

# PROPERTY

## CHAPTER 378

### HOUSE BILL NO. 1251

(Representatives Louser, Adams, Beadle, Blum, Boschee, B. Koppelman, Lefor,  
Mock, D. Ruby)  
(Senators D. Larson, Meyer)

AN ACT to create and enact a new section to chapter 47-10 of the North Dakota Century Code, relating to property disclosure requirements.

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

**SECTION 1.** A new section to chapter 47-10 of the North Dakota Century Code is created and enacted as follows:

##### **Property disclosure - Requirements.**

1. This section applies to a transaction for the sale, exchange, or purchase of real property if:
  - a. A real estate broker, real estate broker associate, or real estate salesperson who is associated with a real estate brokerage firm represents or assists a party to the transaction; and
  - b. The real property is an owner-occupied primary residence located in this state being sold or exchanged by the owner.
2. Before the parties sign an agreement for the sale, exchange, or purchase of real property, the seller shall make a written disclosure to the prospective buyer. The written disclosure must include all material facts of which the seller is aware could adversely and significantly affect an ordinary buyer's use and enjoyment of the property or any intended use of the property of which the seller is aware. The written disclosure must include latent defects, general condition, environmental issues, structural systems, and mechanical issues regarding the property. The seller shall make the written disclosure in good faith and based upon the best of the seller's knowledge at the time of the disclosure.
3. Following the sale, exchange, or purchase of real property, the brokerage firm shall retain a copy of the written disclosure completed and signed by the seller and signed by the prospective buyer. The brokerage firm's duties under this section do not supersede any other common law or statutory duties.
4. The North Dakota real estate commission shall establish and make available a written disclosure form meeting the requirements of this section. In establishing the form, the commission shall consult with stakeholders, such as professional organizations.

- 
5. If a real estate broker, real estate broker associate, or real estate salesperson who is associated with a real estate brokerage firm violates this section, the state real estate commission may investigate and take disciplinary action under section 43-23-11.1.

Approved April 17, 2019

Filed April 18, 2019

## CHAPTER 379

### HOUSE BILL NO. 1150

(Representatives Tveit, Damschen, Laning)  
(Senators O. Larsen, Wanzek)

AN ACT to amend and reenact subsection 1 of section 47-16-07.1 of the North Dakota Century Code, relating to lessor security deposit limitations.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 1 of section 47-16-07.1 of the North Dakota Century Code is amended and reenacted as follows:

1. The lessor of real property or a dwelling who requires money as a security deposit, however denominated, shall deposit the money in a federally insured interest-bearing savings or checking account for the benefit of the tenant. The security deposit and any interest accruing on the deposit must be paid to the lessee upon termination of a lease, subject to the conditions of subsection 2. A lessor may not demand or receive security, however denominated, in an amount or value in excess of one month's rent, except a:
  - a. A lessor may accept an amount or value up to two month's rent, as security, from an individual convicted of a felony offense as an incentive to rent the property to the individual.
  - b. A lessor may demand an amount or value up to two months rent, as security, from an individual who has had a judgment entered against that individual for violating the terms of a previous rental agreement.

Approved March 12, 2019

Filed March 13, 2019

## CHAPTER 380

### SENATE BILL NO. 2212

(Senators Bekkedahl, Patten, Unruh)  
(Representatives Hatlestad, Jones, Steiner)

AN ACT to amend and reenact section 47-16-39.2 of the North Dakota Century Code, relating to the inspection of production and royalty payment records by the board of university and school lands; and to provide a penalty.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 47-16-39.2 of the North Dakota Century Code is amended and reenacted as follows:

#### **47-16-39.2. Inspection of production and royalty payment records - Penalty.**

1. A royalty owner, a royalty owner's assignee, or a designated representative, upon written notice, is entitled to inspect and copy the oil and gas production and royalty payment records for the lease of the person obligated to pay royalties under the lease or division order. The person obligated to pay royalties under the lease shall make that person's oil and gas royalty payment and production records available for inspection and copying at that person's usual and customary place of business within the United States. A royalty owner may bring an action to compel the person obligated to pay royalties to allow inspection and copying of oil and gas production royalty payment records. In order for the royalty owner to prevail in such an action, the royalty owner must establish that:
  1. a. The royalty owner or the royalty owner's assignee complied with notice requirements of this section;
  2. b. The notice specified the lease involved, the time period under review and the records requested;
  3. c. The royalty owner notified the person obligated to pay royalties at the address printed on the information statement as prescribed by rules adopted by the industrial commission pursuant to section 38-08-06.3; and
  4. d. The person obligated to pay royalties denied inspection of the records or failed to respond within thirty days of service of notice.
2. The district court for the county in which the oil or gas well is located has jurisdiction over all proceedings brought pursuant to this section. If the royalty owner or the royalty owner's assignee is successful in any proceeding brought pursuant to this section, the district court shall allow the royalty owner or the royalty owner's assignee to recover court costs; reasonable costs, fees, disbursements, and expenses incurred by the royalty owner or the royalty owner's assignee or a designated representative in inspecting and copying the oil and gas production and royalty payment records of the person obligated to pay royalties under the lease; and reasonable attorney's fees.

3. If a royalty owner, a royalty owner's assignee, or a designated representative is the board of university and school lands:
  - a. The records in subsection 1 must be sent electronically, or in a manner acceptable to the board, to a location designated by the board.
  - b. Notwithstanding subsection 2, at the discretion of the board, a proceeding brought under this section may be brought in the district court of Burleigh County or in the county in which the oil or gas well is located.
4. If the board of university and school lands is successful in any proceeding brought under this section, the district court shall allow the board to recover court costs; reasonable costs, fees, disbursements, and expenses incurred by the board in inspecting the copying the oil and gas production and royalty payment records of the person obligated to pay royalties under the lease; and reasonable attorney's fees.
  - a. The district court also shall assess a civil penalty of two thousand dollars per day for each day the person obligated to pay royalties under the lease failed to send the oil and gas royalty payment and production records to the board in accordance with subsection 1.
  - b. The civil penalty under subdivision a ceases to accrue on the date the proceedings are initiated under subsection 1.

Approved April 10, 2019

Filed April 11, 2019