2025 SENATE INDUSTRY AND BUSINESS

SB 2229

2025 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee
Fort Union Room, State Capitol

SB 2229
1/29/2025

A bill relating to required disclosures before the sale of a condominium unit or a property subject to a homeowner's association or a condominium project.

9:30 a.m. Chairman Barta called the meeting to order.

Members present: Chairman Barta, Vice-Chairman Boehm, Senator Klein, Senator Kessel, Senator Enget

Discussion Topics:

- ND Association of Realtors
- Task force initiated
- Community Associate Institute
- Small number of residents
- Timeline establishment
- Required document disclosure
- Seller liability
- Fee and disclosure
- Disclosure of non-existent documents
- Buyer liability
- ND Banker's Association, Credit Association of the Dakotas, and the ND Title Association
- In-person training and education expansion
- Affordable housing and community living
- Diminishing assets
- Transaction efficiency
- Recurring disclosure issues
- Home buyer protection
- HOA rules and regulations
- Financial and legal obligations
- Property condition disclosure

9:34 a.m. Senator Josh Boschee, District 44, testified in favor and submitted testimony #32493.

9:48 a.m. Jill Beck, CEO of the ND Association of Realtors and lobbyist, testified in favor.

9:50 a.m. Desri Neether, Vice President of the ND Association of Realtors, testified in favor and submitted testimony #32335.

9:58 a.m. Chairman Barta closed the hearing.

9:59 a.m. Senator Klein moved a Do Pass.

9:59 a.m. Senator Boehm seconded the motion.

Senators	Vote
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Mark Enget	Y
Senator Greg Kessel	Y
Senator Jerry Klein	Y

Motion passed 5-0-0.

Senator Boehm will carry the bill.

Additional written testimony:

Gloria J. Palm Connor, Government Affairs Committee Member with the ND Association of Realtors, submitted testimony #32207 in favor.

Benjamin M. Price, Community Associations submitted testimony #32136 in favor.

10:00 a.m. Chairman Barta closed the hearing.

Audrey Oswald, Committee Clerk

REPORT OF STANDING COMMITTEE
SB 2229 (25.0597.03000)

Industry and Business Committee (Sen. Barta, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2229 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

January 28, 2025

Senate Industry and Business Committee
North Dakota Legislative Council
State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505

Comments Submitted Via: Webform

RE: CAI Support for SB 2229 A BILL for an Act to create and enact a new section to chapter 47-10 of the North Dakota Century Code, relating to required disclosures before the sale of a condominium unit or a property subject to a homeowners' association or a condominium project.

Dear Chair Barta, Vice Chair Boehm, and Senators Enget, Kessel, and Klein,

On behalf of Community Associations Institute (CAI)[i] and approximately 50,000 North Dakotans living in 20,400 homes in nearly 1,000 community associations across the state, thank you for the opportunity to provide comment on SB 2229 A BILL for an Act to create and enact a new section to chapter 47-10 of the North Dakota Century Code, relating to required disclosures before the sale of a condominium unit or a property subject to a homeowners' association or a condominium project.

CAI supports SB 2229 as introduced and thanks the Prime Sponsor, Senator Boschee, for his proactive engagement with stakeholders. CAI asks that the Committee approve SB 2229 as introduced.

Support for SB 2229 A BILL for an Act to create and enact a new section to chapter 47-10 of the North Dakota Century Code, relating to required disclosures before the sale of a condominium unit or a property subject to a homeowners' association or a condominium project.

The legislative language in SB 2229 is the result of compromise reached among members of the North Dakota Association of Realtors and CAI, in conjunction with bill sponsor Senator Boschee, who welcomed CAI's participation in ongoing discussions for the last several months. CAI wholeheartedly agrees that there is a need in North Dakota for the types of consumer protections that disclosures before the sale of a condominium or home in a homeowners association provide, as outlined in SB 2229. An informed homebuyer mitigates the potential for confusion over association rules and assessments by new homeowners, and protects purchasers from accidentally violating covenants or incurring late fees.

SB 2229 was drafted using language and concepts from successful statutory language in Nebraska, Minnesota, and South Dakota, as well as the 2021 version of the Uniform Common Interest Ownership Act (UCIOA). UCIOA's language was designed by the Uniform Law Commission to be easily adopted by any state that seeks to do so and CAI, as outlined in the Support for the Uniform Acts Public Policy, supports and recommends consideration of appropriate portions of UCIOA where adoption of the entire act is not appropriate to address a particular policy question.

