

5. Update from management – Actions at or since last meeting. Motions needed.

5.A. 2025-2026 priorities – administrative rules,

5.B. Policies/ procedures -- disciplinary actions

2025-2026 priorities	
1	<p>Review administrative rules</p> <p>See license law changes, below, for reference. 8.21, 9.17, and 10.30.2025 – Commission reviewed draft administrative rules changes but made no final decision. 11.12.2024 – Commission passed motion to change current NDAC 70-02-04-06(1) that CE courses be at least 2 hours. Discussion was CE courses should be at least 1 hour.</p> <p>5.A. Administrative rules – 8.21.2025 – Reviewed proposed administrative rules changes and set special meeting September 17, 2025 to continue the discussion. 9.17.2025 – Continued discussion on administrative rules changes. 10.30.2025 – Reviewed additional proposed rules changes. 11.2025 to 1.2026 – Jeanne and David met and reviewed all the proposed changes and other rules not yet reviewed. <u>Control/Click here to go to Appendix A.</u> Motion needed to approve the final version of the DRAFT changes.</p> <p>Next steps with approximate timeline:</p> <ol style="list-style-type: none"> 1) February -- Notice of public hearing on proposed changes published -- in all official county newspapers and posted on Commission website. 2) March-April -- Public comment period -- Jeanne will email an alert to all licensees and stakeholders, to encourage comment on proposed changes. Anyone can comment, orally or in writing, during comment period, which extends beyond hearing date. 3) April -- Public hearing held by Commission – Staff collect and summarize all comments made during the comment period before, during, and after the hearing. 4) April-May -- Commission reviews all comments, adjusts rules changes if determined necessary, and approves final rules changes. 5) May-July -- Commission submits required materials to Attorney General’s Office and receives Attorney General Rules Opinion. Commission files final documents with Legislative Council. 6) July-August -- Legislative Administrative Rules Committee meeting and approves final rules. 7) September -- Final rules take effect.

2	<p data-bbox="162 48 1531 94">Internal office & commission policies & procedures, cross training; other policies 2</p> <p data-bbox="162 94 1531 126">Ongoing -- continue this priority with other policies, procedures, and additional cross-training.</p> <p data-bbox="162 126 1531 157"><u>Cross training</u> – ongoing -- Jeanne/Rob – cross training on financial tasks.</p> <p data-bbox="162 157 1531 388"><u>Primary place of broker’s business</u> – 8.21.2025 -- Commission determined when primary place of broker’s business is in ND, that place must be within an actual bricks-and-mortar structure and be a space solely for brokerage services. Broker’s home can be the business office (43-23-12). Licensee names and licensee numbers must be displayed in place of business or listed on the broker’s website (43-23-12(1)). Broker can share office space with another broker (NDAC 70-02-01-12). A nonresident broker with a licensed place of business in another state is not required to have a place of business in North Dakota (43-23-10).</p> <p data-bbox="162 388 1531 451">5.B. Request to expunge -- Discussion and recommended action – 8.21.2025 – Discussed request to consider removing complaints from current licensee records but took no action.</p> <p data-bbox="162 451 1531 693">Current policy for removing a permanent letter of reprimand in a licensee’s file due to disciplinary action: Letter can be expunged from the licensee’s file and record if 1) the licensee petitions the commission to request the letter and record be expunged; 2) the letter has been in the file at least 7 years; 3) the commission determines that removing the letter and expunging the licensee’s record does not endanger the public; and 4) the commission has not taken any disciplinary action against the licensee since the letter was placed in the file. (NDREC policy, 2.11.2019) State of ND records retention policy: Legal documents can be discarded 6 years after final action.</p> <p data-bbox="162 693 1531 1092">10.30.2025 – Passed this policy: The commission may expunge disciplinary actions from the licensee’s file and record if: 1) the licensee petitions the commission to request the disciplinary action/s and record be expunged; 2) the disciplinary action/s was/were taken at least 6 years ago, and North Dakota state retention policy allows the records to be purged; and 3) the commission determines that removing the disciplinary action/s and expunging the licensee’s records does not endanger the public; and 4) the commission has not taken any disciplinary action against the licensee in the past 6 years. This policy replaces the policy on expunging letters of reprimand. The Commission agreed by consensus that Jeanne should establish a process for a licensee to petition the Commission to expunge the disciplinary action from the licensee’s record. The process is to submit a formal request to Jeanne by email or letter, stating licensee name and disciplinary action requested to be expunged. The Commission will consider the request at its next regularly scheduled meeting. 2.12.2026 – Licensee Mr. Chad Wachter submitted this request for Commission consideration at this meeting.</p> <p data-bbox="162 1092 1531 1131"><u>Control/Click here to go to Appendix B. Motion needed on the request.</u></p>
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	<p><u>Auditor/Accountant</u> – 11-12.2025 – Initial finalist applicants interviewed, 2 of these interviewed again. 12.12.2025 – Commission directed background check for finalist. 1.2026 – Background check reviewed. Jeanne discussed results with finalist. Jeanne discussed with Chair Meyer who agreed to offer job to finalist Mr. John Myhra at \$75,000 annual salary. 1.15.2026 – Jeanne emailed Commissioners on these details. 2.12.2026 – 5. C. CPA/Auditor -- Discussion/motion on amount for retirement gift for Rob.</p> <p>9-10.30.2025 – Received applications. 8.21.2025 – Rob retiring; planned last day in office is 1.30.2026. Jeanne will post staff auditor/accountant position, with salary \$75,000 to \$95,000, depending on experience. CPA preferred, not required. Jeanne and Rob will conduct interviews of top candidates. Start date of new accountant ideally before Rob’s last day to allow for training.</p> <p><u>2026 mandatory CE</u> – 11.2025 – Kory updated CE area on website. 8.21.2025 – Commission set all CE as elective, with no mandatory course for CE cycle Nov. 16, 2025 through Nov. 15, 2026.</p> <p><u>Renewal dates</u> – 8.21.2025 -- Set renewal dates to be in force until such time a formal motion of the Commission sets different renewal dates: November 15 – on-time renewal; November 1 current year through January 15 of the next year -- \$100/month/license late fee accrues; January 1 through January 15 – grace period during which non-renewed active and inactive licenses from previous year are not cancelled, but active licenses from previous year are made inactive; January 16 – all non-renewed licenses are cancelled.</p> <p><u>Organization license tracking</u> – 2.2026 – Kory reviewing all current organization licenses and updating as needed. 8.21.2025 – Commission approved addition of broker reporting of their firm’s licensee organizations as part of trust account audits, with focus on education and achieving compliance, not penalizing.</p> <p><u>Staff bonuses</u> – 12.2025 – The Commission, at 12.12.2025 meeting, directed chair and past chair to determine bonuses, which were \$3,000 each for 2 staff, \$1,500 each for 2 staff and \$1,000 for 1 staff person. 8.21.2025 – Discussed bonuses for staff to be part of budget, performance.</p> <p><u>Education fund expenditures</u> – 2.2026 – Rob transferred \$10,000 from education fund to operating fund, based on education-related expenses from 7.1.2025 through 1.31.2026, totaling \$10,052.93.</p> <p><u>Discussion on transferring more funds 2025-2026.</u> 8.21.2025 – The commission agreed to allow up to \$10,000 from the education fund to be used for trust account course development, and education-related staff time and expenses in fiscal year 2025-2026.</p>
3	<p><u>PSI services monitoring</u></p> <p>Ongoing -- continue to meet quarterly with PSI, to assure PSI provides good service to us and to applicants.</p> <p><u>PSI exam fee</u> – 8.21.2025 -- The commission amended PSI contract per exam fee from \$131 to \$134. Exam fee paid by license applicants. PSI requested increase after ARELLO requested PSI pay ARELLO \$5/ test, up from \$2/test. PSI can offer remote proctoring of tests.</p>
2025-2026 priorities, continued	
4	<p><u>Implement 2025 legislative changes</u></p> <p><u>All law changes</u> – 2.2026 – SB 2395 -- Kory updated “How to Apply, Steps” sections of the website to include: “An applicant aggrieved by a <u>licensure delay</u> first shall try to resolve the matter with the board. If the matter cannot be resolved, the applicant may bring the matter to the office of the governor. NDCC 43-51.1-03 (11). The link to contact the Governor's Office is https://www.nd.gov/contact” NOTE: Another requirement of SB 2395: “Unless already a member of an effective <u>interstate compact</u>, a board shall annually review available interstate compacts in professions it regulates to determine whether joining the interstate compact would be in the best interest of the profession and state, giving consideration to workforce shortages and evolving trends in occupation licensure and technology. The review must be noted clearly in the board’s agenda and meeting minutes and the board must provide the labor commissioner with a copy of the considered compact and the board’s reason for determining that entering the interstate compact was not in the best interests of the profession.” NDCC 43-51.1-03 (6)</p> <p>2.11.2026 -- SB2308 – Participated/on agenda of Board Review Task Force meeting -- discussion.</p> <p>8.21.2025 -- Updated website with law changes (1125 & 2204), updated property condition disclosure form to include required radon health information (2204), informed stakeholders (all law changes). To be completed -- participate in ways TBD in Governor’s task force study of all boards and commissions (2308), report to Labor Commissioners as required to assure compliance with uniform standards for all licensing boards (2395).</p> <p><u>House Bill 1125 (license law) & Senate Bill 2204 (radon) – updates:</u></p>

