



REAL ESTATE

FALL

2007

NEWS & VIEWS

NORTH DAKOTA REAL ESTATE COMMISSION SCHEDULES RULES HEARING

A public hearing to receive comments on proposed rules changes is scheduled for 8:00 am CDT, Wednesday, November 7, 2007 in the Ft. Union Room, State Capitol
600 E Boulevard Ave, Bismarck, North Dakota

The purpose of the proposed rules and amendments is to comply with changes in the statutes resulting from the 2007 Legislative Session and to update and clarify certain provisions pertaining to licensing and licensee responsibilities.

Written comments may be submitted to the North Dakota Real Estate Commission, PO Box 727, Bismarck, ND 58502-0727 until November 17, 2007. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the North Dakota Real Estate Commission at the above address or call 701-328-9749 at least 7 days prior to the public hearing.

The following are the Commission's proposed rules and amendments to be considered. Original language is stricken and new language is underlined. The reason for recommended adoption appears in the gray area.

Proposed Rules changes start on page 7 at bottom.



What will you find at www.realestatend.org

www.realestatend.org is the North Dakota Real Estate Commission web site. If you haven't had a chance to check it out here are some of the things you will find there:

- forms
- newsletters
- complaint forms
- online directory
- education providers
- information on obtaining a real estate license
- reciprocity information
- approved continuing education
- updated trust account guideline
- rules and statutes

North Dakota Real Estate Commission

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Articles by outside experts express the author's particular viewpoints. These opinions are not necessarily shared by the Commission, nor should they be mistaken for official policy. The articles are included because we feel they will be of interest to our readers.

Looking for someone?

If you want to know if someone is licensed click on the "Online Directory" tab. You will be able to search for an individual who has an active real estate license by first or last name or by company. You can also search nationwide by clicking on the link provided. So next time you want to know if someone is licensed, give our website a try!

Updated Trust Account Guidelines

Updated Trust Account Guidelines are now available. If you would like a hard copy go to the Commission's website www.realestatend.org, click on the Licensees tab and find "Trust Account Information". It is available in a PDF document.

21 Things to Remember

1. No one can ruin your day without Your Permission.
2. Most people will be about as happy as they decide to be.
3. Others can stop you temporarily but only you can do it permanently.
4. Whatever you are willing to put up with is exactly what you will have.
5. Success stops when you do.
6. When your ship comes in....make sure you are willing to unload it.
7. You will never "have it all together"
8. Life is a journey...not a destination. Enjoy the trip!
9. The biggest lie on the planet: "when I get what I want, I will be happy."
10. The best way to escape your problem is to solve it.
11. I've learned that ultimately, 'takers' lose and 'givers' win.
12. Life's precious moments don't have value, unless they are shared.
13. If you don't start, it's certain you won't arrive.
14. We often fear the things we want the most.
15. He or she who laughs....last.
16. Yesterday was the deadline for all complaints.
17. Look for opportunities...not guarantees.
18. Life is what's coming....not what was.
19. Success is getting up one more time.
20. Now is the most interesting time of all.
21. When things go wrong....don't go with them.

-Anonymous-

“READ THE CONTRACT”

By: Constance Hofland

Legal Counsel to the North Dakota Real Estate Commission



We all know it is important to read a contract before you sign it and to be sure the contract you are signing is the agreement you intend to make. However, sometimes this is easy to forget. A case decided in 2006 by the North Dakota Supreme Court brings home this point and is a good reminder for us all to **read the contract**. This case

does not involve real estate licensee law, but rather, is a lawsuit brought by the buyers against the sellers in a real estate transaction.

This case is about the sale of a hunting lodge, which was formerly a convent, in Mott, North Dakota. The sellers owned the former convent and lived in it as a residence. They also rented it out as a hunting lodge. The buyers were from Arizona and were interested in purchasing the lodge as a place to stay on their hunting trips. They also planned to rent it out as a hunting lodge when they were not there.

The buyers claim the sellers told them that the sellers would be willing to continue managing the hunting lodge business for the buyers if they bought it.

