



**North Dakota Real Estate Commission**  
**1120 College Dr Ste 204**  
**Bismarck ND 58501**  
**701.328.9737      www.realestatend.org**

The 69<sup>th</sup> North Dakota Legislative Assembly approved the following changes to real estate license NDCC 43-23, to be effective August 1, 2025:

**1) Does not change current law, but adds language on referrals with in- and out- of-state licensees in NDCC 43-23-06.1 (9)(h).**

- **Adds the words “or refers a prospect.”**

A referral occurs when a licensee forwards a business prospect to another licensee, and both licensees agree to share the commission from the transaction. The license law describes the practice without using the words “refer” or “referral.” By adding the phrase “...or refers a prospect,” should make it clear that referrals require a license.

The key to needing a license for referral is only when the person making the referral is compensated for the referral. People who are not licensed refer friends and family to licensees all the time and receive no compensation for the referral. No compensation means no license is needed.

- **Adds into statute language already in administrative rule NDAC 70-02-03-03 and adds into that existing language to clarify the negotiations are “...on behalf of the referred client or prospect...”**

“A licensed broker in this state may divide or share a real estate commission with a licensed broker in another state if the out-of-state broker does not carry on any of the negotiations on behalf of the referred client or prospect in this state either by physically entering the state or by communicating with the broker electronically or through other means.” NDCC 43-23-06.1 (9)(h)

Adding the language into statute to reinforce what is already in current administrative rule makes clear how brokers can share compensation with out-of-state brokers.

**2) Changes the law to allow broker applicants to take the licensing examination before completing the pre-licensure course in NDCC 43-23-08 (4).**

The pre-licensure course still must be completed before an individual is licensed. This adds more flexibility for the applicant in scheduling the licensing exam and could help expedite the licensing process. The statute already allows for salesperson applicants to take the salesperson exam before completing the pre-licensure course.

“An applicant for a salesperson’s or broker’s license may take the licensing examination before fulfillment of the prerequisite educational requirement; however, the commission may not issue a license to an applicant unless satisfactory evidence of completion of this prerequisite educational requirement is furnished to the commission.” NDCC 43-23-08 (4)

3) **Does not change the law but removes specific dates for license renewal to a timeframe “set by the commission” in NDCC 43-23-13.1(1) and (2).**

This does not trigger any changes in renewal dates. Current administrative rules including NDAC 70-02-01-04 would need to be amended to change renewal dates. Having “dates set by the commission” language in statute means that if the Commission wanted to change renewal dates, they would not need to change the statute and the rules – only the rules would need changing.

“Every person licensed to practice as a real estate broker or real estate salesperson shall register with the commission at a regular interval set by the commission not less than annually and pay the appropriate renewal fee as provided in section 43-23-13. The application for renewal must be accompanied by such certification as required by this chapter and rules of the commission to show compliance with the educational requirements of sections 43-23-08 and 43-23-08.2, and must be submitted to the commission with the appropriate fee no later than the application deadline set by the commission. A licensee that fails to file a timely application for the renewal of any license and pay the renewal fee on or before the application deadline set by the commission may file a late renewal application, together with the required educational certification, on or before a date set by the commission and shall pay, in addition to the renewal fee, a late fee as set by the commission for each month or fraction of a month after the application deadline. Any license not renewed by the late renewal date set by the commission must be canceled. The cancellation must be performed without any notice or opportunity for hearing. Any person whose license has been canceled and which desires relicensure must be required to satisfy the application and examination requirements for prospective licensees in accordance with this chapter and rules of the commission.

2. A licensee may not engage in any activity after the license renewal date set by the commission of any year for which a license is required under this chapter unless that person's license has been renewed by the commission.” (NDCC 43-23-13.1(1) and (2)

4) **Changes the law to require disclosure for wholesaling any real property, not just residential real property in NDCC 43-23-24 (1), (2), and (3).**

“Wholesale buyers and sellers - Disclosure.

1. As used in this section wholesaler” means a person that enters an agreement to make income or profit from the transfer of or equitable interest in real property.
2. A wholesaler of real property shall disclose in writing to all parties to the agreement that the wholesaler holds an equitable interest in the property, may not be able to convey title to the property, and intends to make a profit or income from the transfer of the equitable interest.
3. Notwithstanding any other provision contained in a contract for sale of real property, if a wholesaler violates this section, the seller may cancel the contract for sale at any time before the close of escrow without penalty and may retain any earnest money paid by the wholesaler.
4. Notwithstanding any other provision contained in the contract for sale, if a wholesaler violates this section, the buyer may cancel the contract for sale at any time before the close of escrow without penalty and must be refunded all earnest money paid by the buyer.” NDCC 43-23-24

The 69<sup>th</sup> North Dakota Legislative Assembly also approved the following new section to real property transfers law NDCC 47-10, to be effective August 1, 2025:

1) **Changes the law to require residential real property seller or seller's agent to disclose in writing to the buyer known radon concentrations in the property.**

The seller or seller's agent also must provide a written disclosure statement to the buyer that the buyer must sign, explaining the health risks of radon exposure.

NOTE: The North Dakota Association of Realtors is also adding the required radon health language as stated in the new law to the NDAR purchase agreement, as note all transactions require a property condition disclosure statement.

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

Disclosure of prior radon test - Immunity from liability -Definitions.

1. As used in this section:

- a. "Buyer" means a person negotiating or offering to acquire real property for value or legal or equitable title, or the right to acquire legal or equitable title to residential real property.
- b. "Mitigation" means measures designed to permanently reduce indoor radon concentrations.
- c. "Seller" means a person that owns legal or equitable title to residential real property.
- d. "Test" or "testing" means a measurement of indoor radon concentrations according to the National Radon Action Plan 2021-2025, published by the environmental protection agency.

2. Before executing an agreement to sell or transfer residential real property, except as otherwise provided in an offer to execute a purchase agreement, a seller shall disclose in writing to the buyer any knowledge the seller has of radon concentrations in the property. The seller or seller's agent shall provide the following disclosure statement to the buyer, and the buyer shall acknowledge its receipt by signing a copy of the disclosure statement:

RADON GAS IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL GUIDELINES HAVE BEEN FOUND IN BUILDINGS ON RESIDENTIAL REAL PROPERTY IN NORTH DAKOTA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR LOCAL PUBLIC HEALTH UNIT OR THE STATE DEPARTMENT OF ENVIRONMENTAL QUALITY.

3. If the seller has knowledge the property previously has undergone testing for radon gas and radon progeny, the seller shall provide a copy of test results reasonably available to or in the seller's possession and evidence of mitigation to the buyer before executing an agreement to sell or transfer the property. Any test result or evidence of mitigation furnished under this section does not constitute a promise, warranty, or representation by the seller or the seller's agent that the test results are accurate or the mitigation is effective.

4. This section does not create a contingency on the purchase of the property or any right to rescind a contract for purchase unless the contingency or right to rescind is an express term of the contract.
5. A seller or seller's agent complying with this section is not liable for any claim or action based on the presence of radon gas or radon progeny found in the residential real property subject to disclosure under this section." *(new section in NDCC 47-10)*