

HOUSE BILL NO. 1164

Introduced by

Industry, Business and Labor Committee

(At the request of the Real Estate Commission)

1 A BILL for an Act to amend and reenact section 43-23-14.1 of the North Dakota Century Code,
2 relating to handling of funds by real estate brokers.

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

4 **SECTION 1. AMENDMENT.** Section 43-23-14.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **43-23-14.1. Handling of funds by brokers.** ~~Every~~ Except as otherwise provided in
7 this section, every broker shall, at all times, maintain in ~~his~~ the broker's name or firm name, a
8 separate trust account designated as such in a federally insured financial institution in this state
9 in which ~~he~~ the broker shall immediately place as a demand deposit all funds not ~~his~~ the
10 broker's own coming into ~~his~~ the broker's possession, in accordance with rules ~~and regulations~~
11 ~~promulgated~~ adopted by the commission. This requirement extends to funds in which ~~he~~ the
12 broker may have some future interest or claim and includes, ~~but is not limited to,~~ earnest money
13 deposits. Provided, the deposit of funds may be made in an interest-bearing account in a
14 federally insured bank, trust company, savings and loan association, or credit union if all parties
15 having an interest in the funds have ~~se~~ agreed in writing and if a copy of the agreement is
16 maintained on file by the broker. ~~No~~ A broker may not commingle ~~his~~ the broker's personal
17 funds or other funds in a trust account, except that a broker may deposit and keep a sum not to
18 exceed ~~one~~ five hundred dollars in ~~such~~ the account from ~~his~~ the broker's personal funds,
19 which sum must be specifically identified and deposited to cover service charges related to the
20 trust account. In conjunction with ~~such~~ the account, ~~he~~ the broker shall maintain at ~~his~~ the
21 broker's usual place of business, books, records, contracts, and other necessary documents so
22 that the adequacy of ~~such~~ the account may be determined at any time. Trust accounts and
23 other records must be open to inspection by the commission and its duly authorized agents at
24 all times during regular business hours at the broker's usual place of business.

1 A broker who does not accept trust funds in real estate brokerage transactions is not
2 required to maintain a designated trust account. However, if a broker does not maintain a trust
3 account and later receives trust funds in a real estate brokerage transaction, the broker shall
4 open a designated trust account as required by this section and deposit any trust funds in
5 accordance with rules adopted by the commission.