

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

SENATE BILL NO. 2208
(Senators Krebsbach, Lee, Watne)

AN ACT to amend and reenact section 43-23-12.2 of the North Dakota Century Code, relating to the duties and liabilities of real estate brokerage firms and clients.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-23-12.2 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43-23-12.2. Duties supersede common law.

1. The duties of a real estate brokerage firm, and ~~its~~ the firm's licensees, as specified in this chapter or in rules adopted ~~under~~ to implement this chapter, supersede any fiduciary duties of that real estate brokerage firm and ~~its~~ the firm's licensees, to a person based on common-law principles of agency to the extent that those common-law fiduciary duties are inconsistent with the duties specified in this chapter or in rules adopted ~~under~~ to implement this chapter.
2. A client is not liable for a wrongful act, an error, an omission, or a misrepresentation made by a licensee in connection with the licensee providing brokerage services for the client, including brokerage services provided under a subagency relationship, unless the client knows or should have known of the wrongful act, error, omission, or misrepresentation or unless the licensee is repeating a misrepresentation made by the client. This subsection is ~~intended to supersede~~ supersedes any conflicting common-law duty of the client ~~that is inconsistent with this subsection.~~
3. A real estate brokerage firm that is providing brokerage services to a client ~~and which, through a subagency relationship, works with another real estate brokerage firm to provide brokerage services to that client~~ is not liable for a wrongful act, an error, an omission, or a misrepresentation made by the ~~other~~ client, listing agent of another real estate brokerage firm, or subagent of another real estate brokerage firm, unless the ~~original~~ original real estate brokerage firm knew or should have known of the ~~other brokerage firm's~~ wrongful act, error, omission, or misrepresentation or ~~the other brokerage firm~~ unless the client, listing agent of another real estate brokerage firm, or subagent of another real estate brokerage firm is repeating a misrepresentation made by the ~~original~~ original real estate brokerage firm.
4. This section does not limit the liability of a licensee under section 43-23-11.1 ~~or~~ nor of a client for substantial and willful misrepresentations made in reference to a real estate transaction. As used in this section, the term "real estate brokerage firm" includes the firm and brokers and agents who work for the firm.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2208.

Senate Vote: Yeas 48 Nays 0 Absent 1

House Vote: Yeas 94 Nays 0 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,

at _____ o'clock _____ M.

Secretary of State