	<p>8.21.2025 -- website – home, law, forms, resource library, how to apply pages updated; email to all licensees, NDAR, BORs; future trust account audits will continue to audit for updated radon disclosure; education providers emailed law change details; PSI updated test scheduling process/web pages.</p> <p><u>Senate Bill 2251</u> – Raised income threshold from \$200,000 to \$2 million for boards who are exempt from full audit, and alternate annual financial review instead of full audit is now allowed as an option. (NDCC 54-10-27) 10.30.2025 -The Commission determined it would proceed with current schedule with Brady Martz to conduct a comprehensive audit of fiscal years 2024-2025 and 2025-2026. NDREC has approved quote from Brady Martz to conduct an audit for the years to end 6.30.2025 and 6.30.2026 for \$12,650 base cost. State Auditor requires comprehensive audit for the year ended 6.30.2025, to comply with the law as it was before SB2251 took effect 8.1.2025.</p> <p>– 8.21.2025 – 2025 Legislature changed NDCC 54-10-27: “Instead of providing for an audit every 2 years, an occupational or professional licensing board that has less than \$200,000 \$2 million dollars of annual receipts may submit an annual report to the state auditor.” (NDCC 54-10-27) Office of the State Auditor sent letter confirming that NDREC can submit online the Annual Financial Review.</p>
Other 2025-2026 priorities	
5	<p>Online services</p> <p>Ongoing – continue to update and add new functions for renewals, CE reporting, broker applications.</p> <p>11.2025-2.2026 – updated online functions and forms as needed. 10.30.2025 -- Updated online services for renewals after developing and testing over 3 months: sole proprietor firm renewal; removed DOB/SSN; made numerous word and format changes; updated automatic triggers. Also updated CE certification but will need updates to our system. Determined that broker applicant renewing as SP automation was not possible. Developed login/PW options but did not change login/PW.</p> <p>8.21.2025 -- Updated these other online services: itemization to receipt page; firm & licensee name/address, online services landing page format and wording, COL wording, email alerts to staff.</p> <p>8.21.2025 -- Updated database -- resource posting in licensee record.</p> <p>8.21.2025 -- Updated forms: revised cancel & inactive forms, property condition disclosure form.</p>
6	<p>Visit BOR</p> <p>10.30.2025 – Jeanne presented for FMAAR virtual educational offering 9.24.2024.</p> <p>8.21.2025 -- Scott, Sandy, Jeanne attended NDAR BOD meeting 6.26.2025, Grand Forks. Jeanne emailed all BORs on interest.</p>

Other – **1.1.2026** – Vendor raised **cost of credit history report** from \$11.25 to \$13.00. Online applications updated with new amount.

5.D. CE audit – No motions anticipated.

10.2025 to 1.15.2026 – Candie conducted CE audit.

2025 CE audit results:

License pool – ND, active – 1,754

15% completed – 263 (73 – broker/associates + 190 salespersons)

254 – compliant without further documentation

9 – Initially not compliant; all 9 provided documentation of compliance achieved by 11.15.2025.

- 9 -- incorrect documents uploaded.

✓ **All licensees audited achieved compliance by submitting correct documents by deadline.**

5.E. Trust account waivers from Ciana for information only

	Broker	Firm	Location	
1	Ryan Dodd	Dodd Realty LLC	Fargo	ND
2	Michele Evert	REALTY EXPERTS LLC	West Fargo	ND
3	Korley Sears	America's Land Partners - North Dakota, LLC	Bismarck	ND
4	Jeffrey Hagel	Jeff Hagel	Barnesville	MN
5	Theresa Hart	Meyer Realty LLC	Waconia	MN
6	Jeannette Ericsson	Red Door Realty, LLC DBA Rustic Red Door Realty	Lemmon	SD
7	Michelle DeKoekkoek	Providence Properties Inc DBA Weichert, Realtors - Providence Properties	Watford City	ND
8	Dylan McCollum	The Industry Brokers LLC	West Fargo	ND

Audits Completed

8.15.25-1.12.20 -- 41

Audits in Process 2.5.26 -- 1

Newly Licensed ND Firms in 2025 -- 20

Total Active ND Firms -- 250 (12.31.25)

Audits 1.14.25-3.4.25**LRES Realty LLC**

2 EM deposits were not timely, no addendums prepared, no appropriate documentation to support mailing dates. There was a date missing by the seller's signature on the PA. My report stated they must have better documentation related to EM, and addenda must be prepared. Documentation must be reviewed. [Unannounced follow up to be conducted.](#)

Audits 3.5.25-4.14.25**Northern Elements Real Estate**

Initial audit. No individual ledgers, or cumulative ledger, only had one transaction. Further follow up required. [Resolved.](#)

Audits 4.14.25-8.14.25**Star Journey LLC**

Initial audit no records maintained using a title company to hold EM, I provided examples and requirements must. [Re-check in a couple months.](#)

Audits 8.15.25-10.07.25**Signature Properties Inc**

It has a trust account but uses title companies more than the trust account and was not maintaining required records when using title companies. I provided examples and will [follow up in a couple of months.](#)

NHFRE Inc

Has a trust account and those records were fine. They also started using title companies without maintaining required records. Report stated they must establish these records. I provided examples. [Emailed 1.13.26; waiting for response.](#)

Legacy Realty LLC

The audit was good except for two EM deposits on hand that are over three years old. I instructed the broker and office manager that by law these funds must be submitted to unclaimed property. They will do their due diligence to contact the parties immediately if there is no resolution funds will be sent to unclaimed property. [Resolved.](#)

National Land Realty ND

The audit was acceptable except the broker maintained he confirmed EM with the title company via the phone. The report stated this is not acceptable and there must be some type of documentation. [Emailed 1.13.26; waiting for response](#)

Audits 10.8.25-1.12.26**KJ Realty**

The audit was in progress. I was not receiving my cooperation. Broker indicated she would not be renewing her license. However, she did renew. [Follow up required.](#)

Oxford Realty

Appropriate records not maintained when using title companies to hold EM. I have received 2 months of requested records showing correct EM tracking. [Issue will be resolved once I receive 3rd month showing continued correct EM tracking.](#)

Sterling Grace Inc

Appropriate records not maintained when using title companies to hold EM. I requested records for December and January. [Continued follow up is required.](#)

Flom Property Group Inc

Appropriate records not maintained when using title companies to hold EM. I requested records for December and January. [Continued follow up is required.](#)

American Real Estate ND Inc

Appropriate records not maintained when using title companies to hold EM. I requested records for December and January. [Continued follow up is required. Emailed 1.13.26.](#)

5.G. License numbers -- for information only to track with budget

Applications

2025-2026	Salesperson	Broker	Firm	Organization
Jul-Jan total	110	21	23	71
25-26 budget -3-yr ave (23-24, 22-23, 21-22)	330	58	32	28
2024-2025	Salesperson	Broker	Firm	Organization
Jul-Jan	115	37	25	6
24-25 Actual Total	210	64	42	14
2023-2024	Salesperson	Broker	Firm	Organization
Jul-Jan	165	38	12	10
23-24 Actual Total	272	70	35	15
2022-2023	Salesperson	Broker	Firm	Organization
Jul-Jan	160	31	19	9
22-23 Actual Total	307	57	39	16

Individual & firm licenses

	salespersons	broker associates	brokers	firms
1.27.2026	2,080	390	437	437
	3,344 -- 2,907 individuals			
1.27.2025	2,103	373	426	420
	3,322 -- 2,902 individuals			
1.16.2024	2,090	381	404	403
	3,278 -- 2,875 individuals			

Renewals – current/recent years

2025 – 2,873 of 3,059 renewed – 94%
 2024 – 2,878 of 3,123 renewed – 92%
 2023 – 2,711 of 3,059 renewed – 93%
 2022 – 2,888 of 3,047 renewed – 95%

Newly licensed Oct + Nov + Dec = 17 ave

2025 – 11 + 5 + 3 = 19
 2024 – 11 + 6 + 1 = 18
 2023 – 6 + 5 + 3 = 14

Renewals for 2026 -- Budget-- exceed budget in all categories by \$24,950

	Rec'd by		Total	Total Budgeted	Over Budget
	12.31.25	1.15.26			
Firm Renewal	86,800	800	87,600	73,000	14,600
Broker Renewal	118,500	1200	119,700	115,350	4,350
Salesperson Renewal	258,625	750	259,375	259,375	0
Late Fees	24,500	4,900	29,400	23,400	6,000
	488,425	7,650	496,075	471,125	24,950

5.H. NDREC meetings – 2025-2026 – 8:30am/02/03/2026

July 2025						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

August 2025						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

September 2025						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

October 2025						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

November 2025						
Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

December 2025						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

January 2026						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

February 2026						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28

March 2026						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

April 2026						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

May 2026						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

June 2026						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

Federal Holidays 2025/2026 -- * Federal holidays 2025/26 – ND state holidays include all federal holidays except Columbus Day and Juneteenth, plus Good Friday, April 3

Jul 4, 2025	Independence Day	Nov 11, 2025	Veterans Day	Jan 1, 2026	New Year's Day	April 3, 2026	Good Friday
Sep 1, 2025	Labor Day	Nov 27, 2025	Thanksgiving Day	Jan 19, 2026	Martin L. King Day	May 25, 2026	Memorial Day
Oct 13, 2025	Columbus Day	Dec 25, 2025	Christmas Day	Feb 16, 2026	Presidents' Day	Jun 19, 2026	Juneteenth

Appendix A
Memorandum

This is the updated Fourth Memorandum
for review 2.12.2026.

