



North Dakota Real Estate Commission

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N.D. real estate license rule changes take effect July 1, 2022

The N.D. Legislative Rules Committee approved the final rules changes, codified in North Dakota Administrative Code (NDAC) Chapter 70. These updated rules are effective on July 1, 2022.

Changes to the N.D. license law, NDCC Chapter 43-23, made last year by the 2021 N.D. Legislature, prompted some rules changes. Other changes eliminated redundancy and modernized and clarified language to reflect the digital age. The major changes are highlighted below for information. Always refer to the actual language of the entire rule for accurate interpretation.

Some changes are:

Trust accounts – NDAC 70-02-01-15, and repealed – 70.5 – RETA Committee Tracking, transferring earnest money, non-interest bearing

The updated rule clarified that the broker is responsible for tracking all earnest money including money wired by the buyer to either the broker's trust account or to a non-broker third party. Refer to 70-02-01-15, the added language is subsection (f).

Trust accounts are non-interest bearing, RETA eliminated

- Trust accounts must be non-interest bearing, the Real Estate Trust Account Committee rule (NDAC 70.5) was eliminated and references to RETA are no longer in the rules, to reflect 2021 law changes.

Updated trust account language

- Language was eliminated referencing definition of "authorized financial institution," kinds of trust account cards, permanently bound record book, and interest tracking in trust account processes.

Teams – definition, advertising -- 70-02-03-02.1, broker responsibilities for teams -- 70-02-01-21

- Teams defined and teams advertising (70-02-03-02.1) – A team is 2 or more licensees who work for the same brokerage under the supervision of the designated broker, who 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.

- **Broker responsibilities and supervision of teams (70-02-01-21)**

The designated broker is responsible for:

- supervising teams and
- shall have a written policy that identifies and describes the team relationships in which its licensees may engage.
- Designated brokers shall maintain a chronological written record of all teams and team membership, and
- provide such records to the commission upon request.

Advertising, including advertising by teams – 70-02-03-02.1

- 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.

Pre-licensure and continuing education (CE) -- 70-02-02 and 70-02-04

- Annual continuing education required for a licensee to renew as active increased from 9 hours to 12 hours.
 - NDREC has waived the additional 3 CE hours for the current CE period only – Nov. 16, 2021 through Nov. 15, 2022.
- Nonresident licensees are exempt from CE requirements if they meet CE requirements in their state of residence. (70-02-04-04)
- No limit on number of education hours taken per day. (70-02-04-14 – repealed)
- New salespersons who have completed the 90-hour pre-licensure course are exempt from the CE requirement for their first license renewal. (70-02-04-15)
- Nonresident applicants are not required to take a pre-licensure course if applicant is already licensed in a nonreciprocal state. (70-02-01-06)
- NDREC certifies schools offering pre-licensure courses for 3 years, not 2 years. (70-02-02-05)

Errors and omissions insurance (E&O) -- 70-02-05

- E&O insurance proof of coverage must include a list of licensees covered.
- If a licensee is made inactive for lack of E&O insurance, the broker must destroy the license and remove the licensee name and licensee number from broker website.

- When equivalent E&O insurance coverage is to lapse or be nonrenewed, the providing company must notify the commission prior to the insurance expiration date of the term.

Fees – limits increased but no fee increases now

- The limit on fees NDREC can charge for organization licenses (70-02-01-02), pre-licensure course applications (70-02-02-02), and CE course applications (70-02-04-07) was increased.
 - NDREC is not increasing these fees at this time.

Branch office changes – broker must notify NDREC within 5 days – 70-02-01-11

- Brokers have 5 days, reduced from 10 days, to notify NDREC once a branch changes addresses or supervisors. The broker can also list the branch office on the broker's website instead of displaying the license in the branch office.

Brokers do not return licenses to NDREC

- Language was added to reflect law changes that allow brokers to destroy licenses of individuals and remove licensee name and licensee number from broker website when a licensee leaves the broker's firm, rather than return licenses to NDREC. (examples – 70-02-01-07, 70-02-05-10)

See all changes in the marked-up text provided on the next pages.

See full text of all the updated rules on the General Administrative Rules link on the NDREC website [here](#).