The buyers stated they agreed to purchase the hunting lodge based on the sellers' representations regarding profitability, the building's condition and cost of insurance, and the sellers' intention to continue to manage the business. The parties entered into a management contract which specified the sellers would continue to stay at the property and manage the hunting lodge business. However, the contract stated the agreement could be terminated by either party upon 90 days notice. The parties closed the sale in March of 2003 and three days later the sellers sent a letter to the buyers giving them the 90-day notice that they were terminating the management agreement.

The buyers sued the sellers, alleging, among other claims, the sellers breached the contract requiring them to manage the hunting lodge.

The sellers denied any breach of the management contract and asked the court to dismiss that claim. The District Court did dismiss that claim and the buyers appealed.

The North Dakota Supreme Court affirmed, setting out the rule that in the absence of an ambiguity, a written contract supersedes any prior oral agreement or negotiations by the parties. Also, the execution of a contract in writing supersedes all the oral negotiations or stipulations which

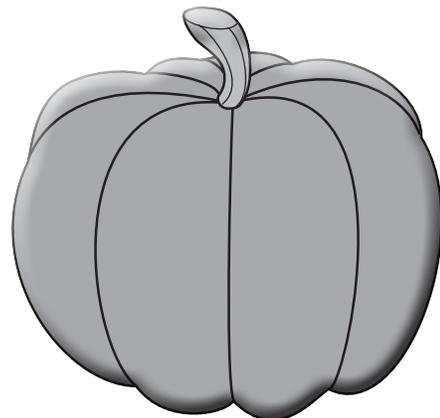
preceded or accompanied the execution of the instrument.

However, evidence of oral negotiating and statements are admissible in an action to reform a written contract on the grounds of fraud or mutual mistake and to correct the instrument to conform to the agreement or intention of the parties. But, a party who seeks reformation has the burden to prove by clear and convincing evidence that a written agreement does not fully or truly state the agreement the parties intended to make.

In this case there was a written management contract but the buyers argued that the sellers had said they would stay and manage the hunting lodge business for a longer period. In fact, the buyers argued that they thought the sellers would continue as managers of the business for four and a half years. The buyers claimed this continued management by the sellers was a major reason they purchased the business.

In these situations, in order to convince a court to look at other evidence, other than the written contract, you must present evidence of false or misleading representations and this evidence must be clear and convincing. The Court determined that the buyers had not presented sufficient evidence and that the actions of the sellers were not inconsistent or contrary to the language of the management contract. Therefore, the Court affirmed the dismissal of the management contract claim.

In conclusion, this case is a good example of the importance of including all the terms in an agreement, especially those that are crucial in your decision to enter into the agreement. In this case, if, in fact, the buyers really were depending upon the sellers' management of the hunting lodge for a longer term, they needed to be sure that was included in the management agreement. If you want to read more about this case, which also includes other issues, its citation is Dahl v. Messmer, 2006 ND 166, 19 N.W.2d 341.



IT'S RENEWAL TIME!

2008 license renewal applications will be mailed in late October. Renewal forms for active licensees are sent to the firm/sole proprietor they are licensed under. Inactive (escrowed) licensees will receive a renewal notice at their home address. If you do not receive your renewal form please contact the Real Estate Commission office as soon as possible. The North Dakota Real Estate Commission is not responsible for the US Postal Service delivery or knowing where to find you if you have moved and not filed a change of address with our office. Failure to receive a renewal notice does not provide a valid excuse for not renewing your license.

License Fees:

License fees for 2008 are as follows:

Corporate/firm license fee	\$150.00
Broker license fee	\$120.00
Salesperson license fee	\$100.00
Late fees	\$ 50.00/month or fraction thereof
Duplicate license fee	\$ 10.00
Branch office fee	\$ 15.00

Deadline Reminder:

The deadline for submitting renewal forms for all active and inactive licenses along with the proper fees and proof of errors and omissions insurance (inactive licensees are exempt from the E&O insurance requirement) is December 31, 2007. Renewal materials may be postmarked through December 31, 2007 (postal meter marks will NOT be considered). **IF YOU FAIL TO RENEW YOUR LICENSE, IT WILL BE CANCELLED.** Please note: even if your license is **inactive**, you must renew and pay the licensing fee to avoid having your license expire.

