



**North Dakota Real Estate Commission Meeting Minutes -- FINAL**  
**8:30 a.m., Tuesday, November 26, 2024**  
**1120 College Dr Ste 204, Bismarck, ND**

[www.realestatend.org](http://www.realestatend.org)

Present by Teams: Scott Breidenbach, chair; Sandra Meyer, vice chair; members: Steven Bitz, Steven Link, Tate Cymbaluk. Also present: David Phillips, special assistant attorney general; staff: Jeanne Prom, executive director; Cieana Schneider, licensing specialist. Members of the public also present by Teams.

1. Call to order, roll call and determination of quorum.

Chair Mr. Scott Breidenbach called the meeting to order at 8:30 a.m. Ms. Jeanne Prom, executive director, called the roll, with a quorum of all members present virtually.

2. Review and decisions on draft legislation and next steps.

Ms. Prom and Mr. David Phillips, special assistant attorney general, reviewed draft legislation amending NDCC 43-23, real estate license law. Ms. Prom explained the 5 changes proposed to NDCC 43-23:

- 1) amend the license renewal date language from specific to general language,
- 2) amend license standards to allow not just salesperson applicants, but also broker applicants, to take the license exam before completing pre-licensing education,
- 3) add to the definition of "broker" specific language describing referring -- when an individual shares compensation with another licensed individual,
- 4) amend wholesaling language to require disclosure if wholesaling any real property, and
- 5) add language to allow the commission to issue cease-and-desist orders for non-licensed activity, and to use prima facie evidence as a standard of proof in issuing an order, after discussing different powers, due processes, and enforcement.

Mr. Phillips explained that he contacted the Office of Attorney General (OAG) staff who work with licensing boards, and 2 staff expressed the following concerns about the commission pursuing new authority to issue cease-and-desist orders for unlicensed activity:

- 1) The OAG and States Attorneys have authority to handle unlicensed activity.
- 2) No occupational licensing boards have the authority to issue cease-and-desist orders for unlicensed activity.
- 3) The commission has not requested legal action by either the OAG or States Attorneys to pursue legal action to stop unlicensed activity.
- 4) The legislature may not grant this authority to the commission.
- 5) The commission would assume additional legal liability and be required to expend additional resources if the commission would issue cease-and-desist orders, especially if those orders were challenged.

Mr. Phillips also contacted the State's Attorneys' association leadership, who requested comments from their members. Mr. Phillips did not receive any feedback from the State's Attorneys on the commission gaining cease-and-desist authority.

The commission discussed the cease-and-desist authority some other state real estate commissions have, but noted those states were larger, had more resources, and may be more prepared to assume the liability that comes with cease-and-desist actions. Ms. Prom noted that the commission agreed to change the minimum length of continuing education courses, but this requires a change in administrative rules, and not in statute, so is not part of the bill draft. Ms. Prom reported that Representative Scott Louser, a licensee and legislator,

agreed to be the sponsor of this agency pre-filed bill. Agency pre-filed bills are limited to 1 sponsor. Rep. Louser said he will have an amendment prepared to address sharing of commission compensation that relates to the national association's recent lawsuit settlement. Rep. Louser said he plans to offer this amendment during the legislative session hearing on the commission's bill, due to limited time to prepare this before the December 5, 2024 deadline to pre-file agency bills.

Mr. Steven Bitz moved to remove language from the bill draft that provides cease-and-desist authority to the commission. Ms. Sandra Meyer seconded. Roll call vote: ayes -- Mr. Cymbaluk, Mr. Link, Mr. Bitz, Ms. Meyer, Mr. Breidenbach; nays – none. Motion carried 5-0.

Mr. Tate Cymbaluk moved to approve pre-filing an agency bill with Rep. Louser as sponsor that changes NDCC 43-23 by: 1) amending the license renewal date language from specific to general language, 2) amending license standards to allow not just salesperson applicants, but also broker applicants, to take the license exam before completing pre-licensing education, 3) adding to the definition of "broker" specific language describing referring -- when an individual shares compensation with another licensed individual, and 4) amending wholesaling language to require disclosure if wholesaling any real property; but does not add language to allow the commission to issue cease-and-desist orders for non-licensed activity. Mr. Steven Link seconded. Roll call vote: ayes -- Mr. Cymbaluk, Mr. Link, Mr. Bitz, Ms. Meyer, Mr. Breidenbach; nays – none. Motion carried 5-0. Ms. Prom and Mr. Phillips will submit the pre-filed bill with signed sponsor paperwork to the Legislative Council by the December 5, 2024 deadline.

### 3. Minutes – November 12, 2024

Mr. Cymbaluk moved to approve minutes from the November 12, 2024 meeting as presented. Ms. Meyer seconded. Motion carried by unanimous voice vote.

### Adjourn

Chair Breidenbach adjourned the meeting at 8:50 a.m.