



North Dakota Senate

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SB 2229 Testimony Senate Industry and Business Committee January 29, 2025

Chair Barta and fellow Members of the Senate Industry and Business Committee,

I bring to you SB 2229 at the request of the North Dakota Association of Realtor, of which I am a member. Relevant to this legislation, I am also a condo owner and serve on our condo association board.

This legislation is intended to provide guidance to homeowners' associations and condo associations throughout the state on the documents commonly required to ensure a smooth transfer of real property in an established HOA or condo development. Additionally, the required documents proposed in this legislation allow potential new owners the opportunity for full disclosure of important aspects of purchasing a home in a shared community setting.

The legislation was initiated by a task force within the ND Association of Realtors to address the growing concerns our members are facing in trying to fully represent buyers and sellers of homes within an HOA or condo development. I connected the task force with the Community Association Institute, which is an international organization that serves community associations and homeowners through education, advocacy, leadership development and research to support balanced approaches to enjoy the benefits and responsibilities of living in common interest communities. CAI has been a helpful resource to me over the years as they have a firm understanding of how other states have implemented and amended statutes for HOAs and condo developments. We recognize that ND has a small number of HOAs or condo developments compared to other states, so we really tried hard to make sure the legislation wasn't burdensome, but outlined the responsibilities an association should have to allow an owner to be able to smoothly sell their property and a buyer have the necessary information to make an informed decision.

Mr. Chairman and members of the committee, I will walk you through the legislation:

- Page 1, lines 8-13 establish definitions used for the new section of Chapter 47-10
- Page 1, lines 14-17 establish that absent the buyer and seller agreeing to a specific date, the documents in subsection 2 need to be provided to the buyer within 10 days of the purchase agreement being executed
- Page 1, line 18 through page 2, line 26 lists the 15 documents or policies requested to be disclosed to potential buyers based on best practices, financing or commonly requested information
- Page 2, lines 27-29 requires that the documents be current within the last 90 days. This primarily applies to financial information and any insurance renewal
- Page 2, lines 30-31 removes liability for the seller and their agent based on any information disclosed through the documents

- Page 3, lines 1-9, we establish that the association is required to provide the required documents to the owner-seller within 10 days of the owner-seller request so that the owner-seller can have as much information as possible for potential buyers to review
 - Lines 3-6 allows the association to charge a reasonable fee and that fee must be disclosed. This is common for associations that contract with a property management company to assess.
 - Lines 6-9 allows for the fact that some associations may not have some of these documents and if that's the case they need to disclose that
 - Although Line 9 indicates that four of the documents are not exempt from the requirement. These four documents are primarily required by a lender to be able to provide financing for an HOA or condo. Additionally, it allows the buyer to be fully informed of the financial status of the association they would be joining.
- Page 3, lines 10-12 ensure that the buyer is not liable for any assessment owed by the seller that was not disclosed to the buyer
- Page 3, lines 12-16 creates a default contingency for the buyer in the event the association does not provide the required documentation or disclosure that the documents don't exist
- Page 3, lines 17-21 requires the seller to notify the buyer of any changes to material facts

Finally, Mr. Chairman and members of the committee, while the list of documents may look lengthy, the reality is many of them such as the bylaws (page 1, line 22) and Insurance certificate (page 2, line 11) are standard documents that are static. Other items such as the statement of remedies (page 2, line 19) and leasing policy (page 2, line 22) refer to language that likely or should exist in the association's bylaws and/or rules. In the development of this legislation, the Task Force discussed updating our NDAR Condo Info Form and NDAR HOA Info Form, to match these requirements to make it a user-friendly worksheet for sellers that work with Realtor members to provide to their association. The ND Real Estate Commission may create a similar tool for all licensees to provide to their clients.

If this legislation is enacted, I would encourage the Association of Realtors to partner with the ND Bankers Association, Credit Union Association of the Dakotas, ND Independent Bankers Association, ND Land Title Association, the Community Associations Institute and other stakeholders to put together in person training and materials to help educate homeowners and condo associations in the cities with the largest number of associations.

As Realtors, our goal is not to add requirements for the sake of it, but to best represent our buyers and sellers and ensure as smooth of a transfer of property as possible.

I hope you'll provide SB 2229 your support and I'm happy to stand for any questions or comments you may have.

HOA INFORMATION

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1 **DATE:** _____

2 Street Address: _____

3 City: _____ State: _____ Zip Code: _____ County: _____

4 Homeowner's Association: _____

5 President of Association: _____

6 Phone Number: _____

7 Association Management Company (if applicable): _____

8 Contact: _____

9 Phone Number: _____

10 Copy of Covenants: Yes (Please attach) No

11 Copy of Homeowner's Association By-Laws: Yes (Please attach) No

12 Are there any unusual features or restrictions on the use of the Property? Yes No

13 If "Yes," Explain: _____

14 The HOA fee is _____ per _____.

15 The fee includes: Lawn Care

16 Snow Removal

17 Common Area Maintenance

18 Road Maintenance

19 Building Insurance

20 Other: _____

21 Is there a transfer fee? Yes No

22 If "Yes," Amount and Explain: _____

Buyer(s) Initials _____

Seller(s) Initials _____

CONDO INFORMATION

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1 **DATE:** _____

2 **Street Address:** _____

3 **City:** _____ **State:** _____ **Zip Code:** _____ **County:** _____

4 **Condominium Association:** _____

5 **President of Association:** _____

6 **Phone Number:** _____

7 **Property Management Company (if applicable):** _____

8 **Contact:** _____

9 **Phone Number:** _____

10 **Building Insurance Company:** _____

11 **Contact:** _____

12 **Phone Number:** _____

13 **FHA Approved?** **Yes** **No** **VA Approved?** **Yes** **No**

14 **Copy of By-Laws:** **Yes** (Please attach) **No**

15 **Copy of Treasurer's report:** **Yes** (Please attach) **No**

16 **Copy of the last 2 Association meeting minutes:** **Yes** (Please attach) **No**

17 **Can condo be rented?** **Yes** **No** **Are pets allowed?** **Yes** **No**

18 **Are there any pending assessments for improvements?** **Yes** **No** If "Yes," amount \$ _____

19 **Is this a certified 55 and older community?** **Yes** **No**

20 **Are there any property use restrictions which could significantly affect a Buyer's use and enjoyment of the**

21 **Property?** **Yes** **No**

22 **If "Yes," explain:** _____

23 **Is there a sign policy?** **Yes** **No** If "Yes" explain: _____

24 **Number of designated parking spaces:** _____

25 **Are storage spaces available?** **Yes** **No** If "Yes," where? _____

26 **The Condo fee is** _____ **per** _____.

27 **The fee includes:** **Lawn Care**

28 **Snow Removal**

29 **Building Maintenance/amount in fund \$** _____

30 **Building Insurance \$** _____

31 **Other:** _____

32 **Is there a transfer fee?** **Yes** **No** If "Yes," amount and explain: _____

Buyer(s) Initials _____ **Seller(s) Initials** _____