

2015 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1074

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1074
1/12/2015
21814

- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

Relating to the application deadline for renewal of a real estate license and practicing as a real estate broker or salesperson without a license; and to provide a penalty.

Minutes:

Attachment 1-4

Chairman Keiser: Opens the hearing on HB 1074.

Pat Jergenson~Executive Director of the ND Estate Commission. (See Attachment 1).

Chairman Keiser: Any questions?

(4:30)

Representative Ruby: What deadline would work and why you wouldn't you propose to have that in statue? Also, for filing late, you show March 1 is the hard date and why wouldn't that be at the discretion of the board?

Jergenson: The first question, we proposed November 15 that would draft into administrative rule. We did not put it into statue because we felt that if we did it through rule.

Representative Ruby: With the March hardline, why didn't you put that as the commission discretion?

Jergenson: That is already in statue as March 1.

Representative Laning: How encompassing is the broker definition?

Jergenson: If you are expecting a fee or some form of compensation for providing information on a house, you will need a real-estate license. If an agent gives you a gift out of pocket, that is not considered against the law.

Representative Becker: Question on the Class A misdemeanor, with Class B having to spend a month in jail versus Class A a year in jail, are you opposed to this being amended to a Class B misdemeanor?

Jergenson: I don't know if we would be opposed, but we felt it would be a better tool to get their attention.

Representative M Nelson: When your board finds an infraction, how do you go about it?

(9:42)

Jergenson: I turn it over to our legal counsel. She sends a certified letter notifying them that we are aware of their activity and asking for an explanation of their activity and asking them to cease & desist if they are acting like an agent. We do provide them with information on getting a real estate license.

Representative M Nelson: How do you see that changing if you go to Class A misdemeanor?

Jergenson: We do not see that process changing. If they don't cease & desist, we would turn it over to law enforcement.

Representative Frantsvog: Your board made these decisions, is there something been sent to all the agents in ND advising them of what your plans are?

Jergenson: We work with the ND Association of Realtors and we talked about this process and change since last summer.

Representative Frantsvog: Do the agents know that this is what you're proposing to do? Was something sent out to all agents in ND?

Jergenson: No, we did not send anything out but it's been talked about with the ND Association of Realtors.

Representative Hanson: This bill adjusts a deadline pertaining to education and the second part enforces the Class A misdemeanor for practicing without a license, which while they overlap, are really directly on the same topic. I was wondering how the committee came up with including both of these points on the same bill?

Jergenson: Our legal counsel contacted the legislative counsel and we discussed the process with them. They informed us that it was fine.

Chairman Keiser: Brain, would you tell us the difference?

Brain Johnson~Legislature Law Intern: (Attachment 2).

(13:51)

Representative M Nelson: In the violation section, you said the justification for going to a Class A misdemeanor is to handle money. What I see in your bill is a guilty of a Class A misdemeanor because of a license violation, but for the section where they handle it's still an infraction.

Jergenson: The section you are referring to is trust accounts. Our problem is that someone is doing unlicensed activity, we have no jurisdiction. We can't even go in and review their trust accounts. We have no authority on what they collect.

(15:45)

Nancy Willis~Government Affairs Director of the ND Association of Realtors. (Attachment 3). In December of last year, our board of directors, after reviewing the draft, which became HB 1074, we know that our association, staff & members have provided input to this legislation to the real estate commission and voted to support this legislation. I wanted to answer a question that was presented earlier, we did send out a newsletter to all of our members and there was a government affairs update that this will be coming up in this legislation. We also sent out a realtor report so, members did receive information.

Representative Becker: You represent more than 16,000 state wide, how many realtors are there state wide? Do you represent 100% of the realtors?

Willis: There are licensees that are license through the commission who are not realtors, those we do not represent.

Representative Becker: Can you give me a percentage of those people engaged in the brokering of real estate that fall under your purview?

Patrica Schlosser~Broker Associate & Sales Manager for Century 21 Morrison Realty. Also, ND Association of REALTORS Government Affairs Committee~ (Attachment 4).

