

2023 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1190

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1190
01/16/2023

Relating to practicing as a real estate broker or salesperson.

Vice Chairman Ostlie called the meeting to order 11:01 AM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Christy, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner.
Member absent: Representative Warrey.

Discussion Topics:

- Property flipper
- Interest in the purchase agreement
- Real Estate licensee
- Disclosure to seller
- Selling equitable interest
- Closings
- Wholesale selling
- Penalty

In favor:

Representative Scott Louser, District 5, Minot, ND, Primary bill sponsor (no written testimony)
Jill Beck, CEO ND Association of Realtors, #16886
Bill Dean, member of the ND Association of Realtors and Government Affairs Committee, #16888
Nick Hacker, Legislative Chair, ND Land Title Association (no written testimony)

Additional written testimony:

Steven Link, Chairman, North Dakota Real Estate Commission #13262

Vice Chairman Ostlie adjourned the meeting at 11:58 AM

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1190
02/07/2023

Relating to practicing as a real estate broker or salesperson.

Chairman Louser called the meeting to order 10:55 AM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Christy, Dakane, Johnson, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner, Warrey.
Member absent: Representative Kasper

Discussion Topics:

- Wholesale buyers and sellers transactions
- Consumer disclosure

Representative Louser proposed amendment, #19580, LC #23.0627.01002

Representative Schauer moved to adopt the amendment.
Representative Dakane seconded.

Roll call vote:

Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	Y
Representative Josh Boschee	Y
Representative Josh Christy	Y
Representative Hamida Dakane	Y
Representative Jorin Johnson	Y
Representative Jim Kasper	AB
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Austen Schauer	Y
Representative Paul J. Thomas	Y
Representative Bill Tveit	Y
Representative Scott Wagner	Y
Representative Jonathan Warrey	Y

Motion passed 13-0-1

Representative Boschee moved do pass as amended.
Representative Wagner seconded.

Roll call vote:

Representatives	Vote
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Representative Scott Louser	Y
Representative Mitch Ostlie	Y
Representative Josh Boschee	Y
Representative Josh Christy	Y
Representative Hamida Dakane	Y
Representative Jorin Johnson	N
Representative Jim Kasper	AB
Representative Ben Koppelman	N
Representative Dan Ruby	Y
Representative Austen Schauer	Y
Representative Paul J. Thomas	N
Representative Bill Tveit	Y
Representative Scott Wagner	Y
Representative Jonathan Warrey	Y

Motion passed 10-3-1

Representative Louser will carry the bill.

Chairman Louser adjourned the meeting at 11:08 AM

Diane Lillis, Committee Clerk

February 3, 2023

OK
2-7-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1190

Page 1, line 1, after "to" insert "create and enact a new section to chapter 43-23 of the North Dakota Century Code, relating to real estate wholesale buyers and sellers; and to"

Page 4, after line 15, insert:

"SECTION 3. A new section to chapter 43-23 of the North Dakota Century Code is created and enacted as follows:

Wholesale buyers and sellers - Disclosure.

1. As used in this section:
 - a. "Residential real property" means real property with fewer than five dwelling units.
 - b. "Wholesaler" means a person that enters an agreement to make income or profit from the transfer of or equitable interest in residential real property.
2. A wholesaler of residential real property shall disclose in writing to all parties to the agreement that the wholesaler holds an equitable interest in the property, may not be able to convey title to the property, and intends to make a profit or income from the transfer of the equitable interest.
3. Notwithstanding any other provision contained in a contract for sale of residential real property, if a wholesaler violates this section, the seller may cancel the contract for sale at any time before the close of escrow without penalty and may retain any earnest money paid by the wholesaler.
4. Notwithstanding any other provision contained in the contract for sale, if a wholesaler violates this section, the buyer may cancel the contract for sale at any time before the close of escrow without penalty and must be refunded all earnest money paid by the buyer."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1190: Industry, Business and Labor Committee (Rep. Louser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1190 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new section to chapter 43-23 of the North Dakota Century Code, relating to real estate wholesale buyers and sellers; and to"

Page 4, after line 15, insert:

"SECTION 3. A new section to chapter 43-23 of the North Dakota Century Code is created and enacted as follows:

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4. Notwithstanding any other provision contained in the contract for sale, if a wholesaler violates this section, the buyer may cancel the contract for sale at any time before the close of escrow without penalty and must be refunded all earnest money paid by the buyer."