To: North Dakota Real Estate Commission
From: David Phillips, Special Assistant Attorney General
Date: February 11, 2026
Subject: **Proposed Rules Changes (Fourth Memorandum)**

Jeanne Prom and I have prepared additional proposed rule changes which are addressed in this memo. New proposed changes not previously discussed by the commission are at the top of the memo, and the changes already discussed by the commission at its last two meetings on the topic are at the bottom of the memorandum after the separation line.

Public Hearing
NDAC § 70-01-02-02

The commission should consider the following change to be consistent with current practice.

70-01-02-02. Public hearing.

All hearings conducted by the commission, ~~or its duly authorized employees~~, shall be open to the public, unless otherwise ordered by the presiding officer at the hearing, or specifically provided by statute.

The commission should consider the following change for clarity and to be consistent with current practice.

70-01-02-05. Conduct of hearing.

The hearing shall be conducted and presided over by a member of the commission or such ~~subordinate~~ individual as may be designated ~~to hear the matter~~ by the chairman of the commission.

The commission should consider the following change to allow service through the email address of the licensee on file with the commission. Please note, for added certainty, I would attempt to get written permission to serve documents by email in each case and would create a form and establish a standard process for getting the form signed.

70-01-02-09. Service of process.

Complaints, notices, orders or other processes of the commission shall be served personally, or by registered or certified mail, or by email to the licensee's email address on file with the commission, or by another method consented to in writing ~~as the real estate commission may direct~~. Time for answering, or time required on other motions, shall be as prescribed by the commission by rule, or in the absence of such rule, as prescribed by the district courts of North Dakota.

Other changes to this section were discussed in a prior meeting of the commission (shown below the separation line in this memo). As additional proposed changes to this section, the commission should consider making the following changes to subsections 6(c), 8, and 13.

The proposed change to subsection 6(c) gives broader discretion to deny an application if the applicant has violated laws and regulations outside of N.D.C.C. ch. 43-23 and N.D.A.C. Ch. 70-02-01, including other laws and regulations of the State of North Dakota, any other state, or the United States of America.

The proposed change to subsection 8 makes the rule consistent with the language of N.D.C.C. § 43-23-08(1).

The proposed change to subsection 13 gives more flexibility to change fee in the future without having to amend this rule.

70-02-01-02. Application for license.

1. No application for either a broker's or salesperson's license will be accepted from a person under the age of eighteen years.
2. All applications must be filed with the commission before an examination, complete in every detail with every question answered and correct fees submitted.
3. It shall be incumbent upon the applicant for a real estate broker's license to submit the applicant's proofs of qualification pursuant to subsection 3 of North Dakota Century Code section 43-23-08. Broker applicants wishing to qualify under the two-year experience requirement shall be required to submit to the commission an letter from said applicant's broker or brokers that the applicant has been actively engaged in the real estate business as a salesperson for at least two years.

"Actively engaged" means that the applicant must have devoted the applicant's full time as a licensed real estate salesperson. The foregoing shall be certified by a licensed real estate broker.

4. Each application for license shall be made on application forms provided by the real estate commission.
5. After an application is filed, no refund of application fee will be made to any applicant.
6. The commission may deny any application for license when one or more of the following conditions are present:
 - a. The application contains any false statement.
 - b. An investigation fails to show affirmatively that the applicant possesses in every instance the necessary qualifications.
 - c. The applicant has acted or attempted to act in violation of North Dakota Century Code chapter 43-23, or this title, or other laws and regulations of the State of North Dakota, any other state, or the United States of America.
 - d. The applicant has had a real estate license suspended or revoked in North Dakota or another state.
 - e. The applicant has issued one or more checks or drafts which have been dishonored by a payor bank because:
 - (1) No account exists;
 - (2) The account was closed; or

- (3) The account did not contain sufficient funds to pay the check or draft in full upon its presentment.
- f. The applicant's credit history shows the existence of unpaid and overdue judgments, liens, or other debt obligations which, for the protection of the public, requires that the application be denied.
7. If the application and supporting documents on their face show that the applicant is qualified, but from complaints and information received or from investigation it shall appear to the commission at any time before the initial license is delivered, that there may be cause to deny a license, the commission may order a hearing to be held to consider such complaints or information.
8. The commission may require such other proof as may be deemed advisable of the honesty, truthfulness, and ~~good reputation~~ fair dealing of any applicant, including the officers and directors of any corporation, or the members of any copartnership or association making such application, before accepting an application for license.
9. Inquiry and investigation may be made by the commission as to the financial responsibility of each applicant.
10. When a corporation submits its application for a license, the application must be accompanied by a copy of the articles of incorporation and a certificate of authority issued by the secretary of state.
11. When a partnership submits its application for a license, the application must be accompanied by a copy of the partnership agreement.
12. An applicant for licensure in another state may request the commission to certify to such other state that the applicant is a licensee of this state. A fee as set by the commission shall accompany the request.
13. An application for an organization to be licensed for a salesperson, broker associate, or broker pursuant to North Dakota Century Code section 43-23-05.1 must be accompanied by a one-time license fee ~~of not more than three hundred dollars,~~ as set by the commission. The individual who owns the organization must possess and maintain a valid and active real estate license in order for the organization to be licensed. The failure to do so will cause the organization's license to become inactive and invalid. The fee must be paid each time the organization's license is activated.

The commission should consider the following change to make the language consistent for both salespersons (subsection 1) and brokers (subsection 2).

70-02-01-05. Inactive licenses.

1. A qualified licensed salesperson desiring to place the salesperson's license on an inactive status may do so by a request from the salesperson in a format prescribed by the commission that the salesperson's license be placed on an inactive status. The salesperson may keep the salesperson's license on an inactive status for an indefinite period. The salesperson placing the salesperson's license on inactive status shall pay the required fee for renewing such salesperson's license each year. A salesperson whose license is in an inactive status shall not engage in any manner in any of the activities described under North Dakota Century Code chapters 43-23 and 43-23.1, until the salesperson shall first request that the salesperson's license be reactivated by the commission. During the time that a salesperson's license is on an inactive status educational requirements do not need to be met. However, if any applicable education requirements are unsatisfied, proof of fulfillment must be submitted before the license can be reissued on an active status.
2. A qualified licensed broker who desires to place the broker's license on an inactive status may do so in a format prescribed by the commission that requests the license be placed on an inactive status. The broker may keep the broker's license on an inactive status for an indefinite period. The broker placing the broker's license on inactive status shall pay the required fee for renewing such broker's license each year. **A broker whose license is in an inactive status shall not engage in any manner in any of the activities described under North Dakota Century Code chapters 43-23 and 43-23.1, until the broker shall first request that the broker's license be reactivated by the commission.** During the time that a broker's license is on an inactive status educational requirements do not need to be met. However, if any applicable education requirements are unsatisfied, proof of fulfillment must be submitted before the license can be reissued on an active status.
3. While a license is on inactive status it is not necessary, in the case of a broker, to maintain an active trust account. While a license is on inactive status, in the case of a designated broker, the firm license is automatically canceled unless another broker is the designated broker. A firm license that is canceled may be activated only by submitting a firm license application with all fees.
4. To reactivate an inactive license, a licensee must meet the continuing education hours as required by section 70-02-04-02 for each continuing education period the licensee's license was inactive, not to exceed the number of hours required for the three continuing education periods prior to reactivation. The requirements of section 70-02-04-02 must have been fulfilled within the three years immediately preceding the return to active status.

The commission should consider rewriting this section as follows for a clearer process with more flexibility:

70-02-01-08. Salesperson and broker associate transfer or release.

~~When for any reason a licensee severs connection with the licensee's designated broker and desires to transfer to another broker, the licensee must complete a transfer and release form provided by the commission, to be executed by the licensee, the licensee's current broker, and the licensee's new broker. Should the licensee's current broker not be agreeable to the transfer or release, the current broker then shall have the right to state the broker's reasons for refusal. Unless there is sufficient justification, the license will be transferred pending the receipt of the transfer form and fee.~~

When for any reason a licensee severs connection with the licensee's designated broker, the licensee must immediately either be transferred to another designated broker or the license status must be changed to inactive. The licensee and the current designated broker must immediately complete and submit an applicable form provided by the commission. The commission shall have discretion to process a transfer or change in status if either the licensee or the designated broker fails to complete form. Should the licensee's current broker not be agreeable to the transfer or release, the current broker then shall have the right to state the broker's reasons for refusal. Unless there is sufficient justification, the license will be transferred pending the receipt of the transfer form and fee.

The commission should consider the following changes for consistency of term usage and clarity:

70-02-01-09. Broker associates.

A ~~real-estate~~ broker who does not have an office under the broker's own name, but is affiliated with another licensed broker and performs service similar to that of a salesperson, ~~shall be considered a broker associate and shall~~ ~~must~~ not at any time act independently as a broker, and shall not perform any real estate service without full consent and knowledge of the ~~associate~~ broker's ~~designated~~ ~~supervising~~ broker. The designated broker shall at all times be responsible for the action of the ~~affiliated~~ broker associate to the same extent as though the ~~affiliated~~ broker associate were an affiliated salesperson.

The commission should consider the following changes for consistency of term usage, clarity, and consistency with current practice:

70-02-01-11. Branch office.