(23:11)

Representative Amerman: Any discussion to alleviate the last minute deadline filing?

Schlosser: We have had many discussions on different levels to improve that and we can't force them.

Representative Lefor: How many individuals are there on an annual basis that, as a commission, you send letters out and is that number increasing?

Jergenson: Until about 2-3 years ago, I can remember sending out letters to 2 or 3 people, in the last 2 years, we have contacted 20 people. It a significant increase.

Chairman Keiser: Any further question? Anyone here to testify in favor, Anyone here to testify in opposition? Closes the hearing and what are the committee's wishes. Is there any desire for an amendment?

Representative Becker: I move to amend on page 2, line 7; I would replace A with the letter B.

Representative Kasper: Second.

(26:30)

Representative Kasper: Can we be explained the difference between Class A & B?

Johnson: Clarifies what was discussed earlier.

Representative Laning: I understand that the infraction can carry a financial penalty up to \$8,000. Since it already carries a Class B, we could leave the penalty alone.

Johnson: The infraction only goes up to \$1,000.

Representative Becker: One, when we increase the penalty, we are looking for incarceration. I don't believe this type of activity warrants this type of penalty. I think a year in jail for not being license is excessive.

Representative M Nelson: I'm going support the Class B. Class B will be easier to support locally.

Vice Chairman Sukut: Class A as the maximum, but that wouldn't necessarily going to be imposed. I'm not so sure I'm not in favor of the Class A.

Representative Kasper: Any person is guilty of a Class A misdemeanor.

Chairman Keiser: Vice Chairman Sukut was saying, the penalty is up to the discession relative to the imposition of the final penalty.

Representative Amerman: If you have an unlicensed realtor, they make a deal, is there recourse?

Representative Louser: We are talking about the earnest money deposit. That would be what is strictly in the agreement.

Representative Beadle: To address those fears, the potential purchaser could lose money whether they use a salesperson or not.

Chairman Keiser: We have a motion to amend, page 2, line 7.

Roll call was taken on the amendment. 10 yes, 5 no, 0 absent. Motion passes.

Chairman Keiser: The amendment is adopted. We have HB 1074 as amended, what are your wishes.

Representative Lefor: Moves for a Do Pass as Amended.

Representative Boschee: Second.

Roll call was taken with 15 yes, 0 no, 0 absent and Representative Boschee is the carrier.

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Peace Garden Room, State Capitol

HB 1074
1/13/2015
21932

- Subcommittee
 Conference Committee

Explanation or reason for introduction of bill/resolution:

Relating to the application deadline for renewal of a real estate license and practicing as a real estate broker or salesperson without a license; and to provide a penalty.

Minutes:

Chairman Keiser: Explained why HB 1074 has been returned to committee. Do we have a motion to reconsider HB 1074.

Representative Beadle: Moves to reconsider HB 1074.

Representative Louser: Second.

Representative Beadle: On this committee, we have 4 realtors. The issue is the license renewal due on December 31 active on January 1; we have an issue getting everything processed. We want the date to be November 15 for everything, but part of that was also the effective date due on November 15. Now it means that on November 16, they have the same problem as January 1. We want to reconsider the action we took so we can try to fix that issue in a way that has more clarity.

Representative Amerman: When they wanted to do the November 15, for the new license, the old license would stay in effect until the 31st.

Representative Louser: That how understood it yesterday, but there was discussion on continuing education.

Representative Lefor: Didn't they say they were going to change their dates on the education?

Representative Louser: I understood it different and that they were going to keep the education cycle the same. That's what we need to clarify.

Representative Lefor: I was under the impression that they were going to change it to November 15 to November 15 (calendar year) and the November 15 to December 31 gives them more to time process the application.

Chairman Keiser: Reads HB 1074 section. So, the application deadline is to be set by rule. Continues reading. My understanding was and remains that timing issue is by rule.

Representative Boschee: That's the way I understood it. They were moving up the deadline and have until the 31st as practitioners to practice without penalized.