Per CAI's Disclosure Before Sales Public Policy, homeowners should be informed about association matters that may impact their decision to purchase a home. The documents disclosed during a real estate transaction help educate them about their personal rights and responsibilities with regard to the community association. In other words, disclosure documents are invaluable consumer information tools because it is vital that buyers know what they are buying. These documents tell buyers information such as the basic rules (bylaws) of the community, the financial health of the community, structural health of common elements (shared amenities and infrastructure), information on assessments, and information on insurance held by the association.

We hope the comments provided in this letter are helpful to the Committee and will assist in promoting public policy that is sensible for North Dakotans looking to purchase a home in one of the Peace Garden State's community associations. Please feel free to contact CAI to discuss these comments or any legislation impacting community associations and their residents in North Dakota.

Respectfully,

Phoebe E. Neseth, Esq.
Senior Director, Government and Public Affairs and College of Community Association Lawyers (CCAL) Liaison
Community Associations Institute (CAI)
pneseth@caionline.org | (703) 970-9256

[i] About CAI and the Community Association Housing Model

CAI is the only international membership organization dedicated to the community association model of homeownership. CAI members are homeowners, association board members, managing agents and business partners who work tirelessly to improve the community association model of housing. CAI members have a keen focus on homeowner and board member education, development and enforcement of best practices and ethical standards, and raising standards through credentialing and continuing education requirements for community association professionals. CAI's more than 47,000 members are organized in more than 64 chapters.

CAI represents the interest of homeowners, community association management companies and business that support the more than 77.1 million Americans who live in a homeowners' association, planned community or condominium. Approximately 30% of the housing stock today is in a community association, also known as condominium, homeowners association, and housing cooperative. Community association housing plays a critical role in meeting housing needs in a time of tight state and local budgets.

Role & Benefit Community Association Housing

Emerging in the 1970s, community association housing was a means to address issues of land use and limited resources at the state and local level for housing development. HOAs and condominiums allowed for affordable and efficient construction of housing while concurrently limited the financial impact of such development on local and state governments. The investment in community infrastructure including roads, retention ponds, parks, club houses and amenities are borne by developers and the ongoing cost of maintenance is supported by assessments paid by residents of the community association. Amenities and infrastructure are driven by market considerations and the result is a vast array of communities that provide consumers with an array of choices in housing and lifestyles.

When purchasing a home in a community association, a resident enters a contractual arrangement which obligates them to pay assessments to their association, which is governed by a board elected by the residents. Such communities, through deed restrictions and adopted rules have provisions to enhance and maintain the property values of homes in the community. The benefits of such communities accrue to both residents, taxpayers, and local business. First, homes in community associations are worth at minimum, 5% more than homes in a traditional community. This directly benefits the purchaser, but also the larger jurisdiction through enhanced property taxes resulting from this value premium. Additionally, community association residents assess themselves to maintain the infrastructure and amenities in their community, costs that would otherwise fall on state or local governments.

More importantly, community associations provide residents with an accessible opportunity for civic involvement. Community Associations are governed by their residents, who elect representatives to serve on a board of directors. This provides a level of local governance that residents find highly responsive to their needs. 86% of association residents rate their experience as positive or neutral, and 82% believe their elected boards strive to serve the best interests of their community. In total, more than 2.5 million Americans demonstrate their civic commitment by service on a community association board each year.

Testimony in Favor of Senate Bill 2229
Presented to the Senate Industry and Business Committee
January 28, 2025

Chairman Barta and Members of the Senate Industry and Business Committee,

Good morning. My name is Gloria Palm Connor, and I currently serve on the Government Affairs Committee for both the North Dakota Association of Realtors and the Fargo-Moorhead Area Association of Realtors. I am also an associate broker at Beyond Realty in Fargo, with extensive experience as a retired broker-owner. Over the course of my career, I have overseen agents and managed thousands of real estate transactions.

My testimony is in strong support of Senate Bill 2229, which seeks to amend and reenact section 47-10 of the North Dakota Century Code. This amendment addresses the requirement for timely disclosure of key documents to buyers before the purchase of a condominium unit or property within a homeowner's association (HOA) or condominium project.

