

February 12, 2025

Tricia Schlosser
Owner/Broker & Govt Affairs Chair
North Dakota Association of Realtors

Re: SB2394 – OPPOSED

Chairman Barta and Members of the Committee,

For the record, my name is Tricia Schlosser, Broker/Owner of Century 21 Morrison Realty serving multiple communities throughout the state including Bismarck, Jamestown, Dickinson, Minot and Williston. I am also currently the Government Affairs Chair for the ND Association of Realtors (NDAR).

NDAR stands opposed to SB2395 for several reasons.

On January 31, this Committee recommended a 5-0 do pass on another bill focused on Homeowner's Associations, SB2229, and subsequently, the Senate overwhelmingly voted to pass the bill. SB2229 requires HOA's to simply *disclose* information such as bylaws, amendments, fees, amounts of reserves, etc, to a selling member of an HOA, if that information is known or available by that HOA. The focus is on *disclosure*.

Whereas SB2394 *regulates* and *dictates* how HOA's are structured and what they should *require* in their bylaws and for the duties of their boards. Much of the "Bylaw Requirements" are already commonly found in many HOA bylaws, covenants and restrictions throughout the state. Many of these are just "smart business" for condo and homeowners in these associations. But not all HOAs are the same – there are more differences often than similarities depending on the purpose of the HOA. If this bill is passed into law, the state will be determining how to run each HOA in North Dakota, rather than allowing the homeowners who actually live there to determine the bylaws, rules and regulations under which they will live.

Requiring an HOA to consult legal counsel every seven years and requiring an extensive formal reserve fund that covers specific mandatory items may potentially be costly for condo owners or homeowners within HOA's. Some of the requirements may even be impossible for certain HOA's to meet. Consider the following examples:

1. An HOA made up of one twin home. There may be two or sometimes one owner in the HOA. Requiring even HOA to have three members on its board, requiring quarterly meetings or two signatures on expenditures over ten thousand dollars simply may not make sense or even be possible in this situation.
2. Some HOAs have no "common areas" and operate occasionally as a group who gathers to enforce the neighborhood's covenants and restrictions. These HOAs do not have fees, nor do they have boards. It would be very cumbersome for these HOAs to suddenly have to follow all the requirements proposed in this bill.
3. HOAs may be made up of over a hundred single family homes on several private streets and may assess yearly fees. Requiring a specific amount of reserved funds could require these HOAs to maintain hundreds of thousands or potentially millions in their fund at all times instead of assessing homeowners when needed and in the manner determined by those homeowners.

These are just three examples of HOAs that do not currently fit into the mold in which SB2394 is trying to shape them. SB2394 is a restrictive one-size-fits-all response to what appears to be a very specific problem with one HOA. I believe its intent is consumer protection, however I would argue that it is not consumer friendly. If this bill should be passed into law, it would create problems in HOAs that do not exist today. In its quest to fix a problem, it would be intrusive and violate North Dakotan's private property rights in determining the association rules under which they live.

Realtors advocate for consumers because we believe homeownership is the foundation of wealth and well-being of our communities and we believe in protecting private property rights – allowing people to choose where and how to live. We are here today to oppose SB2394 because it would be a losing proposition for consumers overall, it would violate homeowner’s private property rights, and it would cause disruption for many in our communities.

For these reasons, I respectfully ask the Committee to recommend a do NOT pass on SB2394. I am happy to answer any questions.

Respectfully,

Tricia Schlosser
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