Continuing education requirements:

IMPORTANT: Your continuing education **MUST** be completed prior to January 1, 2008. You **DO NOT** have a grace period for completing your ce requirements. If you do not have the required number of hours for an active license status you need to renew to the inactive status until you have completed your ce requirement.

Incomplete renewal forms:

No renewals for active licensees will be accepted unless they are filled out completely, signed by the licensee and the licensee's broker, proof of E&O insurance accompanies the renewal, and the broker has signed off certifying the licensee's compliance with continuing education requirements. Inactive license renewals must also be filled out completely and signed by the licensee. Failure to complete the renewal form properly may result in the assessment of late fees.

IMPORTANT CHANGE IN POLICY: Unfortunately we are no longer allowed to accept copies of your E&O application and check – we CANNOT process renewals without official certification of coverage so renew your E&O early.

Late renewals:

If your license renewal is postmarked after December 31, 2007 and received prior to March 1, 2008 you will be assessed a \$50 late fee for EACH month or fraction thereof. Any license not renewed by March 1st must be cancelled in accordance with NDCC 43-23-13.1.

REMEMBER:

LICENSE RENEWAL FEES SHOULD NOT BE COMBINED WITH TRANSFER FEES OR EXAMINATION FEES. THESE ARE SEPARATE PROCESSES. PLEASE SEND SUCH REQUESTS AND THE APPROPRIATE FEES UNDER SEPARATE COVER.

North Dakota E&O Group Premium – One of Lowest in Country

By: Cindy Rice Grissom, CEO
Rice Insurance Service Co.

The North Dakota legislature passed a bill to remove the statutory premium cap for the group real estate licensee errors and omissions insurance program in 2007. As the administrator of the group real estate errors and omissions insurance program for North Dakota Real Estate Commission and its licensees, we have been aware of the need for the premium cap to be increased in order to continue the group program in North Dakota.

The 2008 annual premium for the North Dakota group Errors and Omissions insurance program is \$140. This represents an increase over the 2007 premium. However, this premium is less than the annual group premium in most of the states with mandatory insurance programs.

We write group programs in other mandatory states and the group premiums are over \$125 per licensee per year in all but one state for 2008. The group price is currently \$200 or more in four states. The group price is established for each state based on an actuarial determination of the amount of premium needed to cover the expected losses for its licensees. Continental Casualty Company, a member of the CNA Financial Corporation's group of insurance companies, and their actuaries have reviewed the loss history for the North Dakota program and losses have developed beyond what was originally expected when the program started. The losses indicate that an increase above the previous \$125 per licensee cap was necessary for the continuation of the program.

CNA has been the insurance carrier for the program since 2003. There were between 774 – 889 licensees insured during these policy periods (some joined mid-year and paid pro-rated premiums). In order for an insurance program to be successful, enough premium needs to be collected to pay the legal expense and damages for the claims plus cover the costs associated with the administration of the program including the handling of claims and other related costs. Ideally, the insurance carrier expects a slight profit (at least for some of the program years).

There were twenty claims reported for policy year 2006. The incurred amount (amounts paid and reserved for claims) for policy year 2006 is currently over \$150,000. This does not include any administrative costs associated with the program. There are eight open claims for this period, so this amount is expected to increase over time. There have been 8 claims reported for 2007 and the incurred amount is currently \$65,000 for 2007. There are 5 open claims for this period and this is only for the first three quarters of the year, so this amount is also likely to increase. Because of the number

of claims still open for the 2006 and 2007 policy years, it is impossible to know at this point in time if the premium collected for those policy periods will be sufficient to cover legal expenses and damages and other costs associated with the program. The expected development of claims indicated from the historical loss experience show that a higher premium amount is necessary for the 2008 policy period.

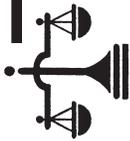
Insurance premiums have been increasing for many insurance lines. Real estate licensees pricing insurance products outside of the group program can attest that rates are increasing and many quotes are much higher than the mandated group premium. We are interested in the long term success of the program and are pleased that it has been possible to maintain reasonably priced and affordable coverage for all North Dakota licensees.