Representative Hanson: I concur, that is their intent. My concern is that we have those 45 days and if you didn't turn in your education on the 15th, come January, you're not legal to practice without your license. I'm not fan to legislate against human nature about habit and procrastination.

Representative Boschee: I don't see it that way. We are just moving the 45 days up and in the end we are giving them more freedom to work this out. I see the concerns, but let's put it back on the commission.

Representative Laning: Regarding the education, looks to me that they have taken care of that. They said the application must be accompanied by the educational requirements. They still have the 45 days to play with it.

Representative Becker: My take was that the certification was for calendar year and that application due date was moved up and the education requirements coincided with the year ending of due date of the application. I'm not seeing the problem except for the transitional year.

Representative Devlin: I concur with Representative Becker. I think they are going to do it by rule to set the date with the new license requirement.

Representative Beadle: There was confusion so, we should have the discussion.

Representative Devlin: What administrative rules committee does is look fully at legislative intent. I do not see the problem.

Representative Louser: The Association of the Realtors is who administers the education. They said that they talked to the association in December. I look at all my records, most people in industry are not aware of this change. There are some concerns about who administers what and if this motion fails, it can be fixed in the senate.

Representative M Nelson: In the time frame it, you are talking almost 2 years for the change. There is a lot of time for the industry to be aware.

Chairman Keiser: What they proposed, gives the board tremendous flexibility. The board reports to their membership.

Chairman Keiser: The motion is before us to reconsider our actions by which we pass as amended HB 1074.

Roll call was taken to reconsider HB 1074 as amended. Motion failed with 2 yes, 13 no, 0 absent and Representative Boschee is the carrier.

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Title.02000

Adopted by the Industry, Business and Labor
Committee

January 12, 2015

8/1-12-15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1074

Page 2, line 7, replace "A" with "B"

Renumber accordingly

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1074**

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Other Actions: Reconsider _____

Motion Made By Representative Becker Seconded By Representative Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	x		Representative Lefor		x
Vice Chairman Sukut		x	Representative Louser		x
Representative Beadle	x		Representative Ruby	x	
Representative Becker	x		Representative Amerman		x
Representative Devlin	x		Representative Boschee		x
Representative Frantsvog	x		Representative Hanson	x	
Representative Kasper	x		Representative M Nelson	x	
Representative Laning	x				

Total (Yes) 10 No 5

Absent 0

Floor Assignment Representative Boschee

If the vote is on an amendment, briefly indicate intent:

Page 2, line7, Replace A with B.

Date: Jan 12, 2015

Roll Call Vote: 2

**2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1074**

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Lefor Seconded By Rep Boschee

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Representative Lefor	X	
Vice Chairman Sukut	X		Representative Louser	X	
Representative Beadle	X		Representative Ruby	X	
Representative Becker	X		Representative Amerman	X	
Representative Devlin	X		Representative Boschee	X	
Representative Frantsovog	X		Representative Hanson	X	
Representative Kasper	X		Representative M Nelson	X	
Representative Laning	X				
	X				

Total (Yes) 15 No 0

Absent 0

Floor Assignment Representative Boschee

If the vote is on an amendment, briefly indicate intent:

Date: 1-13-15

Roll Call Vote: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1074

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
Other Actions: Reconsider _____

Motion Made By Rep Beadle Seconded By Rep Louser

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		X	Representative Lefor		X
Vice Chairman Sukut		X	Representative Louser		X
Representative Beadle	X		Representative Ruby		X
Representative Becker		X	Representative Amerman		X
Representative Devlin		X	Representative Boschee		X
Representative Frantsvog		X	Representative Hanson	X	
Representative Kasper		X	Representative M Nelson		X
Representative Laning		X			

Total (Yes) 2 No 13

Absent 0

Floor Assignment Rep Boschee

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1074, as amended: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1074, as amended, was placed on the Sixth order on the calendar.