#

TITLE 70
REAL ESTATE COMMISSION

JULY 2022

CHAPTER 70-01-01

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. **Executive director.** The executive director of the commission is employed by the commission and is responsible for administration of the commission's activities.
4. **Inquiries.** Inquiries regarding the commission may be addressed to the executive director:

~~North Dakota Real Estate Commission
P.O. Box 727
Bismarck, ND 58502-0727.~~

History: Amended effective July 1, 2006; April 1, 2008; [July 1, 2022](#).

General Authority: NDCC 28-32-02

Law Implemented: NDCC 43-23-03

CHAPTER 70-01-02

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

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

History: Amended effective July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-11.1(3)

Law Implemented: NDCC 43-23-11.1(3)

70-01-02-08. Hearings.

1. Proceedings going to the revocation or suspension of licenses may be initiated by a verified complaint of an individual or an individual's representative. Proceedings requesting the promulgation, amendment, or repeal of any rules of the commission may be initiated on a verified petition by an individual, or an individual's representative.
2. The commission may in its discretion initiate proceedings to ~~revoke or suspend a license~~discipline a licensee whenever an investigation by the commission or its employees discloses probable grounds therefore. No hearings shall be initiated until a motion duly authorizing the hearing has been recommended by the commission.

History: Amended effective May 1, 1986; July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-11.1(3)

Law Implemented: NDCC 43-23-11.1(3)

**CHAPTER 70-02-01
LICENSING, TRUST ACCOUNTS, AND COMPLAINTS**

Section

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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 ~~in ethical~~of ethics and practices by all real estate licensees doing business in North Dakota, ~~and to seek out and prosecute those persons who unlawfully engage in dishonest, fraudulent, or criminal activities in connection therewith.~~

History: Amended effective January 1, 1992; July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-11.1(3)

Law Implemented: NDCC 43-23-02

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 ~~sent with the application~~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 a 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 ~~and are to be filled in personally by, or under the supervision of, the applicant.~~
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 check used in paying an examination or license fee shall not, for any reason, be honored by the financial institution upon which it is written.~~
 - ~~f.~~ 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.
 - ~~g-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 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 ~~as for~~ a salesperson ~~or~~ 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 ~~two~~~~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 ~~one-time~~ fee must be paid each time the organization's license is activated.

History: Amended effective August 1, 1981; May 1, 1986; January 1, 1992; February 1, 2004; January 1, 2006; April 1, 2008; July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08(6)

Law Implemented: NDCC 43-23-05.1, 43-23-08, 43-23-09, 43-23-11.1

70-02-01-03. Examinations.

1. An applicant will not be permitted to take the ~~written~~ examination until and unless the applicant has been authorized in writing to ~~appear for~~take the examination.
2. If an applicant should fail to ~~appear for~~take the examination within four months after notification by the commission that the applicant is qualified to take the examination, an applicant must ~~reapply for examination as in the first instance and pay the required fee~~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.
4. If the salesperson applicant passes one portion of the examination, national or state, the salesperson applicant shall not be required to repeat that portion of the examination if that applicant passes the remaining portion 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.
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.

History: Amended effective January 1, 1992; February 1, 2004; April 1, 2008; July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08, 43-23-11.1(3)

Law Implemented: NDCC 43-23-13(4)

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

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 ~~comply with all the requirements of a new applicant to regain a license~~ 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 if a licensee cancels their license or is deceased.

History: Amended effective October 1, 2015; July 1, 2022.

General Authority: NDCC 43-23-08, 43-23-08.2, 43-23-11.1(3)

Law Implemented: NDCC 43-23-13(4)

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 ~~having the broker with whom the salesperson is associated surrender the salesperson's license to the commission, with a written~~ 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 ~~from the date the license is surrendered.~~ 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 ~~withdraws from the real estate business entirely and who desires to place the broker's license on an inactive status may do so by surrendering the broker's license to the commission, with a written request that~~ 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 ~~from the date of expiration of the license surrendered.~~ The broker placing the broker's license on inactive status shall pay the required fee for renewing such broker's license each year. 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.

History: Amended effective May 1, 1986; January 1, 1992; February 1, 2004; July 1, 2010; July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08(6)

Law Implemented: NDCC 43-23-08, 43-23-08.2

70-02-01-06. Nonresident brokers and salespersons.

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 ~~domicile~~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 ~~residence~~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. 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. 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. Prelicensure course is not required if the applicant is already licensed in another nonreciprocal state.