North Dakota is fortunate to have one of the lowest rates for real estate errors and omissions insurance in the country. The annual group premium is less than the premium in eight of the other twelve mandated states. The comparatively small size of the North Dakota group makes it more difficult to spread the losses across the group population. However, the insurance carrier has been willing to view this group program along with the other ten mandated group programs we currently provide in order to help justify the reduced rate.

The cost of an error or omission claim typically involves hiring an attorney to defend the allegations. This can cost several thousand dollars for legal fees, even if there is no liability. In the event an error, omission or liability is found, the damages can be significant. The availability of insurance provides legal defense and damages for covered claims.

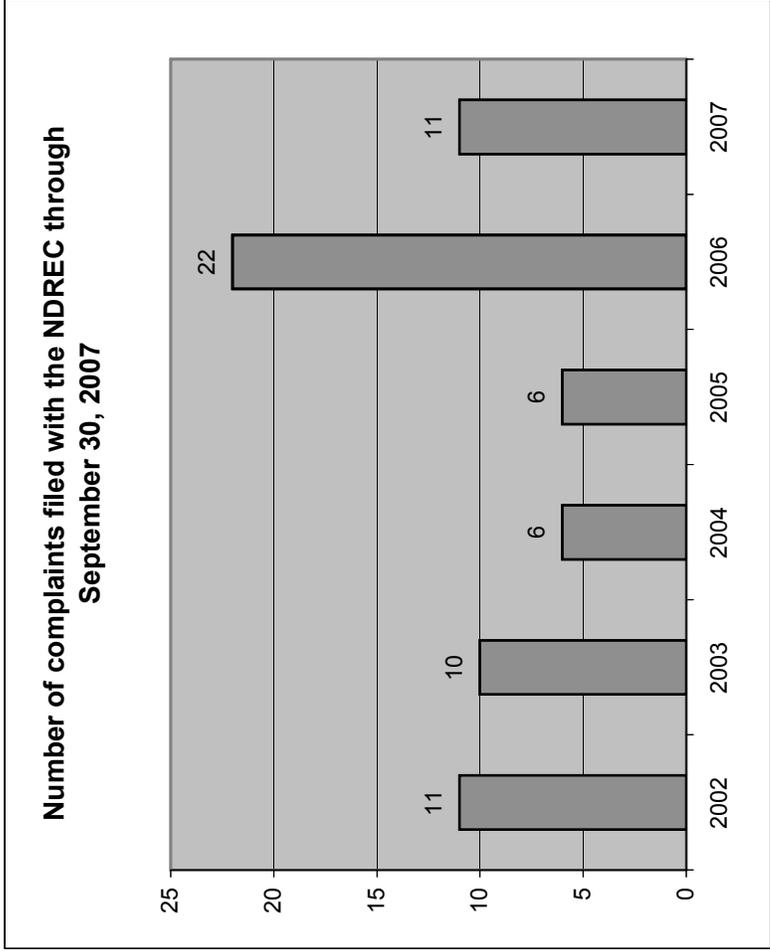
Group insurance programs in mandatory states are designed to make insurance available for every licensee. These programs are also designed to bring down the cost of errors and omissions insurance for the individual. A group policy means lower premiums and lower deductibles for the real estate licensees than what is typically available to the licensee on the open market. It means that there is an established insurance market for each licensee offering guaranteed-issue insurance coverage which cannot be cancelled by the insurance provider. The group policy allows for lower administrative costs and the higher participation level obtained by the group programs permits an economy of scale which results in lower costs for the licensees. If an insurance company does not have sufficient market share it cannot afford to offer the reduced rates available with a group program. The group program makes insurance affordable and available at a fixed price to active licensees.

Disciplinary Actions Taken



The following disciplinary actions have become effective since the last report in the newsletter.
A Stipulated Agreement is a settlement agreement between licensees and the Real Estate Commission and constitutes neither an admission nor a denial of any violation.