Page 2, line 7, replace "A" with "B"

Renumber accordingly

2015 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1074

2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

HB 1074
2/17/2015
Job Number 23973

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the application deadline for renewal of a real estate license and practicing as a real estate broker or salesperson without a license

Minutes:

Attachments

Chairman Klein: Called the committee to order.

Pat Jergenson, Executive Director of the North Dakota Real Estate Commission: Testified in support. Written Testimony Attached (1). (1:22-5:05)

Senator Murphy: Gave a scenario of house sitting during the session and the people he is house sitting for ask him if he finds some buyers, while they are gone, to let them know and they will give him a little cut. If I did that and we pass this bill, I would be in violation and it would be a class B misdemeanor?

Pat Jergenson: Yes and as it is you would be guilty of an infraction already.

Chairman Klein: You put a lot of faith in the administrative rules process and not everything is a slam dunk either as we move through the process. It entails a lot of effort but you are comfortable on how it turned out?

Pat Jergenson: We are comfortable with that. Actually we are so positive or optimistic that this bill will pass that we have the rules already to go and once the bill is signed we plan to hit the ground running to get these rules in place and get them passed. We are confident we can do that.

Chairman Klein: Are you concerned about putting it into law that wouldn't give you any flexibility is that where your concern is?

Pat Jergenson: We did talk about that but our thought process was that are target would be November 15th. If we find we don't need a month and a half to get it done we wanted the flexibility to go back and change the administrative rule rather than coming back to the legislature two years down the road.

Chairman Klein: You spoke to that as being an issue with the December 31st online notification. How come everybody is waiting so long?

Pat Jergenson: It happens more than we wish it would.

Senator Burckhard: If I was licensed real estate agent in Minnesota I wouldn't be able to sell in North Dakota without getting licensed first?

Pat Jergenson: That is true but we do have reciprocity with Minnesota which means we do recognize their license, they don't have to take an exam but they do have to fill out an application and have insurance and they would have a North Dakota reciprocal license.

Senator Murphy: Asked if this would affect him if he wanted to sell his house and didn't want to use a realtor.

Pat Jergenson: No it does not.

Chairman Klein: Asked what the penalty was for a class B misdemeanor.

Pat Jergenson: Up to one thousand dollars and/or thirty days in jail.

Nancy R. Willis, Government Affairs Director for the North Dakota Association of Realtors: In favor of the bill. Written Testimony Attached (2). (10:40-11:30)

David Lanpher, Realtor for Park Co. in Fargo: Testified in support. Written Testimony Attached (3). (11:45-15:09)

Chairman Klein: We talked about the penalty are we getting after what you are looking for and does this happen a lot?

David Lanpher: Said it happens more in the western part of the state because of the oil activity out in the west.

Chairman Klein: Who brings that particular case, is that the State's Attorney?

David Lanpher: I don't know it would have to be someone knowing and turning them in to do that.

Senator Burckhard: If a person is posing to be a real estate agent and is from another state, how do you contact him to let him know he is in violation?

David Lanpher: I don't know the answer.

Constance Hofland, Special Attorney General for the North Dakota Real Estate Commission: The practice has been if we hear about unlicensed activity whether it is people in the state or out of the state practicing without a license, we send them a Cease and Desist letter. In the last couple of years we have issued about twenty letters and some

have come around and gotten a license and some have stopped and pulled things off their website and some of them just disappear.(18:35-19:50)

Chairman Klein: Some of these are pretty elaborate, they have a website. This is someone actually pursuing being a real estate agent?

Constance Hofland: Yes the ones that we pursue really are.

Chairman Klein: Closed the hearing.

Senator Burckhard: Moved a do pass.

Senator Campbell: Seconded the motion.

Roll Call Vote: Yes-7 No-0 Absent-0

Senator Burckhard will carry the bill.