1. Definition. If a broker maintains more than one office, then one office shall be designated as the main office and each additional office shall constitute a branch office. If a real estate broker maintains a regular office, the broker's home shall not be considered a branch office.
2. Applications. The broker desiring to open a branch office shall file with the commission an application for a branch office license on forms provided by the commission.
3. Supervision. The **applicant** broker must designate the **applicant** broker or another licensee to act as branch office manager to aid the broker in actively managing each branch office and to aid the broker in supervising the licensees working from such branch office. The designated licensee shall be responsible for all activities of that branch office. The **applicant** broker may designate the **applicant** broker to act as manager for all branch offices.
4. Notification to commission of change. It shall be the responsibility of the **applicant** broker to notify the commission in writing of any change of address of a branch office or change of supervisor of the branch office, within five days after the change, **and pay the fee set by the commission.**
5. Notification to commission. The **applicant** broker shall at all times notify the commission of the location and address of each branch office which the broker operates and the name of the licensee who supervises the branch office.
6. Additional office. Every additional office or place of business, other than the principal place of business of a broker, shall be licensed only with the approval of the commission and only after the **applicant** broker has given satisfactory proof that this additional office shall be under the supervision of a duly authorized licensee.
7. Display license. A branch license shall be displayed in the branch office or listed on the broker's website, shall bear the address of the branch office, and shall bear the name of the licensee designated to actively manage the branch office.
8. Identical name. The branch office must be operated under the same name as the principal office.

Requirement to attempt resolution of disputes
New Rule in Chapter 70-02-01 (Licensing, Trust Accounts, And Complaints)

In a previous meeting, the commission approved adding the following language to the advertising rule (NDAC § 70-02-03-02.1(3)), to require licensees to attempt resolution of advertising disputes themselves prior to filing a complaint with the commission:

Requirement to attempt resolution of advertising disputes prior to commission involvement. A licensee who believes that another licensee has violated the commission's rules or statutes regarding advertising must make a good-faith effort to resolve the matter directly with the other licensee or the other licensee's supervising designated broker before submitting a complaint or report to the commission. The attempt at resolution shall be made in writing, which may include email, text, or other verifiable written correspondence, and shall identify the nature of the alleged violation and request corrective action. Any complaint or report submitted to the commission by a licensee alleging advertising violations must include a summary and documentation of the licensee's attempt to resolve the matter with the other licensee or supervising designated broker, including copies of written correspondence.

As an alternative to the foregoing, the commission should consider the following as a new rule instead, which has been modified as shown below to apply to all disputes among licensees, not only advertising disputes:

Requirement to attempt resolution of **advertising** disputes prior to commission involvement. A licensee who believes that another licensee has violated the commission's rules or statutes **regarding advertising** must make a good-faith effort to resolve the matter directly with the other licensee or the other licensee's supervising designated broker before submitting a complaint or report to the commission. The attempt at resolution shall be made in writing, which may include email, text, or other verifiable written correspondence, and shall identify the nature of the alleged violation and request corrective action. Any complaint or report submitted to the commission by a licensee alleging **advertising** violations **of the commission's rules or statutes** must include a summary and documentation of the licensee's attempt to resolve the matter with the other licensee or supervising designated broker, including copies of written correspondence.

This proposed new rule would be in Chapter 70-02-01 and would be used instead of the advertising rule previously discussed.

New Rule in Chapter 70-02-01 (Licensing, Trust Accounts, And Complaints)

The commission should consider creating the following new rule in Chapter 70-02-01 (Licensing, Trust Accounts, And Complaints):

Duplicate licenses.

The holder of a broker or salesperson license may be affiliated with one firm and one branch. So long as the license remains active, the broker or salesperson may also hold duplicate licenses for affiliation with additional firms and branches. Duplicate licenses must be renewed concurrently with the broker or salesperson license. A fee as set by the commission shall accompany an application for a duplicate license and all renewals.

Other changes to this section were discussed in a prior meeting of the commission (shown below the separation line in this memo). As an additional proposed change to this section, the commission should consider the following change, which more accurately describes the answer form:

70-02-01-16. Complaints - Answer - Dismissal - Hearing.

1. All complaints to be investigated by the real estate commission, as required by North Dakota Century Code section 43-23-11.1, must be in writing on forms furnished by the commission. The complaint shall be verified and shall include: the full name and address of the person making the complaint, hereinafter referred to as the complainant; the full name and address of the person against whom the complaint is made, hereinafter referred to as the respondent; an allegation that respondent is either a licensed broker or salesperson, and if the respondent is a salesperson, then the full name and address of the broker employer; and a clear and concise statement of the facts constituting the alleged complaint including the time and place of occurrence of particular acts and the names of persons involved.
2. The licensee against whom a complaint has been filed must, within twenty days from receipt of complaint, file the licensee's answer on forms furnished by the commission. This answer must be in affidavit form, properly **notarized certified**, and contain a factual response to the allegations set out in the complaint.
3. If the investigation reveals that the complaint does not involve a violation of the laws or rules, the complaint shall be dismissed without a formal hearing, and the complainant and respondent so informed in writing.
4. If the investigation reveals that the acts of the respondent may be such as to justify disciplinary action against the respondent, a formal hearing will be held on the complaint. Notice of such hearing shall be given at least twenty days in advance by serving upon the respondent a copy of the complaint against the respondent and the date and place of hearing.

The commission should consider the following changes for clarity and simplicity:

70-02-02-02. Application for prelicensure course approval.

In order for any prelicensure course to be approved by the real estate commission a complete application shall be filed with the commission ~~not less than forty-five days prior to the contemplated date of offering the first course~~. The application, in addition to the name and address of the ~~school~~ **course sponsor** offering the course as well as any other **identifying** criteria which the commission may require, must be accompanied by a nonrefundable fee **as set by the commission** not to exceed two hundred dollars, ~~and must include:~~

- ~~1. A proposed course outline, in reasonable detail, with hours spent on each subject area to be covered by the course. Each outline shall make reference to the textbook used and other material related to the course or subject matter, and shall substantially conform to the approved curricula outlines prepared by the commission.~~
- ~~2. An instructor application or resume on all instructors and subject to be taught.~~
- ~~3. The date, time, and place of any synchronous course hours.~~
- ~~4. Tuition and other costs or fees for students.~~

The commission should consider the following change:

70-02-02-03. Qualifications for classroom instructors.

Any person applying for commission approval of classroom instruction must furnish to the commission evidence satisfactory to the commission that every instructor giving classroom instruction has the necessary specialized preparation, training, and experience to ensure competent instruction.

~~Instructors who, in the estimation of the school administration, are deemed inadequate or do not satisfy the school's standards of quality should have their services terminated by the school.~~

The commission should consider the following changes:

70-02-02-05. Commission review of all real estate courses.

~~Every three years,~~ At a regular interval as set by the commission, which shall be not less than annual, the school shall submit another complete application. The commission shall review the school to determine if it meets the requirements of law and commission for certification ~~for another three years.~~

The commission should consider the following changes:

70-02-02-08. Withdrawal of approval.

If the commission determines a school is not meeting the requirements of law for continued approval, the commission shall immediately notify the school in writing detailing the deficiencies requiring correction. The schools' approval by the commission shall continue ~~ninety days~~ for the number of days set by the commission from the date of the commission's written notice to the school, and if, at the expiration of that period, the school has failed to correct to the commission's satisfaction the deficiencies noted, the commission may withdraw approval of the school.

The commission should consider the following changes:

70-02-02-13. Certification of completion.

Each school shall issue to the students successfully completing a course of instruction an official certificate ~~or letter~~ of completion which reflects the school's name, course title, and number of classroom hours (or other recognized educational unit) involved in the course, ~~and the student's date of successful completion of the course~~. Such certificate ~~or letter~~, or copies thereof, shall serve as evidence when presented to the commission of successful completion of the course of instruction. ~~Letters of other official communication may also be provided the student, which may be utilized by the student for submission to the commission as evidence of satisfactory completion of the course. The letters will fully reflect the school name, the course title and number, educational units, and be dated and signed by an official of the school.~~

Other changes to the advertising rule (NDAC 70-02-03-02.1) were discussed in a prior meeting of the commission (shown below the separation line in this memo). In addition, the commission should consider adding a new subsection 2(h) to the advertising requirements portion of the rule, as follows:

70-02-03-02.1. Advertising.

* * *

h. Inducements to potential clients. The details of inducements to potential clients must be fully disclosed to the potential clients. Full disclosure must include all details of the inducements with every mention of the inducement, and the information must be easily accessible.

* * *

The commission should consider rewriting the following rule in a numbered style that is easier to follow:

70-02-03-04. Listings.

~~In instances where residential real property consists of separate dwelling units for one through four families, the licensee shall obtain a signed listing agreement in writing from the seller, properly identifying the listed property and containing all of the terms and conditions under which the property is to be sold; including the price, the commission to be paid, the signatures of all parties concerned, and definite expiration date prior to the time that the property is advertised or offered for sale. It shall contain no provision requiring a party signing the listing to notify the broker of the party's intention to cancel the listing after such definite expiration date. An "exclusive agency" listing or "exclusive right to sell" listing shall clearly indicate in the listing agreement that it is such an agreement and a copy shall be given to the owner at the time of signing. If the licensee chooses to represent both buyers and sellers in the 2same transaction, a separate dual agency disclosure statement must be provided in accordance with the provisions of section 70-02-03-15.1.~~

In instances where residential real property consists of separate dwelling units for one through four families, the licensee shall obtain a signed listing agreement in writing from the seller, properly identifying the listed property and containing all of the terms and conditions under which the property is to be sold; including:

1. The price;
2. The commission to be paid;
3. The signatures of all parties concerned; and
4. Definite expiration date prior to the time that the property is advertised or offered for sale.

It shall contain no provision requiring a party signing the listing to notify the broker of the party's intention to cancel the listing after such definite expiration date.

