

SENATE BILL NO. 2247
with Conference Committee Amendments
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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~~Unless the transaction is exempted under subsection 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 the parties sign an agreement for the sale,
16 ~~exchange, or purchase of real property, the seller shall make a written disclosure to~~
17 ~~the prospective buyer. The written disclosure must include all material facts of which~~
18 ~~the seller is aware could adversely and significantly affect an ordinary buyer's use and~~
19 ~~enjoyment of the property or any intended use of the property of which the seller is~~
20 ~~aware. The written disclosure must include latent defects, general condition,~~
21 ~~environmental issues, structural systems, and mechanical issues regarding the~~
22 property in an offer to purchase agreement, before the parties sign the final acceptance
23 of the purchase agreement for the sale, exchange, or purchase of the real property,
24 the seller in a transaction subject to subsection 1 shall prepare a written disclosure

1 form and shall make the written disclosure form available to the prospective buyer.
2 The written disclosure form must include all material facts the seller is aware could
3 adversely and significantly affect an ordinary buyer's use and enjoyment of the
4 property or any intended use of the property of which the seller is aware. The written
5 disclosure form must be in the form of the written disclosure form established by the
6 North Dakota real estate commission under subsection 4 or in a substantially similar
7 form and must include latent defects, general condition, environmental issues,
8 structural systems, and mechanical issues regarding the property. The seller shall
9 make complete the written disclosure in good faith and based upon the best of the
10 seller's knowledge at the time of the disclosure.

11 3. Followingif a real estate broker, real estate broker associate, or real estate
12 salesperson who is associated with a real estate brokerage firm represents or assists
13 a party to the transaction, following the sale, exchange, or purchase of real property,
14 the brokerage firm shall retain a copy of the written disclosure completed and signed
15 by the seller and signed by the prospective buyer. The brokerage firm's duties under
16 this section do not supersede any other common law or statutory duties.

17 4. The North Dakota real estate commission shall establish and make available a written
18 disclosure form meeting the requirements of this section. In establishing the form, the
19 commission shall consult with stakeholders, such as professional organizations.

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

23 6. Unless the transaction is subject to subsection 1 or exempted under subsection 7, the
24 seller of real property that is a residential dwelling with no more than four units located
25 in this state being sold or exchanged by the owner shall comply with the provisions of
26 this subsection. Except as otherwise provided in an offer to purchase agreement,
27 before the parties sign the final acceptance of the purchase agreement for the sale,
28 exchange, or purchase of the real property, the seller in a transaction subject to this
29 subsection shall disclose to the buyer, in writing, all material facts the seller is aware
30 could adversely and significantly affect an ordinary buyer's use and enjoyment of the

- 1 property or any intended use of the property of which the seller is aware. The written
2 disclosure may be in the form of a written property disclosure form.
- 3 7. This section does not apply to transactions for the sale, exchange, or purchase of real
4 property made:
- 5 a. Pursuant to a court order;
6 b. Between government agencies;
7 c. By a mortgagor in default to a mortgagee;
8 d. Pursuant to a foreclosure sale;
9 e. By a mortgagee or a beneficiary of a deed of trust who acquired the real property
10 by a:
- 11 (1) Foreclosure;
12 (2) Deed in lieu of foreclosure; or
13 (3) Collateral assignment of beneficial interest;
- 14 f. By a fiduciary administering a decedent's estate, guardianship, conservatorship,
15 or trust;
- 16 g. Between co-owners of the real property;
17 h. To a spouse, child, parent, sibling, grandchild, or grandparent; or
18 i. If the real property is newly constructed residential real property with no previous
19 occupancy.