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. Engrossed HB 1074**

Senate Industry, Business and Labor Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Senator Burckhard Seconded By Senator Campbell

Senators	Yes	No	Senators	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Campbell	x		Senator Sinner	x	
Senator Burckhard	x				
Senator Miller	x				
Senator Poolman	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Burckhard

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1074, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1074 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

HB 1074

Jan 12, 2015 ①

TESTIMONY IN SUPPORT OF HB 1074

Good morning Chairman Keiser and members of the House Industry Business & Labor Committee. My name is Pat Jergenson. I am the Executive Director of the North Dakota Real Estate Commission and I am testifying today in support of HB 1074.

HB 1074 amends two sections of chapter 43-23 on Real Estate licensure.

The first amendment concerns real estate license renewal. Currently the statute requires licensees to submit renewals each year by December 31st in order to maintain a valid license as of January 1st. This deadline makes it difficult for Commission staff to process the renewals in such a condensed time frame as licensees can renew their licenses online until 11:59pm December 31st and those that choose to renew on paper must be postmarked no later than December 31st. This bill would allow the Commission to establish the renewal submission deadline date by administrative rule. The Commission plans to establish the renewal deadline date as November 15th, instead of the current December 31st deadline. This will provide more reasonable time to process renewals.

The Commission also plans to adjust, by administrative rule, the deadline date for continuing education to coincide with the new license renewal deadline. This will give licensees a full 12-month period to complete the required continuing education.

Currently a number of licensing boards in North Dakota have renewal deadlines that are set in statute, but there are also a number of professions that have the authority to establish renewal terms and conditions by administrative rule, as we are proposing. For example, the licensing boards for accountants, podiatrists, funeral directors, counselors, physicians, and physical therapists have the authority to adopt

requirements and timing for renewal by administrative rule. So giving the Real Estate Commission this ability to set the renewal application deadline by rule is not unusual or breaking new ground in North Dakota law.

The second proposed amendment is to increase the penalty for acting as a real estate broker or salesperson in North Dakota without a license. Currently the penalty is an infraction. This bill changes the penalty to a class A misdemeanor.

The penalty of only an infraction for practicing without a license is a true oddity in North Dakota license law. For most other professions in North Dakota, the penalty for practicing without a license is either a class A or a class B misdemeanor. The penalties for practicing without a license for a number of professions in North Dakota are listed on this table.

North Dakota Occupations and Professions	Penalty for Unlicensed Activity
Accountants	Class A misdemeanor
Barbers	Class B misdemeanor
Chiropractors	Class B misdemeanor
Contractors	Class A misdemeanor
Electricians	Class B misdemeanor
Cosmetologists	Class B misdemeanor
Real Estate Appraisers	Class A misdemeanor
Abstractors	Class B misdemeanor
Funeral Service Practitioners	Class B misdemeanor
Counselors	Class B misdemeanor
Dietitians and Nutritionists	Class B misdemeanor
Respiratory Care Practitioners	Infraction
Social Workers	Class B misdemeanor
Occupational Therapists	Class B misdemeanor
Hair Removal Technician	Infraction
Audiologists and Speech-Language Pathologist	Class A misdemeanor
Psychologists	Class B misdemeanor
Veterinarians	Class B misdemeanor
Dentists	Class A misdemeanor
Massage Therapists	Class B misdemeanor
Physical Therapists	Class B misdemeanor

Looking specifically at professions that are comparable to real estate licensees, that is, other professions that handle other people's money, personal property or real estate, such as accountants, contractors, and real estate appraisers, the penalty for practicing without a license is a class A misdemeanor. Very few other professions, and none of the professions comparable to real estate brokers and salespersons, have as low of a penalty as only an infraction.

Practicing without a license is becoming a bigger problem in North Dakota with the increased demand for real estate with the oil development. The Commission's first step is to send a letter to individuals and companies that appear to be acting as a real estate broker or salesperson without a license, demanding that they cease acting as a real estate broker or salesperson without a license and explaining the license requirements and the penalties involved. A penalty of a class A misdemeanor is more appropriate for the violation and gives the Commission a better tool to protect the public.

For these reasons, the North Dakota Real Estate Commission urges a DO PASS vote on HB 1074.