As someone with decades of experience in real estate, I can confidently attest that having access to HOA documents prior to purchase is *absolutely essential* for buyers. Here's why:

1. **Transparency and Informed Decision-Making**
   Buyers deserve full transparency regarding the financial, operational, and governance structure of the HOA or condominium association they are buying into. The HOA documents—such as the Covenants, Conditions, and Restrictions (CC&Rs), bylaws, rules and regulations, and financial statements—contain vital information. These documents outline obligations, fees, rules, and the financial health of the association.
   Without these disclosures, buyers may enter into agreements unaware of potential restrictions or obligations, such as special assessments or limitations on property use. This can lead to unforeseen costs and conflicts after the sale, creating unnecessary financial and emotional stress for the buyer.
2. **Avoiding Disputes and Legal Issues Post-Sale**
   Failing to provide access to HOA documents prior to closing can lead to disputes between buyers, sellers, and even the HOA itself. Buyers who discover hidden fees, structural issues, or rules they weren't aware of may feel misled. This opens the door for legal challenges, tarnishing the integrity of the transaction process. Requiring these disclosures in advance helps ensure all parties are aligned and avoids complications after the sale is finalized.
3. **Aligning with Best Practices and Market Trends**
   Many states across the country already require upfront disclosure of HOA documents, recognizing that this is an industry best practice. By passing Senate Bill 2229, North Dakota can align with these standards, which are designed to protect consumers and uphold the credibility of our real estate market. This bill reinforces North Dakota's commitment to promoting fairness, transparency, and consumer confidence in real estate transactions.
4. **Promoting Financial Preparedness**
   Purchasing a property is one of the largest investments most individuals will ever make. Ensuring that buyers are fully informed about HOA dues, reserve funds, and potential assessments gives them the ability to budget appropriately and avoid financial surprises. This proactive approach fosters trust between buyers, sellers, and real estate professionals, strengthening the integrity of the home-buying process.

In Conclusion

Senate Bill 2229 represents a common-sense approach to protecting North Dakota's homebuyers by ensuring they have access to critical information before making one of the most significant financial decisions of their lives. As someone who has worked in this field for years and seen firsthand the consequences of incomplete disclosures, I firmly believe this legislation will benefit not only buyers but also sellers and the broader real estate community.

I urge the members of this committee to support Senate Bill 2229 and advance it for consideration by the full Senate. Thank you for your time and the opportunity to testify today. I am happy to answer any questions you may have.

Respectfully,
Gloria Palm Connor
Associate Broker, Beyond Realty
Government Affairs Committee Member
North Dakota Association of Realtors
Fargo-Moorhead Area Association of Realtors

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Chairman Barta and Members of the Senate Industry and Business Committee, for the record, my name is Desri Neether. I am currently the Vice President of the North Dakota Association of REALTORS® (NDAR). I have been a full-time real estate agent for 12 years and am the broker/owner of two brokerages: one in Bismarck/Mandan, North Dakota, and another in Scottsdale, Arizona. I am in 3 homeowners associations around the country and serve on a condo association board in Bismarck.

I am here today to testify in support of Senate Bill 2229. This bill came to fruition during an NDAR Government Affairs Committee meeting, where members and practitioners discussed recurring disclosure issues that have been creating challenges for buyers regarding homeowner and/or condo associations in North Dakota.

To address these concerns, our taskforce worked collaboratively with the Community Associations Institute to identify best practices and review legislation around the country. Our goal has been to proactively develop a framework for legislation that ensures transparency and protects homebuyers.

Problems arise when buyers purchase a property and later discover that they were not provided with all necessary HOA information. Examples of critical disclosures that have been overlooked include:

- Specific rules or policies approved by the HOA board that fall outside the recorded bylaws or covenants and restrictions.
- Current or pending capital improvement fees or special assessments.
- Pending insurance claims or pending HOA projects that could lead to fees or assessments in the future.

Here are a few scenarios in which this bill could have protected consumers. In all instances, the buyers, prior to closing, did their due diligence in reviewing the recorded HOA or Condo by-laws and covenants and restrictions.

