

SENATE BILL NO. 2247
with House Amendments
SENATE BILL NO. 2247

Sixty-seventh
Legislative Assembly
of North Dakota

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 subsections 6 and 7, this section applies to a
8 transaction for 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 real property is ~~an owner-occupied primary residence~~a residential dwelling
13 with no more than four units located in this state being sold or exchanged by the
14 owner.
- 15 2. ~~Before~~Except as otherwise provided in an offer to purchase agreement, before the
16 parties sign ~~an~~the final acceptance of the purchase agreement for the sale, exchange,
17 or purchase of real property, the seller shall make a written disclosure to the
18 prospective buyer. The written disclosure must include all material facts of which the
19 seller is aware could adversely and significantly affect an ordinary buyer's use and
20 enjoyment of the property or any intended use of the property of which the seller is
21 aware. The written disclosure must include latent defects, general condition,
22 environmental issues, structural systems, and mechanical issues regarding the
23 property. The seller shall make the written disclosure in good faith and based upon the
24 best of the seller's 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. An owner of real property shall disclose, in writing, all material facts that are known or
14 should be known to the seller but would not be discoverable through another
15 individual's exercise of ordinary care, to the purchaser of the real property before the
16 purchase is final.
- 17 7. This section does not apply to transactions for the sale, exchange, or purchase of real
18 property made:
- 19 a. Pursuant to a court order;
- 20 b. Between government agencies;
- 21 c. By a mortgagor in default to a mortgagee;
- 22 d. Pursuant to a foreclosure sale;
- 23 e. By a mortgagee or a beneficiary of a deed of trust who acquired the real property
24 by a:
- 25 (1) Foreclosure;
- 26 (2) Deed in lieu of foreclosure; or
- 27 (3) Collateral assignment of beneficial interest;
- 28 f. By a fiduciary administering a decedent's estate, guardianship, conservatorship,
29 or trust;
- 30 g. Between co-owners of the real property;
- 31 h. To a spouse, child, parent, sibling, grandchild, or grandparent; or

- 1 i. If the real property is newly constructed residential real property with no previous
- 2 occupancy.