Jan 12, 2015

2

CHAPTER 12.1-32 PENALTIES AND SENTENCING

12.1-32-01. Classification of offenses - Penalties.

Offenses are divided into seven classes, which are denominated and subject to maximum penalties, as follows:

1. Class AA felony, for which a maximum penalty of life imprisonment without parole may be imposed. The court must designate whether the life imprisonment sentence imposed is with or without an opportunity for parole. Notwithstanding the provisions of section 12-59-05, a person found guilty of a class AA felony and who receives a sentence of life imprisonment with parole, shall not be eligible to have that person's sentence considered by the parole board for thirty years, less sentence reduction earned for good conduct, after that person's admission to the penitentiary.
2. Class A felony, for which a maximum penalty of twenty years' imprisonment, a fine of twenty thousand dollars, or both, may be imposed.
3. Class B felony, for which a maximum penalty of ten years' imprisonment, a fine of twenty thousand dollars, or both, may be imposed.
4. Class C felony, for which a maximum penalty of five years' imprisonment, a fine of ten thousand dollars, or both, may be imposed.
5. Class A misdemeanor, for which a maximum penalty of one year's imprisonment, a fine of three thousand dollars, or both, may be imposed.
6. Class B misdemeanor, for which a maximum penalty of thirty days' imprisonment, a fine of one thousand five hundred dollars, or both, may be imposed.
7. Infraction, for which a maximum fine of one thousand dollars may be imposed. Any person convicted of an infraction who has, within one year prior to commission of the infraction of which the person was convicted, been previously convicted of an offense classified as an infraction may be sentenced as though convicted of a class B misdemeanor. If the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint shall specify that the offense is a misdemeanor.

This section shall not be construed to forbid sentencing under section 12.1-32-09, relating to extended sentences.

12.1-32-01.1. Organizational fines.

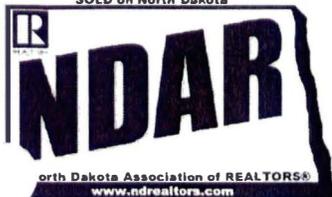
Any organization, as defined in section 12.1-03-04, shall, upon conviction, be subject to a maximum fine in accordance with the following classification:

1. For a class A felony, a maximum fine of one hundred thousand dollars.
2. For a class B felony, a maximum fine of seventy thousand dollars.
3. For a class C felony, a maximum fine of fifty thousand dollars.
4. For a class A misdemeanor, a maximum fine of thirty thousand dollars.
5. For a class B misdemeanor, a maximum fine of twenty thousand dollars.

Nothing in this section shall be construed as preventing the imposition of the sanction provided for in section 12.1-32-03, nor as preventing the prosecution of agents of the organization under section 12.1-03-03.

12.1-32-02. Sentencing alternatives - Credit for time in custody - Diagnostic testing.

1. Every person convicted of an offense who is sentenced by the court must be sentenced to one or a combination of the following alternatives, unless the sentencing alternatives are otherwise specifically provided in the statute defining the offense or sentencing is deferred under subsection 4:
 - a. Payment of the reasonable costs of the person's prosecution.
 - b. Probation.
 - c. A term of imprisonment, including intermittent imprisonment:
 - (1) In a state correctional facility in accordance with section 29-27-07, in a regional corrections center, or in a county jail, if convicted of a felony or a class A misdemeanor.



North Dakota Association of REALTORS®

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(3)
 Jan 12, 2015

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Testimony In Support of HB 1074

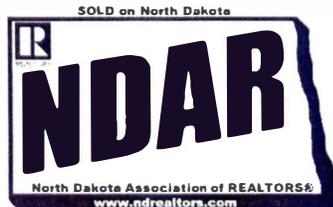
Good Morning Chairman Keiser and members of the House Business, Industry and Labor Committee. My name is Nancy R. Willis and I am the Government Affairs Director for the North Dakota Association of REALTORS®.