Renumber accordingly

2023 SENATE INDUSTRY AND BUSINESS

HB 1190

2023 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee Fort Union Room, State Capitol

HB 1190
3/7/2023

A BILL for an Act relating to real estate wholesale buyers and sellers; relating to practicing as a real estate broker or salesperson.
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2:45 PM Chairman D. Larsen called the meeting to order.

Members present: Chairman D. Larsen, Vice Chairman Kessel, Senator Barta, Senator Klein, Senator Boehm.

Discussion Topics:

- Disclosure of wholesaling property
- Title transfers
- Consumer protection
- Assignment of property
- Intention to perform.
- Equitable interest

2:45 PM Representative Louser, District 5, Minot, introduced the Bill, and North Dakota Association of Realtors, verbally testified in favor of HB 1190.

2:53 PM Jill Beck, CEO of North Dakota Association of Realtors, testified in favor of HB 1190.
22667

2:55 PM Bill Dean, Government Affairs Committee, North Dakota Association, testified in favor of HB 1190. # 22742

3:03 PM John Ward introduced Nick Hacker, North Dakota Land Title Association, testified in favor of HB 1190. No written testimony.

Additional written testimony:
Steven Link # 22420

3:06 PM Chairman D. Larsen closed the hearing on HB 1190.

3:08 PM Senator Klein moved to DO PASS HB 1190.
Seconded by Senator Barta.

Roll call vote.

Senators	Vote
Senator Doug Larsen	Y
Senator Greg Kessel	Y
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Jerry Klein	Y

Motion passed 5-0-0

Senator Larsen will carry the bill.

3:11 PM Chairman D. Larsen closed the meeting.

Brenda Cook, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1190, as engrossed: Industry and Business Committee (Sen. Larsen, Chairman)
recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1190 was placed on the Fourteenth order on the calendar. This bill
does not affect workforce development.

TESTIMONY

HB 1190



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

www.realestatend.org

Letter in favor of HB 1190 as written

**Representative Scott Louser, Chair
House Industry, Business and Labor Committee
State Capitol
600 East Boulevard Avenue
Bismarck ND 58505**

Chairman Louser and members of the House Industry, Business and Labor Committee,

The North Dakota Real Estate Commission met in a special meeting and voted unanimously in support of House Bill 1190 as written.

HB 1190 amends real estate license law by requiring a real estate license to publicly market for sale an equitable interest in a contract for the purchase of real property between a property owner and a prospective purchaser. This practice is commonly referred to as “wholesaling.”

We urge a “Do Pass” recommendation and vote on HB 1190 as written.

Thank you for your consideration.

Sincerely,

Steven Link, Chair
Casselton

On behalf of all North Dakota Real Estate Commission members:

Tate Cymbaluk, Vice Chair Sandra Meyer
Williston Niagara

Scott Breidenbach Steven Bitz
West Fargo Bismarck

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



North Dakota Association of REALTORS®

To advocate for the success of our members in partnership with our local Associations and the National Association of REALTORS®

January 16, 2023

Testimony in Support of 1190

Chairman Louser and Members of the House Industry, Business and Labor Committee, for the record my name is Jill Beck, and I am the CEO representing the North Dakota Association of REALTORS® (NDAR).

The North Dakota Association of REALTORS® membership is made up of more than 2,200 REALTORS® and more than 250 Business Partner members. We are the non-profit professional member organization for real estate licensees and those businesses that enhance our members business. While this is who our members are I also want to be clear that part of our mission at NDAR is protecting private property rights of which this bill falls under.

As with HB 1188 we are testifying on this bill for the same reason of consumer protection.

There is a practice out there known as wholesaling which an individual makes an offer on a home but does not intend to go to closing of the property. They look for an interested party to purchase the equitable interest in the contract and if they do not find that purchaser, they cancel the deal which can be detrimental to the home seller and their future.

As many of you may be aware we have had property condition disclosure that came through this body the last two sessions and was implemented and updated. We feel the buyer and seller should be aware of the wholesaler and it should be disclosed.

We do have a member who has been involved in wholesaling and is well versed on the practice and will explain a bit further and answer any questions.

I would ask for your support of HB 1190 as it protects our citizens. Thank you.