History: Amended effective May 1, 1986; January 1, 1992; April 1, 2008; October 1, 2015; July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08(6)

Law Implemented: NDCC 43-23-10

70-02-01-07. Licensee's duties upon ~~surrender~~release of license due to cancellation, transfer, suspension, or revocation~~of license~~.

~~A broker or salesperson, upon surrendering the broker's or salesperson's license or upon notice of suspension or revocation of the broker's or salesperson's license, shall forward the same at once to the commission. Upon release of license or upon notice of suspension, revocation, or cancellation of the license, the designated broker shall destroy the license and remove the licensee's name and licensee's number from the broker's website. If the license is that of a broker, the broker shall also forward to the commission with the broker's license all salesperson's licenses in the broker's possession or in the broker's office and shall be responsible for all missing licenses of the broker's salesperson.~~release all licensees associated with the broker. No refund will be made upon any license when ~~surrendered, suspended, or revoked~~released.

History: Amended effective January 1, 1992; February 1, 2004; July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08, 43-23-11.1(3)

Law Implemented: NDCC 43-23-11.1

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

~~The real estate broker shall retain in the broker's possession the license of all real estate salespersons licensed under the broker and shall relinquish possession of the licenses only to the real estate commission.~~ When for any reason a salesperson licensee severs connection with the salesperson's licensee's designated broker and desires to transfer to another broker, the salesperson licensee must secure complete a transfer and release form provided by the commission, to be executed by the salesperson licensee, the salesperson's former licensee's current broker, and the salesperson's new employing licensee's new broker. Should the salesperson's former 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.

History: Amended effective May 1, 1986; January 1, 1992; July 1, 2022.

General Authority: NDCC 28-32-02, ~~43-23-08(7)~~43-23-08, 43-23-11.1(3)

Law Implemented: NDCC 43-23-12(2), 43-23-13(6), 43-23-13(7)

70-02-01-09. Broker associates.

A real estate broker ~~regularly licensed~~ who does not conduct have an office under the broker's own name, but is ~~employed by another licensed broker or~~ affiliated with another licensed broker ~~on a fee division basis~~ and performs service similar to that of a salesperson, 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 broker's ~~employing or~~ supervising broker. The ~~employing or supervising~~ designated broker shall at all times be responsible for the action of the ~~employed or~~ affiliated broker associate to the same extent as though the ~~employed or~~ affiliated broker were an employed affiliated salesperson.

History: Amended effective January 1, 1992; July 1, 2022.

General Authority: NDCC 43-23-11.1(3)

Law Implemented: NDCC 43-23-06.1(5)

70-02-01-10. Salesperson.

A salesperson shall not commence work until the salesperson's ~~employing~~ broker receives the appropriate license notification of licensure from the commission. Any salesperson licensee leaving ~~the employment of~~ a broker shall not take nor use any agreements (~~listing/buyer broker agreements, management contracts, etc.~~) secured through the office or through salespersons licensees of the former ~~employing~~ broker unless specifically authorized by the former broker. All materials and records that belong to the former broker shall be returned to the former broker.

History: Amended effective January 1, 1992; February 1, 2004; July 1, 2022.

General Authority: NDCC ~~28-32-02, 43-23-08~~, 43-23-11.1(3)

Law Implemented: NDCC 43-23-12(2)

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 ~~ten~~five days after the change.
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.

History: Amended effective December 1, 1999; July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08, 43-23-11.1(3)

Law Implemented: NDCC 43-23-12, 43-23-13(5)

70-02-01-14. Salesperson closing.

A salesperson shall not handle the closing of any real estate transaction (unless authorized by the salesperson's ~~employer~~-broker), except under the direct supervision of the broker, a licensed officer, or a licensed partner of the corporation or partnership under whom the salesperson is licensed.

History: Amended effective January 1, 1992; July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08, 43-23-11.1(3)

Law Implemented: NDCC 43-23-11.1(1)

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 ~~an authorized~~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.
 - a. ~~Definitions. The term "authorized financial institution" means a bank, savings bank, trust company, savings and loan association, savings association, credit union, or federally regulated investment company authorized by federal or state law to do business in this state and insured by the federal deposit insurance corporation, the national credit union share insurance fund, or the federal savings and loan insurance corporation.~~
 - ~~b.~~ Name of account. The name of such separate account shall be identified by the words "trust account" or "escrow account".
 - e.b. Notification. Each broker shall notify the commission of the name of the institution in which the trust account or accounts are maintained and also the name of the accounts on forms provided therefore. ~~A trust account card shall be filed with the commission by~~

~~each new applicant for a real estate broker's license.~~ A new form shall be filed with the commission each time a broker changes the real estate trust account in any manner whatsoever, including, ~~but not limited to,~~ change of depository, change of account number, change of business name, or change of method of doing business. The form shall be filed with the commission within ten days after the aforementioned change takes place.