An "exclusive agency" listing or "exclusive right to sell" listing shall clearly indicate in the listing agreement that it is such an agreement and a copy shall be given to the owner at the time of signing. If the licensee chooses to represent both buyers and sellers in the same transaction, a separate dual agency disclosure statement must be provided in accordance with the provisions of section 70-02-03-15.1.

The commission should consider the following changes for consistency and clarity:

70-02-03-13. Personal interest.

1. A broker shall not, either directly or indirectly, buy for oneself property listed with the broker or as to which the broker has been approached by the owner to act as broker, nor shall the broker acquire interest in any other property therein, either directly or indirectly, without first making the broker's true position clearly known to the owner. Satisfactory written proof of this fact must be produced by the broker upon a request.
2. A broker shall not, **either directly or indirectly**, take an option to oneself, ~~either directly or indirectly~~, upon property for the sale of which the broker has been approached by the owner to act as a broker, without first making the broker's true position clearly known that the broker is now acting as a prospective buyer and is no longer acting as a broker or agent for the owner. Satisfactory proof of this must be produced by the broker upon request.
3. A salesperson shall not, **either directly or indirectly**, buy for oneself, ~~either directly or indirectly~~, property listed with the salesperson's broker, nor shall the salesperson acquire interest in any other property, either directly or indirectly, without first making the salesperson's true position clearly known to the owner, nor shall the salesperson take an option, **either directly or indirectly**, unto oneself from any such owner ~~or to anyone on the salesperson's behalf~~ upon any property without first making the salesperson's position known. Satisfactory written proof of these facts must be produced by the salesperson on request.
4. A real estate broker or salesperson who sells property in which the broker or salesperson owns an interest must make such interest known to the purchaser **in writing**.

The commission should consider the following changes for simplicity and flexibility:

70-02-04-01. Continuing education defined.

As used in this chapter, continuing education, unless the context otherwise requires, means education in areas related to real estate, which has been approved by the commission, to maintain and improve the professional skills and upgrade the standard of all real estate licensees, and to qualify for license activation and renewal.

~~The commission considers courses in the following areas to be acceptable, but not limited to, when considering approval:~~

- ~~1. Real estate ethics;~~
- ~~2. Legislative issues that influence real estate practice;~~
- ~~3. The administration of licensing provisions of real estate law and the rules, including compliance and regulatory practices;~~
- ~~4. Real estate financing, including mortgages and other financing techniques;~~
- ~~5. Real estate market measurement and evaluation, including site evaluations, market data, and feasibility studies;~~
- ~~6. Real estate brokerage administration, including office management, trust accounts, and employee contracts;~~
- ~~7. Real property management, including leasing agreements, accounting procedures, and management contracts;~~
- ~~8. Real property exchange;~~
- ~~9. Land use planning and zoning;~~
- ~~10. Real estate securities and syndication;~~
- ~~11. Estate building and portfolio management;~~
- ~~12. Accounting and taxation as applied to real property;~~
- ~~13. Land development;~~
- ~~14. Real estate appraising;~~
- ~~15. Real estate marketing procedures;~~
- ~~16. Marketing business opportunities;~~
- ~~17. Business courses which relate to the practice of real estate;~~
- ~~18. Agency representation; and~~
- ~~19. Contracts.~~

The commission should consider the following changes for simplicity and flexibility:

70-02-04-02. Hours required.

To qualify for the renewal of a real estate license, each broker or salesperson must complete ~~twelve~~ the number of hours set by the commission of continuing education in approved courses every continuing education period. The continuing education period is ~~twelve months preceding the renewal application deadline date~~ set by the commission. The commission may require that a portion or all of the continuing education hours must be in one or more specific areas for salespersons or brokers. ~~Such areas may include the following:~~

- ~~1. Fair housing and antitrust.~~
- ~~2. Environmental issues.~~
- ~~3. License law and ethics.~~
- ~~4. Agency law and principles.~~
- ~~5. Contracts.~~

The commission should consider cutting the following rule entirely:

~~70-02-04-05. Nonqualifying courses.~~

~~The following courses will not be considered as qualifying for continuing education purposes:~~

- ~~1. Courses in general office and business skills, such as report writing.~~
- ~~2. Sales promotion or other meetings held in conjunction with the general business of the licensee's broker.~~
- ~~3. Any course certified by the use of a challenge examination. All students must complete the required number of classroom hours in order to receive credit.~~

~~The listing of the above courses does not limit the commission's authority to disapprove any application which fails to meet the standards for course approval.~~

The commission should consider cutting the following rule entirely:

~~70-02-04-06. Criteria for course approval.~~

~~The commission may approve education provided by a course sponsor, such as the commission, a public or private school, organization, association, person, corporation, society, or similar organization. The commission, when acting on an application for approval of a course, will consider the following criteria:~~

- ~~1. Courses will be eligible for approval only if the total instruction time is two hours or more.~~
- ~~2. A course sponsor shall certify to the best of its knowledge the attendance of each student at the offering. The course sponsor's criteria for measuring attendance shall be submitted in the application for course approval.~~
- ~~3. The course sponsor shall maintain, for a minimum of three years, records of students successfully completing any course.~~
- ~~4. Credit is earned based on in-person or virtual attendance or completion of online-only asynchronous courses.~~
- ~~5. Each course shall have a coordinator supervising the program.~~
- ~~6. All instructors in a real estate course shall complete and submit an instructor application for each course before teaching the course. Instructors must meet at least one of the following qualifications:
 - ~~a. A bachelor's degree in the field in which the person is to teach.~~
 - ~~b. A valid teaching credential or certificate from North Dakota or another state authorizing the holder to teach in the field of instruction being offered.~~
 - ~~c. Five years' full-time experience in a profession, trade, or technical occupation in the applicable field.~~
 - ~~d. Any combination of at least five years of full-time applicable field and college-level education.~~~~

The commission should consider the following changes for simplicity and flexibility:

70-02-04-07. Application for approval of courses.

A course sponsor shall apply for approval of courses in a form prescribed by the commission. The application form shall include:

- ~~1. The name, address, telephone number, and website of the course sponsor.~~
- ~~2. The name and electronic mail address of the course coordinator.~~
- ~~3. The title of the course.~~
- ~~4. A description, copies, or examples of all materials to be distributed to the participants.~~
- ~~5. The date and exact location of the course.~~
- ~~6. The duration and time of course.~~
- ~~7. A comprehensive, detailed outline of the subject matter together with the time sequence of each segment, faculty for each segment, and teaching technique used in each segment.~~
- ~~8. A sample of any proposed advertising used for promotional purposes.~~
- ~~9. The method of evaluation of the program.~~
- ~~10. The procedure for measuring attendance.~~
- ~~11. An instructor application for each instructor.~~
12. A fee not to exceed one hundred dollars per course as set by the commission.

The commission should consider cutting the following rule entirely:

~~70-02-04-08. Filing deadline for course approvals.~~

~~Application for course approvals must be filed thirty days preceding the proposed public offering.~~

The commission should consider the following change for flexibility:

70-02-04-10. Material change.

The course coordinator or instructor of each approved real estate offering shall promptly notify the commission of any material changes contained in the application for approval or attached exhibits. ~~Changes shall be deemed acceptable to the commission if no action has been taken after fourteen days from the date received by the commission.~~

The commission should consider the following change because the commission does not have jurisdiction to take disciplinary action against education providers unless the provider is a licensee.

70-02-04-11. Suspension, revocation, or denial of course approval.

The commission may deny, suspend, or revoke approval of a real estate course, coordinator, or instructor if it is determined that it is not in compliance with the statute or rules and regulations. ~~if disciplinary action is taken a written order of suspension, revocation, or denial of approval will be issued.~~

The commission should consider the following change:

70-02-04-13. Substantively identical courses.

Courses may not be taken for continuing education **credit** more than once during any continuing education period, unless material has been significantly changed, or updated, or both.

The commission should consider the following changes:

70-02-04-15. Exemptions from continuing education requirement.

Any salesperson, broker, or broker applicant who completed the prerequisite ~~ninety hours of~~ course of study to obtain a license is exempt from the continuing education requirement for the first license renewal ~~after completing the prerequisite course of study.~~ ~~Any broker, upon successful completion of the real estate broker licensing examination is exempt from the continuing education requirement for only the continuing education period during which the broker applicant successfully completed said examination.~~ ~~after completing the prerequisite course of study.~~

The commission should consider the following changes:

70-02-04-19. Certificate of accreditation.

A certificate of accreditation shall be granted for each course of study approved by the commission. This certificate shall remain valid for a ~~two-year~~ period of time set by the commission at which time the course will be reviewed and, if approved, will continue valid for the next ~~two-year~~ period unless suspended or revoked. The period set by the commission shall not be less than 2 years.

The commission should consider the following change:

70-02-04-21. Continuing education certificate of completion.

All course sponsors shall provide an individual certificate of completion to each licensee upon completion of the course under the following conditions:

1. No certificate of completion shall be issued to a licensee who is absent for more than ten percent of the classroom hours.
2. The certificate shall contain information as to the licensee's name, **North Dakota license number**, course title, course number, date, location of course, number of approved credit hours, and course sponsor or instructor.
3. The licensee shall retain the certificate. The responsibility for recordkeeping will remain with the licensee.
4. The North Dakota real estate commission shall not be required to maintain a list of licensees and their completed courses of education.

Other changes to this section were discussed in a prior meeting of the commission (shown below the separation line in this memo). As an additional proposed change to this section, the commission should consider the following change to be consistent with current practice:

70-02-05-03. Minimum standards.