1) A buyer purchases a property, with the intent of renting the property during the winter months, while they snowbird in Arizona, to help offset costs. The buyer has done their due diligence in reviewing all the recorded HOA by-laws, covenants & restrictions, to ensure there are no restrictions in renting the property. The buyer closes on the property and secures a 3-month lease for Nov-Jan. During the lease period, the homeowner receives a call that rental agreements must be approved by the HOA board and no rentals under 6 months are allowed. The buyer is left with a decision to either terminate the lease and ask the renter to leave or dispute with their HOA.
2) A buyer purchases a property where the HOA by-laws state “Domestic Pets Allowed”. The buyer closes on the property and moves in with a dog. The HOA notifies that no pets are allowed and provides an HOA Rules and Regulations sheet. Again, the buyer is left with a decision to find a new home for their pet or dispute with the HOA and deal with heckling neighbors while outside walking the dog.

3) A buyer purchases a condo and after closing on the property, receives a letter from the HOA for a “move-in” fee due. The buyer is left with an unforeseen expense immediately after purchasing their home.

As you can understand, this leads to confusion, frustration, and unexpected financial or legal obligations.

Senate Bill 2229 aims to standardize and improve the disclosure process, ensuring that buyers receive all pertinent HOA information before finalizing their purchase. By implementing this legislation, we can provide clarity and peace of mind to homebuyers while fostering a better understanding between homeowners and their associations.

For these reasons, I strongly support Senate Bill 2229. Thank you for the opportunity to testify, and I am happy to answer any questions you may have.

Sincerely,

Desri Neether

Vice President, North Dakota Association of REALTORS®
Broker/Owner – Capital Real Estate Partners

Legislative Assembly

North Dakota Senate

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360

Senator Josh Boschee
District 44
736 Elm Street North, Apt. 8
Fargo, ND 58102-3859
jboschee@ndlegis.gov

COMMITTEES:
Education
Workforce Development

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

This form approved by the North Dakota Association of REALTORS®, which disclaims any liability out of use or misuse of this form. This form is only for use by licensed REALTORS® in the State of North Dakota.

DATE: _____

Street Address: _____

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

Homeowner's Association: _____

President of Association: _____

Phone Number: _____

Association Management Company (if applicable): _____

Contact: _____

Phone Number: _____

Copy of Covenants: ☐ **Yes** (Please attach) ☐ **No**

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

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

If "Yes," Explain: _____

The HOA fee is _____ per _____.

The fee includes:
- ☐ Lawn Care
- ☐ Snow Removal
- ☐ Common Area Maintenance
- ☐ Road Maintenance
- ☐ Building Insurance
- ☐ Other: _____

Is there a transfer fee? ☐ **Yes** ☐ **No**

If "Yes," Amount and Explain: _____

EXAMPLE

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

NDAR
North Dakota Association of REALTORS®

CONDO INFORMATION

This form approved by the North Dakota Association of REALTORS®, which disclaims any liability out of use or misuse of this form. This form is only for use by licensed REALTORS® in the State of North Dakota.

DATE: _____

Street Address: _____

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

Condominium Association: _____

President of Association: _____

Phone Number: _____

Property Management Company (if applicable): _____

Contact: _____

Phone Number: _____

Building Insurance Company: _____

Contact: _____

Phone Number: _____

FHA Approved? ☐ **Yes** ☐ **No** VA Approved? ☐ **Yes** ☐ **No**

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

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

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

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

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

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

Are there any property use restrictions which could significantly affect a Buyer's use and enjoyment of the Property? ☐ **Yes** ☐ **No**

If "Yes," explain: _____

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

Number of designated parking spaces: _____

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

The Condo fee is _____ per _____.

The fee includes:
- ☐ Lawn Care
- ☐ Snow Removal
- ☐ Building Maintenance/amount in fund $_____
- ☐ Building Insurance $_____
- ☐ Other: _____

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

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

EXAMPLE

2025 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2229

2025 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Room JW327C, State Capitol

SB 2229
3/10/2025

A BILL for an Act to create and enact a new section to chapter 47-10 of the North Dakota Century Code, relating to required disclosures before the sale of a condominium unit or a property subject to a homeowners' association or a condominium project.

3:01 p. m. Chairman Warrey opened the meeting.

Members Present: Chairman Warrey, Vice Chairman Ostlie, Vice Chairman Johnson, Representatives Bahl, C. Brown, T. Brown, Finley-DeVille, Grindberg, Kasper, Koppelman, D. Ruby, Schatz, Schauer, Vollmer

Discussion Topics:

- Guidance to Associations
- Task force of Realtors
- Community Association Institute (CIA)
- Education, advocacy, leadership
- Uniform model code
- Transparency, protection

3:02 p.m. Senator Josh Boschee, District 44, Fargo, ND, introduced testified and submitted testimony #39882.