~~d.c.~~ Authorization. Each broker shall authorize the commission to examine and audit the trust account and shall complete an authorization form attesting to the trust account and consenting to the examination and audit of the account by a duly authorized representative of the commission.

~~e.d.~~ Commingling prohibited. Each broker shall only deposit trust funds received on real estate transactions in the broker's trust account and shall not commingle the broker's personal funds or other funds in the trust account with the exception that 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 shall be specifically identified and deposited to cover service charges relating to the trust account.

~~f.e.~~ Number of accounts. A broker may maintain more than one trust account provided the commission is advised of the account.

~~g.f.~~ Time of deposit. Each broker shall deposit all real estate trust money received by the broker or the broker's salesperson in the trust account within twenty-four hours of receipt of the money by the broker or the salesperson unless otherwise provided in the purchase contract. In the event the trust money is received on a day prior to a holiday or other day the depository is closed, the money shall then be deposited on the next business day of the depository. If the trust money is wired by the buyer to either the broker's trust account or a nonbroker third party, the broker shall maintain in the broker's office a complete record of all moneys transferred, including the initial contact request for the wire from the buyer to their financial institution, and confirmation of completion of the transfer. If earnest money is mailed by the buyer to the broker or the nonbroker third party, the envelope containing the postmark must be retained by the broker to establish the date the money was sent.

~~h.g.~~ Responsibility. When a broker is registered in the office of the real estate commission as in the employ of another broker, the responsibility for the maintenance of a separate account shall be the responsibility of the employing broker.

~~i.h.~~ ~~Interest-bearing~~Noninterest bearing accounts. All trust accounts must be ~~interest-bearing and the interest earned must be disbursed only as provided by law, unless all persons having an interest in the funds have otherwise agreed in writing and a copy of the agreement is maintained by the broker for inspection by the commission~~noninterest bearing.

2. Brokers are responsible at all times for deposits and earnest money accepted by them or their salespersons.

a. Personal payments. No payments of personal indebtedness of the broker shall be made from the ~~separate~~trust account other than a withdrawal of earned commissions payable to the broker or withdrawals made on behalf of the beneficiaries of the ~~separate~~trust account.

b. Withdrawals. Money held in the ~~separate~~trust account which is due and payable to the broker should be withdrawn promptly.

- c. Earnest money. A broker shall not be entitled to any part of the earnest money or other moneys paid to the broker in connection with any real estate transaction as part or all of the broker's commission or fee until the transaction has been consummated or terminated. The earnest money contract shall include a separate written provision, approved by all parties including the broker, for any division of moneys taken in earnest, when the transaction is not consummated and such moneys are retained as forfeiture payment.
 - d. Abandoned deposits. Abandoned deposits in a broker's trust account are subject to the laws governing abandoned property as provided in North Dakota Century Code chapter 47-30.1. A deposit that has remained unclaimed for more than three years after it became payable or distributable is presumed abandoned by North Dakota Century Code chapter 47-30.1 and must be reported and delivered to the administrator of the unclaimed property division as provided by North Dakota Century Code chapter 47-30.1. Earnest money deposits are considered payable or distributable as of the closing date on the purchase agreement or date of cancellation of the purchase agreement.
3. A broker shall maintain in the broker's office a complete record of all moneys received or escrowed on real estate transactions, in the following manner:
- a. Bank deposit slips. A bank deposit slip showing the date of deposit, amount, source of the money, and where deposited.
 - b. Bank statements. Monthly bank statements are to be retained and kept on file.
 - c. Trust account checks. Trust account checks should be numbered and all voided checks retained. The checks should denote the broker's business name, address, and should be designated as "real estate trust account".
 - d. Journal. A ~~permanently bound record book called a~~ journal which shows the chronological sequence in which funds are received and disbursed:
 - (1) For funds received, the journal must include the date, the name of the party who is giving the money, the ~~name of the principal~~property address, and the amount.
 - (2) For disbursements, the journal must include the date, the payee, and the amount.
 - (3) ~~For interest earned and withdrawn, the journal must include the amount, the date earned or withdrawn, and the payee.~~
 - ~~(4) A running balance must be shown after each entry (receipt or disbursement).~~
 - e. Ledger. This record book will show the receipt and the disbursements as they affect a single, particular transaction as between buyer and seller, etc. The ledger must include the names of both parties to a transaction, the dates, and the amounts received. When disbursing funds, the date, payee, and amount must be shown.
 - f. Reconciliation. The trust account must be reconciled monthly except in the case where there had been no activity during that month.
 - g. Maintain records. Every broker shall keep permanent records of all funds and property of others received by the broker for not less than six years from the date of receipt of any such funds or property.

