no longer necessary -- about nonresident applicants’ state of residence must offer same privileges and licenses to our licensees. (Commission has authority under NDCC 43-23 to approve nonresident applicants if this is not met.)	modernization	8
8	4-6	Updating language – about prohibited discrimination to match N.D. Human Rights Act.	clarification	9
8	27-28	Removing reference to national association code of ethics. (National association code of ethics was never adopted into NDCC 43-23.)	modernization	9

Members of the North Dakota Real Estate Commission are: Sandra Meyer, Chair; Steven Bitz, Vice Chair; members: Steven Link, Tate Cymbaluk, Scott Breidenbach. Special Assistant Attorney General: Connie Hofland. Staff: Jeanne Prom, executive director.

Page	Lines	Proposed amendments to NDCC 43-23 in HB 1258	Purpose	Section
10	21-22	Changing dollar amount – upper limit of fines raised from \$2,500 to \$5,000.	change in dollar amount	9
10	31	Adding language referring to 43-23-10, nonresident broker’s place of business.	clarification	10
11	1-2, 14, 18, 20-21, 24	Removing “employ,” “employment,” and “employer” – most licensees are independent contractors.	modernization	10
11	2-3	Adding or changing language that reflects electronic or other methods used now – licenses can be listed on broker website.	modernization	10
11	7, 12	Adding or changing language that reflects electronic or other methods used now – shortened timelines since documentation is now submitted electronically.	modernization	10
11	22	Clarifies that a broker must notify the commission in writing of a licensee’s termination.	clarification	10
11	26	Updating by adding language --- to clarify that a transferred license is issued to the new broker.	clarification	10
12	7-8,10	Changing from March 1 to January 15 the deadline when a late license renewal can be submitted – two places in same section.	change in deadline	11
12	22, 27-30	Changing trust accounts from interest-bearing to non-interest bearing – significant amount of earnest money submitted to title companies.	modernization	12
13	13-15	Adding language to require that earnest money deposited directly with the title company and not the broker’s trust account needs to be tracked.	clarification	12
13	19, 22-25	Adding and removing language to reflect maintaining a list of licensees online and publishing list.	modernization	13
13	31	Removing old date – Removes effective date from the past.	removing old date	14
14 15	24-31 1-3	Change in subdivided lands act -- to require that the commission go to the courts if an emergency temporary cease and desist order is needed to stop violations of the subdivided lands act chapter. Other changes on page 14, lines 5-8 and 20-22 show language that was moved by Legislative Council but does not change the law.	change in subdivided lands act	15

Page	Lines	Proposed amendments to NDCC 43-23 in HB 1258	Purpose	Section
15	8-14, 18-19	Removing old dates – Removes effective dates from the past.	removing old dates	16
15	16	Adding “research and recover” for clarification.	clarification	16
16	25	Removing old date – Removes effective date from the past.	removing old dates	17
17	3	Removing real estate trust account committee – Removes committee set up to manage interest from trust accounts. Committee not needed as a significant amount of earnest money is submitted to title companies and does not accrue interest, and this bill proposes making trust accounts non-interest bearing.	modernization	18