The group policy obtained by the commission shall provide to each individual licensee, at a minimum, the following terms of coverage:

1. Not less than one hundred thousand dollars single-limit liability coverage for each licensee per occurrence or claim made, not including costs for investigation or defense;
2. An annual aggregate limit of not less than five hundred thousand dollars per licensee.
3. A deductible amount for each occurrence of not more than one thousand dollars for single-limit liability coverage and one thousand dollars maximum additional deductible for defense and investigation;
4. An extended reporting provision of ninety days and an option to purchase an additional three years extended reporting provision for a premium not to exceed two hundred percent of the premium charged for the last year of the terminating coverage;
5. Coverage under this section for covered acts in any state, United States territory, or Canada in which a covered individual, ~~domiciled in North Dakota,~~ holds a license;
6. Stacking of benefits;
7. Proration of premiums for coverage that is purchased during the course of a calendar year but with no provision for refunds of unearned premiums;
8. The ability of a licensee, upon payment of an additional premium, to obtain higher or excess coverage or to purchase additional coverages from the group carrier as may be determined by the carrier;
9. That coverage is individual and license-specific and will cover the licensee regardless of changes in employing broker; and
10. Prior acts coverage shall be offered to licensees with continuous past coverage.

The rule changes below were discussed at the last three commission meetings on this topic.

Organization of Real Estate Commission
NDAC § 70-01-01-01

The commission should consider amending North Dakota Administrative Code § 70-01-01-01 to delete subsection 2. This rule is the same as the applicable statutes (N.D.C.C. §§ 43-23-01 and 43-23-02). It is unnecessary and would need to be changed if the statutes are ever amended by the legislature.

70-01-01-01. Organization of real estate commission.

1. **History and functions.** The 1957 legislative assembly passed a real estate licensing law, codified as North Dakota Century Code chapter 43-23. This chapter requires the governor to appoint a state real estate commission. It is the responsibility of the commission to administer the real estate license law regarding brokers and salespersons and to regulate the sale of out-of-state subdivided lands offered for sale to residents of North Dakota. In addition, the commission is required to administer a real estate education, research, and recovery fund whereby aggrieved persons may make application for the payment of unsatisfied judgments.
- ~~2. **Commission membership.** The commission consists of five members, three of whom are active real estate brokers, appointed by the governor. Members of the commission are appointed for a term of five years, staggered so the term of one member expires each year. At the expiration of the term of any member of the commission, the governor appoints a successor for a term of five years.~~
- ~~3.~~2. **Executive director.** The executive director of the commission is employed by the commission and is responsible for administration of the commission's activities.
- ~~4.~~3. **Inquiries.** Inquiries regarding the commission may be addressed to the executive director.

The commission should consider deleting the reference to “ethics” from its statement of purpose. There is a National Association of REALTOR’s Code of Ethics, but the commission does not enforce that code.

70-02-01-01. Application and purpose of title.

1. This title applies in all proceedings and hearings had before the commission in matters within its jurisdiction, except in cases where the statute involved provides a procedure inconsistent with this title, and in such case the statute shall govern to the extent of such inconsistency.
2. It is the purpose of this commission, acting under the provisions of the law creating it, to safeguard the public interest in real estate transactions, to regulate the licensing of real estate brokers and salespersons, to encourage and require the maintenance of high standards of ~~ethics and~~ practices by all real estate licensees doing business in North Dakota.

The commission should consider the following changes to the rule on applications for licensure.

Subsection 1 is the same rule as the applicable statute (N.D.C.C. § 43-23-08(2)), so it is unnecessary and should be cut.

Subsection 2 is inconsistent with the newly enacted N.D.C.C. § 43-23-08(4), so the rule should be changed to strike the words, "before an examination".

Subsection 3 should be amended to reflect current practice. Brokers do not submit a letter, but instead complete a form created by the commission. They need to submit completed form, not a letter. Also recommended to delete the language, "The foregoing shall be certified by a licensed real estate broker." This certification language is duplicative and unnecessary.

With respect to the financial responsibility inquiry, the commission should make the following changes to add clarity and to be consistent with current practice, also shown in the redlined rule below:

- 70-02-01-02(6)(e) and (f), replace with this: "The inquiry and investigation made by the commission as to the financial responsibility of the applicant revealed that, for the protection of the public, the application should be denied."
- 70-02-01-02(9): replace with this: "Inquiry and investigation may be made by the commission as to the financial responsibility of each applicant, including but not limited to credit and bankruptcy history."

70-02-01-02. Application for license.

1. ~~No application for either a broker's or salesperson's license will be accepted from a person under the age of eighteen years.~~
2. All applications must be filed with the commission ~~before an examination~~, complete in every detail with every question answered and correct fees submitted.
3. It shall be incumbent upon the applicant for a real estate broker's license to submit the applicant's proofs of qualification pursuant to subsection 3 of North Dakota Century Code section 43-23-08. Broker applicants ~~wishing to qualify under the two-year experience requirement shall~~ may be required to submit to the commission an ~~letter from~~ applicant assessment form completed and signed by said applicant's broker or brokers ~~that the applicant has been actively engaged in the real estate business as a salesperson for at least two years.~~ The form shall be provided by the commission.

"Actively engaged" means that the applicant must have devoted the applicant's full time as a licensed real estate salesperson. ~~The foregoing shall be certified by a licensed real estate broker.~~
4. Each application for license shall be made on application forms provided by the real estate commission.
5. After an application is filed, no refund of application fee will be made to any applicant.
6. The commission may deny any application for license when one or more of the following conditions are present:
 - a. The application contains any false statement.
 - b. An investigation fails to show affirmatively that the applicant possesses in every instance the necessary qualifications.

- c. The applicant has acted or attempted to act in violation of North Dakota Century Code chapter 43-23, or this title.
 - d. The applicant has had a real estate license suspended or revoked in North Dakota or another state.
 - ~~e. The applicant has issued one or more checks or drafts which have been dishonored by a payor bank because:

 - ~~(1) No account exists;~~
 - ~~(2) The account was closed; or~~
 - ~~(3) The account did not contain sufficient funds to pay the check or draft in full upon its presentment.~~~~
 - ~~f. The applicant's credit history shows the existence of unpaid and overdue judgments, liens, or other debt obligations which, for the protection of the public, requires that the application be denied.~~
 - e. The inquiry and investigation made by the commission as to the financial responsibility of the applicant revealed that, for the protection of the public, the application should be denied.
7. If the application and supporting documents on their face show that the applicant is qualified, but from complaints and information received or from investigation it shall appear to the commission at any time before the initial license is delivered, that there may be cause to deny a license, the commission may order a hearing to be held to consider such complaints or information.
 8. The commission may require such other proof as may be deemed advisable of the honesty, truthfulness, and fair dealing of any applicant, including the officers and directors of any corporation, or the members of any copartnership or association making such application, before accepting an application for license.
 9. Inquiry and investigation may be made by the commission as to the financial responsibility of each applicant, **including but not limited to credit and bankruptcy history.**
 10. When a corporation submits its application for a license, the application must be accompanied by a copy of the articles of incorporation and a certificate of authority issued by the secretary of state.
 11. When a partnership submits its application for a license, the application must be accompanied by a copy of the partnership agreement.
 12. An applicant for licensure in another state may request the commission to certify to such other state that the applicant is a licensee of this state. A fee as set by the commission shall accompany the request.
 13. An application for an organization to be licensed for a salesperson, broker associate, or broker pursuant to North Dakota Century Code section 43-23-05.1 must be accompanied by a one-time license fee of not more than three hundred dollars, as set by the commission. The individual who owns the organization must possess and maintain a valid and active real estate license in order for the organization to be licensed. The failure to do so will cause the organization's license to become inactive and invalid. The fee must be paid each time the organization's license is activated.

Subsections 1 and 2 of North Dakota Administrative Code § 70-02-01-03 conflict with current practices and should be stricken. Previously, a digital code was sent in order to take the exam, but this is no longer done.

The commission may also consider striking subsection 3, as cheating and failing to follow instructions during the test are handled by the test administrator, not by the commission.

Additionally, the commission may consider adding a provision that makes clear that both the state and national exams are required, unless a specific exception applies (for example the exception in NDAC § 70-02-01-06(5), which states in relevant part, “An applicant currently licensed in a nonreciprocal state who has successfully passed the real estate licensing examination given in another state need only take the state portion of the examination in North Dakota.”).

The commission may also consider amending subsection 4 (which indicates that if the applicant passes either the national or state exam, that portion need not be repeated) to apply to both salesperson and broker applicants. Additionally, subsection 4 could be amended to give the commission discretion to require the passed exam portion to be repeated in appropriate circumstances – for example if a long time has passed between taking the national and state exams.

The commission may also consider striking subsections 5 and 6, as potentially unnecessary.

The following specific changes are suggested:

70-02-01-03. Examinations.

~~1. An applicant will not be permitted to take the examination until and unless the applicant has been authorized in writing to take the examination.~~

~~2. If an applicant should fail to take the examination within four months after notification by the commission that the applicant is qualified to take the examination, an applicant must submit a new application together with fees.~~

~~3. During the examination the use or possession of any unfair methods or notes, the giving or receiving of aid of any kind, or the failure to obey instructions will result in a denial of the application and license.~~

1. Unless otherwise provided in these rules, all applicants shall be required to pass both the North Dakota and national examinations.