Jill Beck, CEO
North Dakota Association of REALTORS®
Jill@ndrealtors.com
701-355-1010

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To advocate for the success of our members in partnership with our local Associations and the National Association of REALTORS®

January 16, 2023

Testimony in Support of HB 1190

Chairman Louser and Members of the House Industry, Business and Labor Committee, for the record my name is Bill Dean and I am a member of the North Dakota Association of REALTORS® and of their Government Affairs Committee. I am also a REALTOR® practicing in the Bismarck-Mandan market.

The North Dakota Association of REALTORS® membership is made up of more than 2,200 REALTORS® and more than 250 Business Partner members.

I am speaking in support of House Bill 1190, which relates to practicing as a real estate broker or salesperson. NDAR's Government Affairs Committee and Board of Directors has brought this bill forward to address the action of "wholesaling" in real estate.

The practice of "real estate wholesaling" occurs when an individual enters into a contract to purchase real estate and immediately attempts to resell, for profit, their interest in that real estate contract to a different purchaser prior to closing on the property. The wholesaler often has no intention of actually purchasing the property and never takes title to the property. If the wholesaler cannot find another buyer to sell the contract to, the wholesaler will typically back out of the contract without closing. Wholesalers will publicly market the property as if they actually own the property, when they only have a contract to purchase the property. This can have an impact on both the seller and purchaser (from the wholesaler) if the sale closes or does not close.

I would like to share my personal background as it relates to wholesaling. When I began my career, I was trained in real estate investing through a national investing education company. Wholesaling was taught as the first method to get started in real estate investing, in about 30 minutes of class time. Since then, I have practiced those methods and taught other investors how to wholesale. The reason it is taught by so many trainers is because it requires virtually zero money down and can pay high profits for your time. These methods are now being advertised on social media, sponsored ads, and by HGTV stars as a way to make money, causing undereducated individuals to begin the practice of wholesaling. I believe the lack of understanding, proper disclosure, and straight fraud is hurting home owners.

Our intention with this bill is that individuals must (1) be licensed in real estate in order to practice wholesaling and (2) be obligated to disclose the practice. By requiring wholesalers be licensees, those practicing wholesaling would have the same level of competency and accountability as all licensed real estate professionals. Additionally, by disclosing exactly what duties and responsibilities will be performed by the wholesaler, consumers can make an informed decision when determining whether or not to enter into an agreement.

(over)

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23.0627.01002
Title.

Prepared by the Legislative Council staff for
Representative Louser
February 3, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1190

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Renumber accordingly



North Dakota Real Estate Commission
1120 College Dr Ste 204
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www.realestatend.org

Letter in favor of HB 1190

March 6, 2023

Senator Doug Larsen, Chair
Senate Industry and Business Committee
State Capitol
600 East Boulevard Avenue
Bismarck ND 58505

Chairman Larsen and members of the Senate Industry and Business Committee,

The North Dakota Real Estate Commission voted unanimously in support of House Bill 1190 as introduced in the House.

HB 1190 amends real estate license law by requiring a real estate license to publicly market for sale an equitable interest in a contract for the purchase of real property between a property owner and a prospective purchaser. This practice is commonly referred to as "wholesaling."

The commission has not taken any additional official action on HB 1190 since it was amended with language requiring disclosure of wholesaling.

Thank you for your consideration.

Sincerely,

Steven Link, Chair
Casselton

On behalf of all North Dakota Real Estate Commission members:

Tate Cymbaluk, Vice Chair Sandra Meyer
Williston Niagara

Scott Breidenbach Steven Bitz
West Fargo Bismarck

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



To advocate for the success of our members in partnership with our local Associations and the National Association of REALTORS®

March 7, 2023

Testimony in Support of 1190

Chairman Larsen and Members of the Senate Industry and Business Committee, for the record my name is Jill Beck, and I am the CEO representing the North Dakota Association of REALTORS® (NDAR).

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I would ask for your support of HB 1190 as it protects our citizens. Thank you.

Jill Beck, CEO
North Dakota Association of REALTORS®
Jill@ndrealtors.com
701-355-1010



To advocate for the success of our members in partnership with our local Associations and the National Association of REALTORS®

March 6, 2023

Testimony in Support of HB 1190

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(over)

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With this being said, the North Dakota Association of REALTORS® is asking for a do-pass from this committee on House Bill 1190. I would be happy to answer any questions from the Chairman and the Committee.

Bill Dean

NDAR Government Affairs Committee Member

REALTOR®, Better Homes and Gardens Real Estate Alliance Group

billdean@alliancere.net