The North Dakota Association of REALTORS® represents more than 1600 REALTORS® and more than 250 affiliate members statewide.

In December of last year, our Board of Directors, after reviewing the draft which became House Bill 1074 and with knowledge that our Association staff and members had provided input on this legislation to the Real Estate Commission, voted to support this legislation.

I would like to ask Patricia Schlosser, a Bismarck-Mandan REALTOR® member, to provide testimony on our behalf in support of this bill. Thank you.





North Dakota Association of REALTORS®

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Jan 12, 2015

4

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TESTIMONY IN SUPPORT OF HB 1074

Good morning, Chairman Keiser, and members of the House Industry, Business and Labor Committee. For the record, my name is Patricia Schlosser and I am broker associate and sales manager for Century 21 Morrison Realty in Bismarck. I also serve as chair-elect for the North Dakota Association of REALTORS® Government Affairs Committee.

On behalf of the North Dakota Association of REALTORS®, I am testifying in favor of House Bill 1074, which would change the license renewal date for licensees and also would increase the penalty for unlicensed activity from an infraction to a class A misdemeanor.

First, we support establishing the renewal deadline date by administrative rule in order to allow for flexibility for licensees and the Real Estate Commission. Currently license renewal applications are due on or before December 31 for the next year—which physically means the very next day. This date does not leave enough time for staff at the Commission to go through all of the applications flooding in at the last minute. The licenses that remain unprocessed in the first part of January are considered to be expired, which obviously interrupts the services licensees are able to provide to the consuming public. This is unfair to licensees who have submitted their renewal applications on time but find themselves with an expired license. This also is unfair to the

Commission, as the actual processing of the licenses cannot feasibly take place in such a short amount of time as one work day.

When the Real Estate Commission brought this bill before the North Dakota Association of REALTORS®, the Association had only one major concern. Would moving up the renewal date also shorten the amount of time in which licensees had to complete their required yearly education hours? The Commission subsequently addressed this concern by deciding, upon this bill becoming law, to align the education year to parallel renewal dates. Licensees will continue to have one full year to complete their education hours.

With the change in renewal date, there still will be licensees who wait until the last minute to renew, and the license and education period still will be one year, but the extended time available for the Commission to process renewals allows for a cleaner end result. For this reason, we support this amendment.

As you also have heard from Pat Jergenson, Executive Director of the Real Estate Commission, there are individuals who are coming into our state, engaging in unlicensed activity, believing there is opportunity to make money in the real estate industry because of the accelerated economy. Those of us who work diligently at improving our skills and holding ourselves to a higher standard by voluntarily investing in professional education, achieving certifications and adhering to a Code of Ethics, believe that unlicensed activity should have a penalty strong enough to persuade people not to engage in unlicensed practice. We do not believe that an infraction is a strong enough deterrent to keep people from operating as unlicensed agents and brokers in North Dakota. We fully support increasing the current penalty to a class A misdemeanor.

For the reasons I have outlined, the North Dakota Association of REALTORS® on behalf of its members, urges a DO PASS on House Bill 1074. I would be happy to answer any questions.

TESTIMONY IN SUPPORT OF HB 1074

Good morning Chairman Klein and members of the Senate Industry Business & Labor Committee. My name is Pat Jergenson. I am the Executive Director of the North Dakota Real Estate Commission and I am testifying today in support of HB 1074.

This bill amends two sections of chapter 43-23 on Real Estate licensure.

The first amendment concerns real estate license renewal. Currently the statute requires licensees to submit renewals each year by December 31st in order to maintain a valid license as of January 1st. This deadline makes it difficult for Commission staff to process the renewals in such a condensed time frame as licensees can renew their licenses online until 11:59pm December 31st and those that choose to renew on paper must be postmarked no later than December 31st. This bill would allow the Commission to establish the renewal submission deadline date by administrative rule. The Commission plans to establish the renewal deadline date as November 15th, instead of the current December 31st deadline. This will provide more reasonable time to process renewals.