3:15 p.m. Jill Beck, CEO, ND Association of REALTORS, testified in favor and submitted testimony #40033.

3:17 p.m. Desri Neether, Vice President, ND Association of REALTORS (NDR), testified in favor and submitted testimony #39724.

3:26 p.m. Representative Schauer moved Do Pass.

3:26 p.m. Representative Kasper seconded the motion.

Representatives	Vote
Representative Jonathan Warrey	Y
Representative Mitch Ostlie	Y
Representative Jorin Johnson	Y
Representative Landon Bahl	Y
Representative Collette Brown	Y
Representative Timothy Brown	Y
Representative Lisa Finley-DeVille	Y
Representative Karen Grindberg	Y
Representative Jim Kasper	Y

Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Mike Schatz	Y
Representative Austin Schauer	Y
Representative Daniel R. Vollmer	Y

Motion passed 14-0-0.

3:30 p.m. Representative Kasper will carry the bill.

Additional written testimony:
Benjamin M. Price, Manager Government & Public Affairs, Community Associations Institute, submitted testimony in favor #39529.

3:30 p.m. Chairman Warrey closed the meeting.

Diane Lillis, Committee Clerk

REPORT OF STANDING COMMITTEE
SB 2229 (25.0597.03000)

Industry, Business and Labor Committee (Rep. Warrey, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). SB 2229 was placed on the Fourteenth order on the calendar.

March 7, 2025

House Industry, Business, and Labor Committee
North Dakota Legislative Council
State Capitol
600 East Boulevard Avenue
Bismarck, ND 58505

Comments Submitted Via: Webform

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We hope the comments provided in this letter are helpful to the Committee and will assist in promoting public policy that is sensible for North Dakotans looking to purchase a home in one of the Peace Garden State's community associations. Please feel free to contact CAI to discuss these comments or any legislation impacting community associations and their residents in North Dakota.

Respectfully,

Phoebe E. Neseth, Esq.
Senior Director, Government and Public Affairs and College of Community Association Lawyers (CCAL) Liaison
Community Associations Institute (CAI)
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[i] About CAI and the Community Association Housing Model

CAI is the only international membership organization dedicated to the community association model of homeownership. CAI members are homeowners, association board members, managing agents and business partners who work tirelessly to improve the community association model of housing. CAI members have a keen focus on homeowner and board member education, development and enforcement of best practices and ethical standards, and raising standards through credentialing and continuing education requirements for community association professionals. CAI's more than 47,000 members are organized in more than 64 chapters.

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Emerging in the 1970s, community association housing was a means to address issues of land use and limited resources at the state and local level for housing development. HOAs and condominiums allowed for affordable and efficient construction of housing while concurrently limited the financial impact of such development on local and state governments. The investment in community infrastructure including roads, retention ponds, parks, club houses and amenities are borne by developers and the ongoing cost of maintenance is supported by assessments paid by residents of the community association. Amenities and infrastructure are driven by market considerations and the result is a vast array of communities that provide consumers with an array of choices in housing and lifestyles.

When purchasing a home in a community association, a resident enters a contractual arrangement which obligates them to pay assessments to their association, which is governed by a board elected by the residents. Such communities, through deed restrictions and adopted rules have provisions to enhance and maintain the property values of homes in the community. The benefits of such communities accrue to both residents, taxpayers, and local business. First, homes in community associations are worth at minimum, 5% more than homes in a traditional community. This directly benefits the purchaser, but also the larger jurisdiction through enhanced property taxes resulting from this value premium. Additionally, community association residents assess themselves to maintain the infrastructure and amenities in their community, costs that would otherwise fall on state or local governments.

More importantly, community associations provide residents with an accessible opportunity for civic involvement. Community Associations are governed by their residents, who elect representatives to serve on a board of directors. This provides a level of local governance that residents find highly responsive to their needs. 86% of association residents rate their experience as positive or neutral, and 82% believe their elected boards strive to serve the best interests of their community. In total, more than 2.5 million Americans demonstrate their civic commitment by service on a community association board each year.

Chairman Warrey and Members of the House Industry, Business, and Labor Committee, for the record, my name is Desri Neether. I am currently the Vice President of the North Dakota Association of REALTORS® (NDAR). I have been a full-time real estate agent for 12 years and am the broker/owner of two brokerages: one in Bismarck/Mandan, North Dakota, and another in Scottsdale, Arizona. I am in 3 homeowners associations around the country and serve on a condo association board in Bismarck.