4.2. If the salesperson or broker applicant passes one portion of the examination, national or state, the salesperson applicant shall may not be required to repeat that portion of the examination if that applicant later passes the remaining portion, unless otherwise directed by the commission within twelve months from the date of the first examination. An applicant must submit a new application with fees if the examination has not been passed within the same twelve month period.

~~5. A broker applicant must pass the broker examination within twelve months from the date of the first examination. An applicant must submit a new application in complete detail together with the statutory fees if the examination has not been passed within the same twelve month period.~~

~~6. A prelicensure course is valid for two years from the date the applicant completed the course, as indicated on the certificate of completion or other official documentation provided by the school.~~

North Dakota Century Code § 43-23-13.1 was recently amended to give more flexibility to the commission as to the license renewal date, as follows:

1. Every person licensed to practice as a real estate broker or real estate salesperson shall register **annually** with the commission **at a regular interval set by the commission not less than annually** and pay the appropriate **annual** 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, ~~before January fifteenth of the subsequent year~~ **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 ~~January fifteenth~~ **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 ~~December thirty first~~ **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.

Based on the foregoing statutory change, North Dakota Administrative Code § 70-02-01-04 can be largely stricken to give more flexibility to the commission to make changes in the future. Specific changes to renewal dates in the future could be accomplished through policy rather than administrative rules. The last sentence of the rule relating to renewal fee refunds is still important to keep.

I suggest the following rule change to give the commission more flexibility going forward:

70-02-01-04. Renewal of license fees refund.

~~All licenses expire on December thirty first of each year. Persons desiring to continue in business must make proper application for renewal on or before November fifteenth of each year in order for the respective license to be renewed on a timely basis for the following license period. Failing to do this subjects such persons to loss of the right to charge a commission and also prosecution for doing business without a license after December thirty first. Any person whose license has been canceled for failure to renew the person's license when due must submit a new application with the fees and pass the examinations to be licensed again.~~ No license renewal fees are refunded after the beginning of the new license **year period** if a licensee cancels their license or is deceased.

North Dakota law does not have a residency requirement for licensees and the commission does not have a separate class of licenses for nonresident brokers or salespersons.

The commission should consider amending North Dakota Administrative Code § 70-02-01-06 to match current practice, as follows:

70-02-01-06. ~~Nonresident brokers and salespersons.~~ Licensees from reciprocal and non-reciprocal states.

~~1. Any person who becomes an applicant for a nonresident license shall become subject to the same rules required of an applicant whose residence is in North Dakota. A designated broker shall obtain a nonresident license before an associate broker or salesperson licensed under the designated broker can be issued a nonresident license.~~

~~2. An applicant for nonresident broker's or salesperson's license shall hold a currently valid broker's or salesperson's license in the state of the applicant's principal place of business and that state shall certify that the applicant is in good standing and no complaints are pending.~~

~~3. A nonresident broker must maintain an active place of business as a real estate broker in the state of the broker's principal place of business. The nonresident broker shall furnish proof of maintaining an active place of business by submitting information deemed necessary by the commission. A North Dakota firm license shall be obtained if the company is a partnership, corporation, limited liability company, or association.~~

~~4.1.~~ North Dakota will not recognize the licensee from another state for a reciprocal license unless an agreement granting reciprocal privileges to North Dakota licensees has been made by the commission with the proper regulatory authorities of that state. The agreement shall set out the terms and the regulations to be followed.

~~5.2.~~ An applicant currently licensed in a nonreciprocal state who has successfully passed the real estate licensing examination given in another state ~~need~~ **may be required to only** take the ~~state~~ **North Dakota** portion of the examination ~~in North Dakota~~. Prelicensure course is not required if the applicant is already licensed in another nonreciprocal state.

Rob Yost recently encountered a trust account situation that is not currently accounted for in either the Century Code or Administrative Code. There were two firms sharing a single trust account. The two firms had the same designated broker. A plain reading of North Dakota Century Code § 43-23-14.1 suggests this arrangement could be allowed in the absence of an administrative rule to the contrary. That statute states (emphasis added):

Except as otherwise provided in this section, **every broker, at all times, shall maintain in the broker's name or firm name, a separate, noninterest-bearing trust account** designated as such in a federally insured financial institution in this state in which the broker immediately shall place as a demand deposit all funds not the broker's own coming into the broker's possession, in accordance with rules adopted by the commission. This requirement extends to funds in which the broker may have some future interest or claim and includes earnest money deposits. A broker may not commingle the broker's personal funds or other funds in a trust account, except a broker may deposit and keep a sum not to exceed five hundred dollars in the account from the broker's personal funds, which sum must be specifically identified and deposited to cover service charges related to the trust account. In conjunction with the account, the broker shall maintain at the broker's usual place of business, books, records, contracts, and other necessary documents so the adequacy of the account may be determined at any time. Trust accounts and other records must be open to inspection by the commission and the commission's duly authorized agents at all times during regular business hours at the broker's usual place of business.

A broker that does not accept trust funds in real estate brokerage transactions and which has applied for and received a waiver from the real estate commission is not required to maintain a designated trust account. However, if a broker does not maintain a trust account and later receives trust funds in a real estate brokerage transaction, the broker shall open a designated trust account as required by this section and deposit any trust funds in accordance with rules adopted by the commission. A broker shall maintain a record tracking the earnest money associated with all transactions even if the funds are deposited directly with the title company and the broker does not take possession of the funds.

The situation of two firms sharing a single trust account defies common sense and should not be permitted. I suggest the following amendment to North Dakota Administrative Code § 70-02-01-15:

70-02-01-15. Trust account requirements - Handling of funds - Records.

1. All moneys belonging to others and accepted by the broker while acting in the capacity as a broker shall be deposited in a federally insured financial institution in this state in an account separate from money belonging to the broker. Clients' funds shall be retained in the depository until the transaction involved is consummated or terminated, at which time the broker shall account for the full amounts received.

* * *

e. Number of accounts. A broker may maintain more than one trust account provided the commission is advised of the account. **A broker shall maintain a separate trust account for each firm.**

* * *

The commission should consider adding a subsection to North Dakota Administrative Code § 70-02-01-16 to grant authority to its investigator to summarily dismiss complaints.

70-02-01-16. Complaints - Answer - Dismissal - Hearing.

1. All complaints to be investigated by the real estate commission, as required by North Dakota Century Code section 43-23-11.1, must be in writing on forms furnished by the commission. The complaint shall be verified and shall include: the full name and address of the person making the complaint, hereinafter referred to as the complainant; the full name and address of the person against whom the complaint is made, hereinafter referred to as the respondent; an allegation that respondent is either a licensed broker or salesperson, and if the respondent is a salesperson, then the full name and address of the broker employer; and a clear and concise statement of the facts constituting the alleged complaint including the time and place of occurrence of particular acts and the names of persons involved.
2. The licensee against whom a complaint has been filed must, within twenty days from receipt of complaint, file the licensee's answer on forms furnished by the commission. This answer must be in affidavit form, properly certified, and contain a factual response to the allegations set out in the complaint.
3. If the investigation reveals that the complaint does not involve a violation of the laws or rules, the complaint shall be dismissed without a formal hearing, and the complainant and respondent so informed in writing.
4. If the commission has delegated its investigation power to an investigator, and that investigator determines the alleged facts in a complaint, if true, are not grounds for disciplinary action, the investigator may summarily dismiss the complaint without an order from the commission. Summary dismissals must be without prejudice. At any time, upon finding there may be grounds for disciplinary action, the commission may either issue an order reviving a summarily dismissed complaint, or may initiate a new complaint.
- 4.5. If the investigation reveals that the acts of the respondent may be such as to justify disciplinary action against the respondent, a formal hearing will be held on the complaint. Notice of such hearing shall be given at least twenty days in advance by serving upon the respondent a copy of the complaint against the respondent and the date and place of hearing.

Various recommended changes to the advertising rule are reflected below.

70-02-03-02.1. Advertising.

1. Definition. As used in this section, the terms "advertise", "advertising", and "advertisement" ~~include all forms of representation, promotion, and solicitation disseminated in any manner and by any means of communication for any purpose related to real estate brokerage activity, including, at a minimum, advertising the sale or purchase of real estate or promotion of real estate brokerage services.~~ mean any communication whether written, printed, digital, audio, video, or by any other medium, made, authorized, or distributed by a real estate licensee or real estate brokerage firm for solicitation of business relating to any licensed activity contemplated under North Dakota Century Code chapter 43-23. However, the terms "advertise", "advertising", and "advertisement" do not include:

- a. Sponsorship of groups or events, or sponsorship of information about groups or events;
- b. Promotional items bearing the name or logo of a licensee or brokerage firm;
- c. News, features, publicity content, directories, or any other content, originating from a source not directly associated with or under the control of the licensee or brokerage firm;
- d. Signage located on the building of a brokerage firm or its branch offices; and
- e. A sign not on marketed real estate that directs the public to the marketed real estate.

2. Advertising requirements.

~~2.a.~~ Trade name. Advertising must be done in the real estate brokerage agency's trade name as licensed with the commission and the trade name must be equal to or greater than, in size and visibility, the name of any salesperson, associate broker, or team on the advertising. ~~Discipline of licensees based on failure to meet this size and visibility requirement will be delayed until January 1, 2023.~~ Size and visibility of the trade name does not include the real estate brokerage logo that is not the trade name or brokerage contact information. The name of any salesperson, associate broker, or team can be smaller than, in size and visibility, the trade name.

~~3.b.~~ Contact information. Advertising must include information on how the public can contact the real estate brokerage agency. Contact information may be accessible through a QR code, URL, digital link, or web link.

