



North Dakota Real Estate Commission

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March 12, 2008

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Patricia M. Jergenson

Executive Director

Administrative Rules Committee
North Dakota Legislative Council
State Capitol Building
600 East Boulevard Ave
Bismarck, ND 58505-0360

Dear Committee Members:

Our agency is solely responsible for the administration of the North Dakota Real Estate License Law and Administrative Code governing the conduct of real estate licensees. The commission does not receive any federal or state funding to maintain our agency.

Three of the rules changes adopted by the North Dakota Real Estate Commission are the result of statutory changes made by the 2007 Legislative Assembly.

43-23-03 of the North Dakota Century Code was amended to change the title of my position from secretary treasurer to executive director. Sections 70-01-01(3) and (4) on page 83 were adopted in accordance with this statute and changes the title of secretary treasurer to executive director in the rules as well.

43-23-05.1 of the North Dakota Century Code was revised to allow broker associate licensees to register an organization (such as a corporation) with the real estate commission and have their commissions paid to that organization so the licensee would be able to participate in the benefits and advantages that such an arrangement has to offer. Previously only someone with a salesperson license could do this. 70-02-01-02(13) on page 85 was amended to comply with the North Dakota Century Code.

The amendment to 43-23-11.1(o) of the North Dakota Century Code changed the requirements regarding the documents brokers are required to keep in their files. Section 70-02-03-07 on page 89 was amended to comply with this change in the statute.

The North Dakota Real Estate Commission in exercising its rule making authority used the following procedure:

Advance notice of the rules hearing was published in the Fall 2007 issue of the **North Dakota Real Estate News and Views**, the official publication of the North

Dakota Real Estate Commission which is mailed to each licensee in the state of North Dakota and to those licensees who hold a reciprocal license in our state.

Notice was served upon the public through publication of the hearing notice in each of the state's daily and weekly newspapers through the North Dakota Newspaper Association. All notices were published and mailed in advance of the date of hearing as required by statute.

A public hearing was held on November 7, 2007 at 8:00 AM, central daylight time, in the Ft Union Room here at the Capitol. Jill Beck, Executive Vice President of the North Dakota Association of REALTORS®, Nancy Deichert of the Bismarck-Mandan Board of REALTORS® and Claus Lembke were in attendance at the hearing. Ms. Beck spoke on behalf of her association in favor of the proposed amendments and their adoptions.

The Commission received written comment from Steven Schwab expressing his opposition to the proposed rule change to 70-02-03-12 regarding the handling of earnest money deposits. Mr. Schwab felt that the proposed change would do more than remove unnecessary language, that it would in fact change the entire meaning of the rule. At a Commission meeting via telephone conference on December 28, 2007 the Commission considered the written and oral testimony and voted to remove the proposed change to 70-02-03-12.

The approximate cost for legal fees involving research, preparation, and appearance at the public hearing was \$1035.00. The cost for printing and mailing the notice to all licensees was \$1356.00. The publication in the local newspapers was \$1348.00, for an approximate total of \$3740.00. The rules hearing was held on the same day as a scheduled meeting of the real estate commission, consequently the costs for meals, lodging, travel and per diem for the Commissioners were not charged to the rules hearing.

No regulatory analysis was required or issued as per NDCC Section 28-32-08.

No economic impact statement was required per NDCC Section 28-32-08.1.

No constitutional takings assessment was prepared as required by NDCC Section 28-32-09.

EXPLANATION OF RULES

Section 70-02-01-03 is located on page 86 and pertains to changes in the examination process. Number 3 was removed because applicants no longer need to submit an application and fee to rewrite the examination to the Commission. Number 4 removes reference to the broker license applicant. Number 5 changes the requirement for a North Dakota resident broker applicant to

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take both the state and national portion to requiring a broker applicant to take only the national portion. This will allow the Commission to change the format of the broker examination.

Section 70-02-01-06 is located on page 87. Number 3 removes the requirement to provide a photo static copy of a broker's license since a Certificate of Licensure is already requested in Number 2. Number 5 clarifies the license examination requirement for non-resident license applicants.

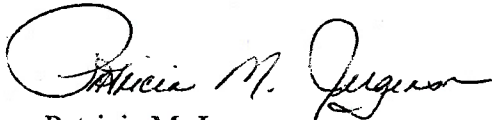
Section 70-02-03-01 is located on page 88. This section was amended to remove the confusion caused by the term "code of ethics" which is a phrase used by the National Association of REALTORS®.

Section 70-02-03-02.1 is located on page 88. The changes to this Administrative Rule include all advertising mediums and provide clear guidelines for licensees to follow.

Section 70-02-03-10 is located on page 89 and removes unnecessary verbiage.

Please let us know if we can be of any further assistance regarding any questions or concerns.

Thank you for your time and consideration,

A handwritten signature in cursive script, reading "Patricia M. Jergenson".

Patricia M. Jergenson
Executive Director