I am here today to testify in support of Senate Bill 2229. This bill came to fruition during an NDAR Government Affairs Committee meeting, where members and practitioners discussed recurring disclosure issues that have been creating challenges for buyers regarding homeowner and/or condo associations in North Dakota.

To address these concerns, our taskforce worked collaboratively with the Community Associations Institute to identify best practices and review legislation around the country. Our goal has been to proactively develop a framework for legislation that ensures transparency and protects homebuyers.

Problems arise when buyers purchase a property and later discover that they were not provided with all necessary HOA information. Examples of critical disclosures that have been overlooked include:

- Specific rules or policies approved by the HOA board that fall outside the recorded bylaws or covenants and restrictions.
- Current or pending capital improvement fees or special assessments.
- Pending insurance claims or pending HOA projects that could lead to fees or assessments in the future.

Here are a few scenarios in which this bill could have protected consumers. In all instances, the buyers, prior to closing, did their due diligence in reviewing the recorded HOA or Condo by-laws and covenants and restrictions.

1) A buyer purchases a property, with the intent of renting the property during the winter months, while they snowbird in Arizona, to help offset costs. The buyer has done their due diligence in reviewing all the recorded HOA by-laws, covenants & restrictions, to ensure there are no restrictions in renting the property. The buyer closes on the property and secures a 3-month lease for Nov-Jan. During the lease period, the homeowner receives a call that rental agreements must be approved by the HOA board and no rentals under 6 months are allowed. The buyer is left with a decision to either terminate the lease and ask the renter to leave or dispute with their HOA.
2) A buyer purchases a property where the HOA by-laws state “Domestic Pets Allowed”. The buyer closes on the property and moves in with a dog. The HOA notifies that no pets are allowed and provides an HOA Rules and Regulations sheet. Again, the buyer is left with a decision to find a new home for their pet or dispute with the HOA and deal with heckling neighbors while outside walking the dog.

3) A buyer purchases a condo and after closing on the property, receives a letter from the HOA for a “move-in” fee due. The buyer is left with an unforeseen expense immediately after purchasing their home.

As you can understand, this leads to confusion, frustration, and unexpected financial or legal obligations.

Senate Bill 2229 aims to standardize and improve the disclosure process, ensuring that buyers receive all pertinent HOA information before finalizing their purchase. By implementing this legislation, we can provide clarity and peace of mind to homebuyers while fostering a better understanding between homeowners and their associations.

For these reasons, I strongly support Senate Bill 2229. Thank you for the opportunity to testify, and I am happy to answer any questions you may have.

Sincerely,

Desri Neether

Vice President, North Dakota Association of REALTORS®
Broker/Owner – Capital Real Estate Partners

Legislative Assembly

North Dakota Senate

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COMMITTEES:
Education
Workforce Development

SB 2229 Testimony
House Industry, Business and Labor Committee
March 9, 2025

Chair Warrey and Members of the House Industry, Business and Labor 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 fairly 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 a smooth 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.

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®

March 10, 2025

Testimony in Support of SB 2229

Chairman Jonathan Warrey
Industry, Business and Labor Committee
North Dakota House of Representatives
600 East Boulevard Avenue
Bismarck, ND 58505 S

Chairman Warrey 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.

This will be short and brief as we have members here to testify who are the practitioners and can give real life examples of why this is needed.

Homeowners Association (HOA) discussions have come up in several of our Government Affairs meetings where disclosure issues, or lack of them, have created problems for buyers. So, this is the year that we felt there needed to be more protection for the consumers that purchase condos or homes that are governed by HOAs.

We consulted with several entities before bringing the idea forward to see if there was support from our business partners in real estate. We consulted with the Land Title Association, the ND Bankers Association and the Independent Community Banks of ND before having it introduced.

With that I would like to introduce Desri Neether, one of our members and Vice President of our Association. She headed up the taskforce that investigated this and came forward to our Government Affairs Committee and Board of Directors that this is something that is needed.

Note several surrounding states as well as other states legislation was looked at for best practices and there were best practices and elements from different states that were used in drafting this bill.

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REALTOR®

We recommend and ask for your full support with a **DO PASS** on Senate Bill 2229.

My contact info is below if you have any further questions.

Jill Beck, CEO
North Dakota Association of REALTORS®
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