The Commission also plans to adjust, by administrative rule, the deadline date for continuing education to coincide with the new license renewal deadline. This will give licensees a full 12-month period to complete the required continuing education.

Currently a number of licensing boards in North Dakota have renewal deadlines that are set in statute, but there are also a number of professions that have the authority to establish renewal terms and conditions by administrative rule, as we are proposing. For example, the licensing boards for accountants, podiatrists, funeral directors, counselors, physicians, and physical therapists have the authority to adopt

requirements and timing for renewal by administrative rule. So giving the Real Estate Commission this ability to set the renewal application deadline by rule is not unusual or breaking new ground in North Dakota law.

The second proposed amendment is to increase the penalty for acting as a real estate broker or salesperson in North Dakota without a license. Currently the penalty is an infraction. This bill as amended changes the penalty to a class B misdemeanor.

The penalty of only an infraction for practicing without a license is a true oddity in North Dakota license law. For most other professions in North Dakota, the penalty for practicing without a license is either a class A or a class B misdemeanor. The penalties for practicing without a license for a number of professions in North Dakota are listed on this table.

North Dakota Occupations and Professions	Penalty for Unlicensed Activity
Accountants	Class A misdemeanor
Barbers	Class B misdemeanor
Chiropractors	Class B misdemeanor
Contractors	Class A misdemeanor
Electricians	Class B misdemeanor
Cosmetologists	Class B misdemeanor
Real Estate Appraisers	Class A misdemeanor
Abstractors	Class B misdemeanor
Funeral Service Practitioners	Class B misdemeanor
Counselors	Class B misdemeanor
Dietitians and Nutritionists	Class B misdemeanor
Respiratory Care Practitioners	Infraction
Social Workers	Class B misdemeanor
Occupational Therapists	Class B misdemeanor
Hair Removal Technician	Infraction
Audiologists and Speech-Language Pathologist	Class A misdemeanor
Psychologists	Class B misdemeanor
Veterinarians	Class B misdemeanor
Dentists	Class A misdemeanor
Massage Therapists	Class B misdemeanor
Physical Therapists	Class B misdemeanor

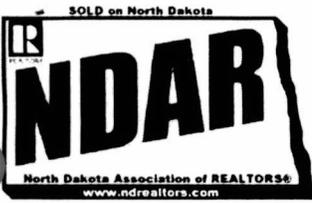
Very few other professions, and none of the professions comparable to real estate brokers and salespersons, have as low of a penalty as only an infraction.

Practicing without a license is becoming a bigger problem in North Dakota with the increased demand for real estate with the oil development. The Commission's first step is to send a letter to individuals and companies that appear to be acting as a real estate broker or salesperson without a license, demanding that they cease acting as such and explaining the license requirements and the penalties involved. A penalty of a class B misdemeanor will be more appropriate for the violation and gives the Commission a better tool to protect the public.

For these reasons, the North Dakota Real Estate Commission urges a DO PASS vote on HB 1074.

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Testimony In Support of HB 1074

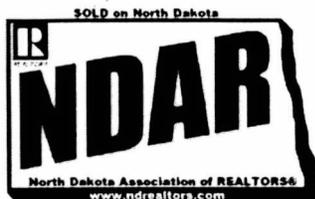
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In December of last year, our Board of Directors, after reviewing the draft which became House Bill 1074 and with knowledge that our Association staff and members had provided input on this legislation to the Real Estate Commission, voted to support this legislation.

I would like to ask Dave Lanpher, a Fargo-Moorhead REALTOR® member, to provide testimony on our behalf in support of this bill. Mr. Lanpher's testimony will most likely answer most of the questions you may have, but I am happy to take questions. Thank you.





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TESTIMONY IN SUPPORT OF HB 1074

Good morning, Chairman Klein, and members of the House Industry, Business and Labor Committee. For the record, my name is David Lanpher and I am REALTOR® for Park Co. Realtors in Fargo. I also serve as the chair for the North Dakota Association of REALTORS® Government Affairs Committee.

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