History: Amended effective August 1, 1981; January 1, 1992; April 1, 1992; December 1, 1999; July 1, 2010; January 1, 2016; July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-14.1, ~~43-23-4-06(2)~~

Law Implemented: NDCC 43-23-11.1(1), [43-23-14.1](#)

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 ~~and filed in triplicate~~ 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, ~~or complaints,~~ has been filed must, within twenty days from receipt of ~~copy or copies of complaints~~ [complaint](#), file the licensee's answer ~~in triplicate~~ on forms furnished by the commission. This answer must be in ~~written~~ affidavit form ~~in triplicate~~, 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](#), ~~or code of ethics regulating licensees,~~ 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.

History: Amended effective May 1, 1986; January 1, 1992; [July 1, 2022](#).

General Authority: NDCC 28-32-02, 43-23-11.1(3)

Law Implemented: NDCC 43-23-11.1

70-02-01-17. Disputes between licensees.

The ~~real estate~~ commission is not authorized by law nor will it consider or conduct hearings involving disputes over fees or commissions between ~~cooperating brokers or brokers and salespersons~~ [licensees](#).

History: Amended effective January 1, 1992; [July 1, 2022](#).

General Authority: NDCC [28-32-02](#), 43-23-11.1(3)

Law Implemented: NDCC 43-23-11.1(1)

70-02-01-21. Responsibilities of designated broker.

The designated broker must have a written company policy that identifies and describes the types of real estate agency relationships in which the agency may engage. In addition, any agency that offers representation to both buyers and sellers must also address in the policy manual the agency's procedures intended to prevent any mishandling of information through both formal and informal sharing of information within the agency, the arrangement of agency office space, and the personal relationships of agents who are representing clients with adverse interests. [The designated broker is responsible for supervising teams and shall have a written policy that identifies and describes the team relationships in which its licensees may engage. Designated brokers shall maintain a chronological written record of all teams and team membership and provide such records to the commission upon request.](#)

History: Effective July 1, 2010; amended effective July 1, 2022.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 43-23-12.1

CHAPTER 70-02-02 EDUCATION AND EXPERIENCE STANDARDS

Section

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70-02-02-15	Course Content Must Not Be Duplicated <u>[Repealed]</u>
70-02-02-16	No Credit Given for Salesmanship Courses <u>[Repealed]</u>
70-02-02-17	Correspondence Courses <u>[Repealed]</u>
70-02-02-18	Distance Education <u>Online-Only Asynchronous Prelicensure</u> Courses Must Be <u>Approved Certified</u>

70-02-02-01. Purpose of chapter.

The purpose of this chapter is to delineate the rules which the real estate commission will follow in approving and regulating all schools ~~which wish to offer a course which will comply with~~ offering prelicensure courses to meet the requirements ~~as outlined under~~ in North Dakota Century Code section 43-23-08. ~~The commission intends that the courses be educational in nature and that they not be specifically oriented to the passing of the state licensing examination. No course will be approved if the name of the course or any advertising of the school or person offering the course indicates that the primary objective of the course is to prepare students for passing the state licensing examination.~~

History: Amended effective July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08, 43-23-08.2

Law Implemented: NDCC 43-23-08

70-02-02-02. Application for prelicensure course approval ~~of classroom instruction, distance education, or correspondence course.~~