Name	Complaint#	Hearing Type	Order Date	Violation	Penalty
Kotrba, Jonathan P.	2006-20	Stipulated	08/31/2007	NDCC 43-23-11.1(1)(b), 43-23-11.1(1)(c), & 43-23-11.1(1)(w), The Complaint alleged that respondent committed misrepresentation and made a false promise.	Stipulated to a permanent letter of reprimand in his file.



INCOME VERIFICATION EXPRESS SERVICE (IVES) PROCESSING

(Article courtesy of the Internal Revenue Service)

In October 2006, the Internal Revenue Service began the Income Verification Express Service (IVES) program, offering electronic delivery of IRS transcripts and records available upon submission of IRS Form 4506-T, *Request for Transcript of Tax Return*.

IVES provides two-business day processing and delivery of return transcripts. The new service replaces the existing process that required manual pick-up and delivery of transcripts from the IRS Return and Income Verification Services (RAIVS) units located across the country.

The new service automates the delivery portion of the process. Customers must now log on to IRS.gov to retrieve their requested transcripts from a secure mailbox located on the e-Services electronic platform.

The “front end” of the process remains the same. Customers will still need to fax the signed Form 4506-T, Request for Transcript of Tax Return, to one of the three designated RAIVS units.

For details on participation in the IVES program and submission of requests, including fees and payments, please refer to www.IRS.gov. (keyword IVES).

Proposed Rules Changes

70-01-01-01. Organization of real estate commission.

1. **History and functions.** The 1957 legislative assembly passed a real estate licensing law, codified as North Dakota Century Code chapter 43-23. This chapter requires the governor to appoint a state real estate commission. It is the responsibility of the commission to administer the real estate license law regarding brokers and salespersons and to regulate the sale of out-of-state subdivided lands offered for sale to residents of North Dakota. In addition, the commission is required to administer a real estate education, research, and recovery fund whereby aggrieved persons may make application for the payment of unsatisfied judgments.
2. **Commission membership.** The commission consists of five members, three of whom are active real estate brokers, appointed by the governor. Members of the commission are appointed for a term of five years, staggered so the term of one member expires each year. At the expiration of the term of any member of the commission, the governor appoints a successor for a term of five years.

3. ~~Secretary-treasurer~~ **Executive Director.** The ~~secretary-treasurer~~ **executive director** of the commission is employed by the commission and is responsible for administration of the commission’s activities.
4. **Inquiries.** Inquiries regarding the commission may be addressed to the ~~secretary-treasurer~~ **executive director:**

North Dakota Real Estate Commission
P.O. Box 727
Bismarck, ND 58502-0727

History: Amended effective July 1, 2006.

General Authority: NDCC 28-32-02-1

Law Implemented: NDCC 28-32-02-1 **43-23-03**

The title of the Secretary Treasurer was changed to executive director during the 2007 legislative session - this brings the administrative rules in line with the amended statute.

APPROVED BY REAL ESTATE COMMISSION AUGUST 16, 2007

70-02-01-02. Application for license.

