

**Sixtieth Legislative Assembly of North Dakota  
In Regular Session Commencing Wednesday, January 3, 2007**

HOUSE BILL NO. 1119  
(Industry, Business and Labor Committee)  
(At the request of the State Real Estate Commission)

AN ACT to amend and reenact sections 43-23-03, 43-23-05.1, and 43-23-10, subdivision o of subsection 1 of section 43-23-11.1, section 43-23-16, and subsection 5 of section 43-23.2-02 of the North Dakota Century Code, relating to the state real estate commission.

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

**SECTION 1. AMENDMENT.** Section 43-23-03 of the North Dakota Century Code is amended and reenacted as follows:

**43-23-03. Commission office - ~~Secretary-treasurer~~ Executive director.** The commission shall employ ~~a secretary-treasurer~~ an executive director who shall furnish bond as required by the commission and who shall keep a record of all proceedings, transactions, communications and official acts of the commission, be custodian of all moneys received for licenses which must, by the ~~secretary-treasurer~~ executive director, be deposited for safekeeping in depositories designated by the commission. The ~~secretary-treasurer~~ executive director must be custodian of all records of the commission and perform such other duties as the commission may require. The commission is authorized to fix the salary of the ~~secretary-treasurer~~ executive director, to employ such other employees as may be necessary to properly carry out the provisions of this chapter, to fix salaries and prescribe duties of such employees and to make such other expenditures as are necessary to carry out the provisions of this chapter. The commission shall meet annually and upon call by the ~~secretary-treasurer~~ executive director upon a written request of three or more members of the commission. The place of meeting of the said commission must be at the office of the ~~secretary-treasurer~~ executive director. The location of the office of the ~~secretary-treasurer~~ executive director must be at such places within the state as the commission may designate. The commission shall maintain all files, records, and property of the commission at the office of the ~~secretary-treasurer~~ executive director.

**SECTION 2. AMENDMENT.** Section 43-23-05.1 of the North Dakota Century Code is amended and reenacted as follows:

**43-23-05.1. ~~Salesperson license issued to an organization~~ Organization of salesperson or broker associate permitted to be licensed - Fees.**

1. The commission may ~~grant license an organization of~~ grant license to an organization or broker associate if:
  - a. The organization is owned solely by ~~one~~ an individual who is licensed as a salesperson or broker associate, or by that individual and that individual's spouse, or by that individual and other salespersons and broker associates within the same firm as that individual;
  - b. The organization does not engage in any real estate ~~transaction~~ transactions as a third-party agent or in any other capacity requiring a license under this chapter; and
  - c. The organization does not advertise or otherwise portray to the public that the organization is a real estate broker or real estate brokerage firm.
2. The employing or associating broker of a salesperson ~~that is~~ or broker associate who is part of an organization is not relieved of any obligation to supervise the employed or

associated salesperson or broker associate or of any other requirements under this chapter.

3. An individual who forms ~~a salesperson~~ an organization is not by nature of that act relieved of any personal liability for licensed activities.
4. The commission may adopt rules establishing a one-time license fee for an organization licensed as a salesperson or broker associate.

**SECTION 3. AMENDMENT.** Section 43-23-10 of the North Dakota Century Code is amended and reenacted as follows:

**43-23-10. Nonresident brokers - Reciprocity - Consent to service.** A nonresident broker regularly engaged in the real estate business as a vocation and who maintains a definite place of business and is licensed in some other state, which offers the same privileges to the licensed brokers of this state, may not be required to maintain a place of business within this state. The commission shall recognize the license issued to a real estate broker by another state as satisfactorily qualifying the nonresident broker for license as a broker; provided, that the nonresident broker has qualified for license in the broker's own state and also that the other state permits licenses to be issued to licensed brokers in this state. Every nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in the proper court of any county of the state in which a claim for relief may arise, in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this state, on any member of the commission, or the ~~secretary-treasurer~~ executive director, said consent stipulating and agreeing that such service of such process or pleading shall be taken and held in all courts to be as valid and binding as if due service had been made upon said applicant in this state. The consent must be duly acknowledged. Any service of process or pleading must be by duplicate copies, one of which must be filed in the office of the commission and the other immediately forwarded by registered mail to the last-known main office of the applicant against whom said process or pleading is directed, and no default in any such proceedings or action may be taken except upon affidavit or certificate of the commission or the ~~secretary-treasurer~~ executive director, that a copy of said process or pleading was mailed to the defendant as herein required, and no judgment by default may be taken in any such action or proceeding until after thirty days from the date of mailing of such process or pleading to the nonresident defendant.

**SECTION 4. AMENDMENT.** Subdivision o of subsection 1 of section 43-23-11.1 of the North Dakota Century Code is amended and reenacted as follows:

- o. Failure by a broker to deliver to the ~~seller party or parties~~ party or parties represented by the broker a complete detailed closing statement in every real estate transaction, at the time said transaction is consummated, ~~a complete, detailed closing statement,~~ showing all of the receipts and disbursements handled by such broker for the ~~seller;~~ party or parties represented by the broker; ~~also failure to deliver to the buyer a complete statement showing all money received in said transaction from such buyer and how and for what the same was disbursed~~ party or parties represented by the broker, and to retain true copies of such statements in the broker's files.

**SECTION 5. AMENDMENT.** Section 43-23-16 of the North Dakota Century Code is amended and reenacted as follows:

**43-23-16. Licensee list.** The ~~secretary-treasurer~~ executive director shall publish, at least annually, a list of the names and addresses of all licensees licensed by the board under the provisions of this chapter, together with such other information relative to the enforcement of the provisions of this chapter as the board may deem of interest to the public. One of such lists must be mailed to the recorder in each county, unless the board of county commissioners designates a different official, and must be held as a public record. Such lists must also be mailed provided by the ~~secretary-treasurer~~ executive director to any person in this state upon request, and to all licensed brokers without charge.

**SECTION 6. AMENDMENT.** Subsection 5 of section 43-23.2-02 of the North Dakota Century Code is amended and reenacted as follows:

5. The ~~secretary-treasurer~~ executive director of the commission shall furnish a bond in the amount of sixty thousand dollars, upon such conditions as the commission may prescribe.

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Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1119.

House Vote:      Yeas    90      Nays    0      Absent    4

Senate Vote:    Yeas    46      Nays    0      Absent    1

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2007.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2007.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2007,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State