

SENATE BILL NO. 2247

Introduced by

Senators Meyer, Larson

Representatives Boschee, B. Koppelman

1 A BILL for an Act to amend and reenact section 47-10-02.1 of the North Dakota Century Code,
2 relating to property disclosure requirements.

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

4 **SECTION 1. AMENDMENT.** Section 47-10-02.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **47-10-02.1. Property disclosure - Requirements - Exceptions.**

- 7 1. ~~This~~Except as provided under ~~subsection~~subsections 6 and 7, this section applies to a
8 transaction for the sale, exchange, or purchase of real property if:
 - 9 a. A real estate broker, real estate broker associate, or real estate salesperson who
10 is associated with a real estate brokerage firm represents or assists a party to the
11 transaction; and
 - 12 b. ~~The~~the real property is ~~an owner-occupied primary residence~~a residential
13 dwelling with no more than four units located in this state being sold or
14 exchanged by the owner.
- 15 2. ~~Before~~Except as otherwise provided by the prospective buyer in thein an offer to
16 purchase agreement, before the parties sign anthe final acceptance of the purchase
17 agreement for the sale, exchange, or purchase of real property, the seller shall make a
18 written disclosure to the prospective buyer. The written disclosure must include all
19 material facts of which the seller is aware could adversely and significantly affect an
20 ordinary buyer's use and enjoyment of the property or any intended use of the
21 property of which the seller is aware. The written disclosure must include latent
22 defects, general condition, environmental issues, structural systems, and mechanical
23 issues regarding the property. The seller shall make the written disclosure in good faith
24 and based upon the best of the seller's knowledge at the time of the disclosure.

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- 1 3. Following if a real estate broker, real estate broker associate, or real estate
2 salesperson who is associated with a real estate brokerage firm represents or assists
3 a party to the transaction, following the sale, exchange, or purchase of real property,
4 the brokerage firm shall retain a copy of the written disclosure completed and signed
5 by the seller and signed by the prospective buyer. The brokerage firm's duties under
6 this section do not supersede any other common law or statutory duties.
- 7 4. The North Dakota real estate commission shall establish and make available a written
8 disclosure form meeting the requirements of this section. In establishing the form, the
9 commission shall consult with stakeholders, such as professional organizations.
- 10 5. If a real estate broker, real estate broker associate, or real estate salesperson who is
11 associated with a real estate brokerage firm violates this section, the state real estate
12 commission may investigate and take disciplinary action under section 43-23-11.1.
- 13 6. An owner of real property shall disclose, in writing, all material facts that are known or
14 should be known to the seller but would not be discoverable through another
15 individual's exercise of ordinary care, to the purchaser of the real property before the
16 purchase is final.
- 17 7. This section does not apply to transactions for the sale, exchange, or purchase of real
18 property made:
- 19 a. Pursuant to a court order;
20 b. Between government agencies;
21 c. By a mortgagor in default to a mortgagee;
22 d. Pursuant to a foreclosure sale;
23 e. By a mortgagee or a beneficiary of a deed of trust who acquired the real property
24 by a:
- 25 (1) Foreclosure;
26 (2) Deed in lieu of foreclosure; or
27 (3) Collateral assignment of beneficial interest;
- 28 f. By a fiduciary administering a decedent's estate, guardianship, conservatorship,
29 or trust;
- 30 g. Between co-owners of the real property;
31 h. To a spouse, child, parent, sibling, grandchild, or grandparent; or

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- 1 i. If the real property is newly constructed residential real property with no previous
- 2 occupancy.