1. No application for either a broker or salesperson's license will be accepted from a person under the age of eighteen years.
 2. All applications must be filed with the commission before an examination complete in every detail with every question answered and correct fees sent with the application.
 3. It shall be incumbent upon the applicant for a real estate broker's license to submit the applicant's proofs of qualification pursuant to subsection 2 of the North Dakota Century Code section 43-23-08. Broker applicants wishing to qualify under the two-year experience requirement shall be required to submit to the commission a letter from said applicant's broker or brokers that the applicant has been actively engaged in the real estate business as a salesperson at least two years. "Actively engaged" means that the applicant must have devoted the applicant's full time as a licensed real estate salesperson. The foregoing shall be certified by a licensed broker.
 4. Each application for license shall be made on application forms provided by the real estate commission and are to be filled in personally by, or under the supervision of, the applicant.
 5. After an application is filed no refund of application fee will be made to any applicant.
 6. The commission may deny any application for license when one or more of the following conditions are present:
 - a. The application contains any false statement.
 - b. An investigation fails to show affirmatively that the applicant possesses in every instance the necessary qualifications.
 - c. The applicant has acted or attempted to act in violation of North Dakota Century Code chapter 43-32 or this title.
 - d. The applicant has had a license suspended or revoked in another state.
 - e. The check used in paying an examination or license fee shall not, for any reason, be honored by the financial institution upon which it is written.
 - f. The applicant has issued one or more checks or drafts which have been dishonored by a payor bank because:
 - (1) No account exists;
 - (2) The account was closed;
 - (3) The account did not contain sufficient funds to pay the check of draft in full upon its presentment.
 - g. The applicant's credit history shows the existence of unpaid and overdue judgments, liens, or other debt obligations, which, for the protection of the public, requires that the application be denied.
7. If the application and supporting documents on their face show that the applicant is qualified, but from complaints and information received or from investigation it shall appear to the commission at any time before the initial license is delivered, that there may be cause to deny a license, the commission may order a hearing to be held to consider such complaints or information.
 8. The commission may require such other proof as may be deemed advisable of the honesty, truthfulness, and good reputation of any applicant, including the officers and directors of any corporation, or the members of any co-partnership or association making such application, before accepting an application for license.
 9. Inquiry and investigation may be made by the commission as to the financial responsibility of each applicant.
 10. When a corporation submits its application for a license, the application must be accompanied by a copy of the articles of incorporation and a certificate of authority issued by the secretary of state.
 11. When a partnership submits its application for a license, the application must be accompanied by a copy of the partnership agreement.
 12. An applicant for licensure in another state may request the commission to certify to such other state that the applicant is a licensee of this state. A fee as set by the commission shall accompany the request.
 13. An application for an organization to be licensed as a salesperson **or broker associate** pursuant to Section 43-23-05.1 N.D.C.C. must be accompanied by a one-time license fee of not more than two hundred dollars, as set by the commission. The individual who owns the organization must possess and maintain a valid and active real estate license in order for the organization to be licensed. The failure to do so will cause the organization's license to become inactive and invalid. The one-time fee must be paid each time the organization's license is activated.

History: Amended effective August 1, 1981; May 1, 1986; January 1, 1992; February 1, 2004.

General Authority: NDCC 28-32-02, 43-23-08(7)(6)

Law Implemented: NDCC 43-23-05.1, 43-23-08, 43-23-09, 43-23-11.1

The proposed amendment adds "broker associate" to the rule to reflect changes made in NDCC 43-23-05.1 during the 2007 legislative session.
APPROVED BY REAL ESTATE COMMISSION AUGUST 16, 2007

70-02-01-03. Examinations.

1. An applicant will not be permitted to take the written examination until and unless the applicant has been authorized in writing to appear for the examination.
2. If an applicant should fail to appear for examination within four months after notification by the commission that the applicant is qualified to take the examination, an applicant must reapply for examination as in the first instance and pay the required fee.
3. ~~Broker or salesperson applicants who fail an examination and wish to rewrite the examination must submit a rewrite application and fee.~~
4. ~~3.~~ During the examination the use or possession of any unfair methods or notes, the giving or receiving of aid of any kind, or the failure to obey instructions will result in a denial of the application and license.
5. ~~4.~~ If the broker or salesperson applicant passes one portion of the examination, national or state, **the salesperson applicant shall not be required to repeat that portion of the examination if the said applicant passes the remaining portion within twelve months from the date of the first examination.** Applicant must submit a new application in complete detail together with the statutory fees if the examination has not been passed within the same twelve-month period.
5. **A broker applicant must pass the broker examination within twelve months from the date of the first examination. Applicant must submit a new application in complete detail together with the statutory fees if the examination has not been passed within the same twelve-month period.**

History: Amended effective January 1, 1992; February 1, 2004.

General Authority: NDCC 28-32-02; 43-23-11.1(3)

Law Implemented: NDCC 43-23-13(4)

#3: Applicants no longer need to submit a rewrite application and fee to the commission.

#5: Changes the requirement for a North Dakota resident broker applicant to take both the state and national exam to requiring a broker applicant to take only the national portion. This will allow the Commission to change the broker examination for a North Dakota resident to a broker simulation exam which is a national exam.

