

Introduced by

Senators Meyer, Larson

Representatives Boschee, B. Koppelman

1 A BILL for an Act to amend and reenact section 47-10-02.1 of the North Dakota Century Code,
2 relating to property disclosure requirements.

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

4 **SECTION 1. AMENDMENT.** Section 47-10-02.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **47-10-02.1. Property disclosure - Requirements - Exceptions.**

- 7 1. ~~This~~Except as provided under subsection 6, this section applies to a transaction for
8 the sale, exchange, or purchase of real property if:
- 9 a. ~~A real estate broker, real estate broker associate, or real estate salesperson who~~
10 ~~is associated with a real estate brokerage firm represents or assists a party to the~~
11 ~~transaction; and~~
 - 12 b. ~~The~~ the real property is ~~an owner-occupied primary residence~~ a residential
13 dwelling with no more than four units located in this state being sold or
14 exchanged by the owner.
- 15 2. ~~Before~~Except as otherwise provided by the prospective buyer in the purchase
16 agreement, before the parties sign ~~an~~ a final agreement for the sale, exchange, or
17 purchase of real property, the seller shall make a written disclosure to the prospective
18 buyer. The written disclosure must include all material facts of which the seller is
19 aware could adversely and significantly affect an ordinary buyer's use and enjoyment
20 of the property or any intended use of the property of which the seller is aware. The
21 written disclosure must include latent defects, general condition, environmental issues,
22 structural systems, and mechanical issues regarding the property. The seller shall
23 make the written disclosure in good faith and based upon the best of the seller's
24 knowledge at the time of the disclosure.

- 1 3. Following if a real estate broker, real estate broker associate, or real estate
2 salesperson who is associated with a real estate brokerage firm represents or assists
3 a party to the transaction, following the sale, exchange, or purchase of real property,
4 the brokerage firm shall retain a copy of the written disclosure completed and signed
5 by the seller and signed by the prospective buyer. The brokerage firm's duties under
6 this section do not supersede any other common law or statutory duties.
- 7 4. The North Dakota real estate commission shall establish and make available a written
8 disclosure form meeting the requirements of this section. In establishing the form, the
9 commission shall consult with stakeholders, such as professional organizations.
- 10 5. If a real estate broker, real estate broker associate, or real estate salesperson who is
11 associated with a real estate brokerage firm violates this section, the state real estate
12 commission may investigate and take disciplinary action under section 43-23-11.1.
- 13 6. This section does not apply to transactions for the sale, exchange, or purchase of real
14 property made:
- 15 a. Pursuant to a court order;
- 16 b. Between government agencies;
- 17 c. By a mortgagor in default to a mortgagee;
- 18 d. Pursuant to a foreclosure sale;
- 19 e. By a mortgagee or a beneficiary of a deed of trust who acquired the real property
20 by a:
- 21 (1) Foreclosure;
- 22 (2) Deed in lieu of foreclosure; or
- 23 (3) Collateral assignment of beneficial interest;
- 24 f. By a fiduciary administering a decedent's estate, guardianship, conservatorship,
25 or trust;
- 26 g. Between co-owners of the real property;
- 27 h. To a spouse, child, parent, sibling, grandchild, or grandparent; or
- 28 i. If the real property is newly constructed residential real property with no previous
29 occupancy.