~~4.c.~~ Advertising by licensees. Advertising by licensees must be under the supervision of the designated broker. Such advertising may include a licensee's name and telephone number or other contact information, provided the real estate brokerage agency's registered business name or trade name and contact information are also clearly included as required in this section.

~~6.d.~~ Advertising of a broker or broker associate's own property. A real estate broker or broker associate may advertise, in the licensee's own name, property which is owned by the licensee, provided that following the licensee's name where it appears in the advertisement, the words "Owner/Licensed Broker" or "Owner/Licensed Broker Associate", as applicable, must also appear. The provisions of this subsection apply both to active broker and broker associate licensees and licensees whose license is on an inactive status.

~~7.e.~~ Advertising of a salesperson's own property. A real estate salesperson may advertise in that person's own name property which is owned by the salesperson, provided that following the name where it appears in the advertisement, the words "Owner/Licensed Salesperson" must also appear. The provisions of this subsection apply both to active salesperson licensees and licensees whose license is on an inactive status.

5.f. Deception and misrepresentation prohibited. Advertising ~~and promotion~~ must be free from deception and shall not misrepresent the terms of the sale or purchase, real estate brokerage agency policies, or real estate brokerage services.

3.g. Teams. A team is two or more licensees who work for the same brokerage under the supervision of the designated broker, work together on real estate transactions to provide real estate brokerage services, represent themselves to the public as being part of a team, and are designated by a team name. Advertising by a team must comply with all requirements of section 70-02-03-02.1. Teams may not advertise in any manner which suggests a team is an independent real estate brokerage firm.

3. Requirement to attempt resolution of advertising disputes prior to commission involvement. A licensee who believes that another licensee has violated the commission's rules or statutes regarding advertising must make a good-faith effort to resolve the matter directly with the other licensee or the other licensee's supervising designated broker before submitting a complaint or report to the commission. The attempt at resolution shall be made in writing, which may include email, text, or other verifiable written correspondence, and shall identify the nature of the alleged violation and request corrective action. Any complaint or report submitted to the commission by a licensee alleging advertising violations must include a summary and documentation of the licensee's attempt to resolve the matter with the other licensee or supervising designated broker, including copies of written correspondence.

North Dakota Century Code § 43-23-06.01(9)(h) was recently amended to address referrals and sharing of real estate commissions with out-of-state brokers, as follows:

"Real estate broker", or "broker", means any person that, for another, for a fee, commission, salary, or other consideration, or with the intention or expectation of receiving or collecting such compensation from another, engages in or offers or attempts to engage in, either directly or indirectly by a continuing course of conduct or by a single act or transaction, any of the following acts:

* * *

- h. Assists or directs in the procuring of prospects **or refers a prospect**, calculated to result in the sale, exchange, or leasing of real estate or any interest in that real estate, or any improvements on that real estate. **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.**

Based on the foregoing statutory change, North Dakota Administrative Code § 70-02-03-03 is unnecessary and should be revoked in its entirety. That section of the administrative code has similar but not identical language to the new statutory language. At best it is duplicative of the statutory requirement but also may be found to conflict with the statutory language if left in place.

I suggest the following rule change, which eliminates the rule altogether:

~~70-02-03-03. Commission split – Out of state.~~

~~A licensed broker in this state may divide or share a real estate commission with a licensed broker in another state if the latter broker does not carry on any of the negotiations in this state either by physically entering the state or by communicating with the broker electronically or through other media.~~

The commission should consider striking most of North Dakota Administrative Code § 70-02-04-06 regarding criteria for education course approval, as follows. The criteria the commission may consider when approving courses could simply be addressed through policy, rather than the administrative rules.

70-02-04-06. ~~Criteria for e~~Course approval.

The commission may approve education provided by a course sponsor, such as the commission, a public or private school, organization, association, person, corporation, society, or similar organization. ~~The commission, when acting on an application for approval of a course, will consider the following criteria:~~

- ~~1. Courses will be eligible for approval only if the total instruction time is two hours or more.~~
- ~~2. A course sponsor shall certify to the best of its knowledge the attendance of each student at the offering. The course sponsor's criteria for measuring attendance shall be submitted in the application for course approval.~~
- ~~3. The course sponsor shall maintain, for a minimum of three years, records of students successfully completing any course.~~
- ~~4. Credit is earned based on in person or virtual attendance or completion of online only asynchronous courses.~~
- ~~5. Each course shall have a coordinator supervising the program.~~
- ~~6. All instructors in a real estate course shall complete and submit an instructor application for each course before teaching the course. Instructors must meet at least one of the following qualifications:
 - ~~a. A bachelor's degree in the field in which the person is to teach.~~
 - ~~b. A valid teaching credential or certificate from North Dakota or another state authorizing the holder to teach in the field of instruction being offered.~~
 - ~~c. Five years' full time experience in a profession, trade, or technical occupation in the applicable field.~~
 - ~~d. Any combination of at least five years of full time applicable field and college level education~~~~

Errors and Omissions Insurance
NDAC § 70-02-05-01

The commission should consider amending North Dakota Administrative Code § 70-02-05-01 as follows:

70-02-05-01. Definitions.

* * *

7. "Qualified insurance carrier" means an insurance carrier:

a. Which for the entire term of its contract shall provide the group plan of errors and omissions insurance contemplated by these rules, maintains an A.M. Best financial size category of class VI or higher;

b. Which shall remain for the policy term authorized by the North Dakota insurance department to do business in North Dakota as an insurance carrier;

c. Which is and will remain for the policy term qualified and authorized by the North Dakota insurance department to write policies of errors and omissions insurance in North Dakota of the type contemplated by these rules;

d. Which will collect premiums, maintain records, and report names of those insured and a record of claims to the commission on a timely basis and at no cost to the state;

~~d.e.~~ Which, after ~~competitive bidding~~ a review process, has been notified by the commission that it ~~is the successful bidder~~ has been selected as the carrier for the group plan to provide the errors and omissions insurance contemplated by these rules; and

~~e.f.~~ Which has entered into a contract to provide said group errors and omissions plan in conformity with said contract, these rules, and the North Dakota license law.

~~The insurance carrier will collect premiums, maintain records, and report names of those insured and a record of claims to the commission on a timely basis and at no cost to the state.~~

The commission should consider amending North Dakota Administrative Code § 70-02-05-03 to bring it into compliance with current practice and to be consistent with NDAC 70-02-05-07 regarding costs for investigation and defense as follows:

70-02-05-03. Minimum standards.

The group policy obtained by the commission shall provide to each individual licensee, at a minimum, the following terms of coverage:

1. Not less than one hundred thousand dollars single-limit liability coverage for each licensee per occurrence or claim made, not including costs for investigation or defense;
2. An annual aggregate limit of not less than five hundred thousand dollars per licensee, **not including costs for investigation or defense**;
3. A deductible amount for each occurrence of not more than one thousand dollars for single-limit liability coverage and one thousand dollars maximum additional deductible for defense and investigation;
4. An extended reporting provision of ninety days and an option to purchase an additional three years extended reporting provision for a premium not to exceed two hundred percent of the premium charged for the last year of the terminating coverage;
5. Coverage under this section for covered acts in any state, United States territory, or Canada in which a covered individual, domiciled in North Dakota, holds a license;
6. Stacking of benefits;
7. Proration of premiums for coverage that is purchased during the course of a calendar year but with no provision for refunds of unearned premiums;
8. The ability of a licensee, upon payment of an additional premium, to obtain higher or excess coverage or to purchase additional coverages from the group carrier as may be determined by the carrier;
9. That coverage is individual and license-specific and will cover the licensee regardless of changes in employing broker; and
10. Prior acts coverage shall be offered to licensees with continuous past coverage.

Appendix B

TO: The North Dakota Real Estate
Commission

Petitioner: Chad A. Wachter
License Number: 7008

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) **PETITION TO EXPUNGE VIOLATION**
) **FROM CERTIFICATE OF LICENSURE**
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[1] COMES NOW, the Petitioner, Chad A. Wachter, by and through his attorney, Garrett D. Ludwig, of the Kelsch, Ruff, Kranda, Nagle & Ludwig, and Petitions the North Dakota Real Estate Commission to expunge and remove Violation/Complaint Number 2013-32, and any discussion or reference thereto, from the Petitioner's Certificate of Licensure with the North Dakota Real Estate Commission.

[2] Violation/Complaint Number 2013-32 occurred in 2013 and, therefore, approximately 12 years have passed since said violation.

[3] The violation on the Certificate of Licensure provides as follows:

“Respondent is the broker and responsible for advertising by licensees licensed with his brokerage. *Alleged* violations by a licensee licensed under Respondent *may* have constituted violations of NDCC 43-23-11.1(1)(p) & (w) and ND Administrative Code subsections 70-02-03-02.1(3), & (4). Respondent *may* have violated the rules and regulations based on evidence of failure to follow the advertising rules on signs, open house advertisements on his website.”

[4] The Petitioner is a licensed agent/broker in good standing with the North Dakota Real Estate Commission. The above-referenced violation arose from an issue with an advertisement, or advertisements, being used by one (1) of the Petitioner's agents.

[5] The Petitioner has not had any further violations since Violation/Complaint Number 2013-32.

[6] For the reasons set forth herein, it is respectfully requested that the North Dakota Real Estate Commission, in accordance with the policy adopted at its October 30, 2025 regular

meeting, expunge the above-described violation and remove it from Mr. Wachter's Certificate of Licensure.

Dated this 30 day of October, 2025.



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