APPROVED BY THE REAL ESTATE COMMISSION
SEPTEMBER 25, 2007

70-02-01-06. Nonresident brokers and salespersons.

1. Any person who becomes an applicant for a nonresident license shall become subject to the same rules required of an applicant whose residence is in North Dakota.
2. An applicant for nonresident broker's or salesperson's license shall hold a currently valid broker's or salesperson's license in the state of the applicant's domicile and that state shall certify that the applicant is in good standing and no complaints are pending.
3. A nonresident broker must maintain an active place of business as a real estate broker in the state of the broker's residence. The nonresident broker shall furnish proof of maintaining an active place of business by submitting a ~~photostatic copy of the broker's license and any further information deemed necessary by the commission.~~
4. North Dakota will not recognize the licensee from another state unless an agreement granting reciprocal privileges to North Dakota licensees has been made by the commission with the proper regulatory authorities of that state. The agreement shall set out the terms and the regulations to be followed.
5. **An applicant currently licensed in a non-reciprocal state who has successfully passed the real estate licensing examination given in another state need only take the state portion of the examination in North Dakota.**

History: Amended effective May 1, 1986; January 1, 1992.

General Authority: NDCC 28-32-02, 43-23-08(7) ~~(6)~~

Law Implemented: NDCC 43-23-10

#3 Removes the requirement to provide a photostatic copy of the broker's license. A certificate of licensure is already requested in #2.

#5 Clarifies the examination requirement for nonresident license applicants.

APPROVED BY REAL ESTATE COMMISSION
SEPTEMBER 25, 2007

CHAPTER 70-02-03

Code of Ethics Licensee Responsibilities

70-02-03-01. Application of ~~code of ethics licensee responsibilities.~~ The commission shall have the power to investigate and to suspend or revoke a broker's or salesperson's license upon violation by a licensee of any provisions of the ~~code of ethics licensee responsibilities.~~

History: Amended effective January 1, 1992

General Authority: NDCC 43-23-11.1(1) **28-32-02**

Law implemented: NDCC 43-23-11.1(1)

Removes confusion caused by use of the term "code of ethics". Licensee Responsibilities better defines the contents of this chapter.
APPROVED BY REAL ESTATE COMMISSION SEPTEMBER 25, 2007

70-02-03-02.1. Advertising.

- 1. Definition:** As used in this Section, the terms "advertise," "advertising" and "advertisement" include all forms of representation, promotion and solicitation disseminated in any manner and by any means of communication for any purpose related to real estate brokerage activity, including, at a minimum, advertising the sale or purchase of real estate or promotion of real estate brokerage services conducted by mail, telephone, the internet, the World Wide Web, electronic mail, electronic bulletin board or other similar electronic common carrier systems, business cards, signs, television, radio, magazines, newspapers, and telephonic greetings or answering machine messages.
- 2. Trade Name:** Advertising must be done in the real estate brokerage agency's trade name as licensed with the commission and the trade name must be prominently displayed.
- 3. Contact Information:** Advertising must include information on how the public can contact the real estate brokerage agency.
- 4. Advertising by Licensees:** Advertising by licensees must be under the supervision of the designated broker. Such advertising may include a licensee's name and phone number or other contact information, provided the real estate brokerage agency's registered business name or trade name and contact information is also clearly included as required in this Section.
- 5. Deception and Misrepresentation Prohibited:** Advertising and promotion must be free from deception and shall not misrepresent the terms of the sale or purchase, real estate brokerage agency policies, or real estate brokerage services.

- ~~1. All advertising by a real estate broker must be advertised only under the exact name of the broker as licensed or under the broker's trade name as registered with the commission. No advertisement may be permitted which sets forth only a post-office box number, telephone number, or street address, or any combination thereof.~~
- 6.** A real estate broker may advertise, in the licensee's own name, property which is owned by the licensee, provided that immediately following the licensee's name where it appears in the advertisement, the words "Owner/Licensed Broker" must also appear. The provisions of this subsection apply both to active broker licensees and licensees whose license is on an inactive status. Disclosure of the individual's status as a broker is required on all promotional and advertising materials in which the licensee's name appears.
- ~~2. All advertising by a real estate salesperson must be advertised only under the exact name of the licensee as licensed.~~
- 7.** A real estate salesperson may advertise in that person's own name property which is owned by the salesperson, provided that immediately following the name where it appears in the advertisement, the words "Owner/Licensed Salesperson" must also appear. The provisions of this subsection apply both to active salesperson licensees and licensees whose license is on an inactive status. Disclosure of the individual's status as a salesperson is required on all promotional and advertising material in which that person's name appears.

History: Effective January 1, 1992; amended effective February 1, 2004.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 43-23-11.1(1)

Changes to this Administrative Rule include all advertising mediums and provides clear guidelines for the licensee to follow.
APPROVED BY THE REAL ESTATE COMMISSION September 25, 2007

No one succeeds without effort. Those who succeed owe their success to their perseverance.

70-02-03-07. Closing statements.

In every real estate sales transaction wherein the closing is handled by an attorney, bank, savings and loan association, or similarly recognized individual or group other than a real estate broker, it shall be the responsibility of the broker involved to see ~~that both the seller and the buyer~~ **the party or parties represented by the broker** receive a complete, detailed closing statement showing all of the receipts and disbursements handled in such transaction. The broker must retain true copies of such statements in the broker's files.

General Authority: NDCC 43-23-11.1(+) **28-32-02**

Law Implemented: NDCC 43-23-11.1(+) **(o)**

The amended verbiage reflects changes made in NDCC 43-23-11.1(o) during the 2007 legislative session.
APPROVED BY REAL ESTATE COMMISSION AUGUST 16, 2007

70-02-03-10. For sale signs.

No signs shall be placed on any property for its sale or lease without the consent of the owner, or the owner's duly authorized agent or fiduciary.

General Authority: NDCC 43-23-11.1(+) **28-32-02**

Law Implemented: NDCC 43-23-11.1(1)

APPROVED BY REAL ESTATE COMMISSION SEPTEMBER 25, 2007.

70-02-03-12. Refund of purchaser's Earnest money deposit. When ~~If~~ for any reason the owner ~~transaction~~ fails, refuses, neglects, or is unable to consummate the transaction as provided for in the contract, and through no fault or neglect of the purchaser the real estate transaction cannot be completed, the broker has no right to any portion of the **earnest money** deposit money which was deposited by the purchaser, even though the commission is earned, and such deposit should be returned to the purchaser at once and the broker should look to the owner for the broker's compensation.

General Authority: NDCC 43-23-11.1(+) **28-32-02**

Law Implemented: NDCC 43-23-11.1(1)

Changes in this rule remove unnecessary language.
APPROVED BY REAL ESTATE COMMISSION SEPTEMBER 25, 2007



In Memory

The ND Real Estate Commission extends its sincerest sympathy to the families and friends of the following licensees who recently passed away:

Robert G. Freeberg, Grand Forks

The ND Real Estate Commission web site has been launched!

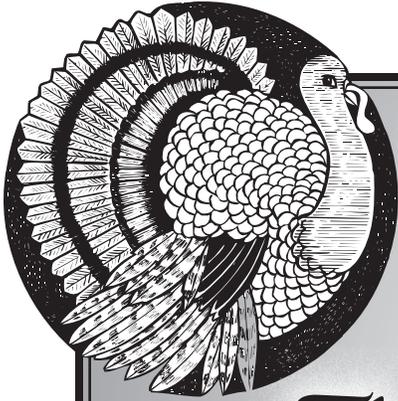
www.realestatend.org is the North Dakota Real Estate Commission website. All licensees are encouraged to visit often and explore the valuable information that can be found there.



Keep Your Continuing Education Certificates

Each licensee is responsible for keeping their continuing education certificates. Licensees will be required to submit proof of education if selected for an audit.

The Commission office does not keep the certificates on file. If you have lost a certificate, you will have to get a duplicate from the person and/or entity that gave the course you attended.



Happy Holidays
 from
*The Commissioners
 & Staff*

*Christmas waves a magic wand over this world, and behold,
 everything is softer and more beautiful.*

--Norman Vincent Peale



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