In order for any prelicensure course to be approved by the real estate commission ~~ana complete~~ application ~~for approval~~ shall be filed with the commission not less than forty-five days prior to the contemplated date of opening offering the first course. The application, in addition to the name and address of the school ~~or person~~ offering the course as well as any other identifying criteria which the commission may require, must be accompanied by a nonrefundable fee ~~of fifty~~ not to exceed two hundred dollars, and must ~~set forth the following~~ 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. ~~A~~ An instructor application or resume on all instructors and subject to be taught ~~must accompany the application.~~

3. ~~A schedule of course offerings for the year for which approval is sought must accompany the application. Each schedule must include the name, The date, time, and place of any synchronous course offering. The schedule of offerings must be arranged so as to allow reasonable time for either home study or in-class preparation for each classroom session hours.~~
4. ~~A fee schedule for all course offerings must accompany the application. Tuition and other costs or fees for students.~~

History: Amended effective January 1, 1992; January 1, 2006; July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08, 43-23-13

Law Implemented: NDCC 43-23-08, 43-23-13

70-02-02-04. Courses of study approved by the commission.

Repealed effective July 1, 2022.

~~— Courses of study provided in North Dakota Century Code section 43-23-08 shall be courses of study approved by the real estate commission and which are offered by any of the following:~~

- ~~— 1. North Dakota accredited baccalaureate degree granting institutions and North Dakota or non-North Dakota institutions offering programs, and credits from which can be transferred to an accredited North Dakota baccalaureate degree granting institution.~~
- ~~— 2. Special institutes or courses relating to real estate which are approved by the commission.~~
- ~~— 3. A correspondence course approved by the commission.~~
- ~~— 4. A distance education course approved by the commission.~~

History: Amended effective January 1, 2006.

General Authority: NDCC 43-23-08

Law Implemented: NDCC 43-23-08

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

~~Periodically, but not less frequently than every two years, the commission shall survey and evaluate the total real estate education program of each school approved by the commission, a written report of which will be provided to the school. The review will be considered by the commission in determining whether the school meets the requirements of law and the commission for continued approval of the school. Every three years, 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.~~

History: Amended effective July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08

Law Implemented: NDCC 43-23-08

70-02-02-06. Approval of classroom instruction.

Repealed effective July 1, 2022.

~~— If based upon the application submitted, together with the commission's survey of the total real estate educational program to be provided by the school, the commission determines that the requirements of law and the commission rules have been met, the application shall be approved. Prior to the contemplated date of opening, the applicant shall be notified in writing of the commission's decision to grant or deny approval.~~

General Authority: ~~NDCC 43-23-08~~

Law Implemented: ~~NDCC 43-23-08~~

70-02-02-07. Review of courses not having received prior approval.

Repealed effective July 1, 2022.

~~— Any person completing a thirty-hour, sixty-hour, or ninety-hour course of study, either classroom, distance education, or correspondence, which has not received prior commission approval, shall submit a complete listing of the courses taken, the number of hours of study for each course and the qualifications of the teachers, and answer any additional questions which the commission may have regarding the course of study. After review of the information, the commission may approve the course of instruction, distance education, or the correspondence courses and give the applicant credit for meeting the educational requirements imposed by North Dakota Century Code chapter 43-23.~~

History: Amended effective January 1, 2006.

General Authority: NDCC ~~43-23-08~~

Law Implemented: NDCC ~~43-23-08~~

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

If the commission ~~at any time determines that a person approved to offer a course in real estate~~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 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.

History: Amended effective July 1, 2022.

General Authority: NDCC ~~28-32-02~~, 43-23-08

Law Implemented: NDCC 43-23-08

70-02-02-09. Advertising of approved courses.

If the name of the commission is used or if commission approval is indicated, any advertisement may not make or imply any guarantee concerning the applicant's passing of the ~~state~~ real estate licensing examination. ~~Advertising, as it is used in this section, includes any type of solicitation, and the advertisement may not be drawn, printed, or illustrated in any fashion which would indicate that the North Dakota real estate or that the~~ commission has any interest in the school other than ensuring that it complies with the standards imposed by North Dakota Century Code chapter 43-23. ~~In no event can the~~The phrase "North Dakota real estate commission" may not appear ~~anywhere~~ in the advertisement in larger type than the words and phrases preceding or following the phrase "North Dakota real estate commission". ~~Printed bulletins or other promotional information must be specific with respect to the purpose of each course of instruction, the curricula, the classroom (or other unit), content of the course, tuition, and criteria for successful completion of the course.~~ No promotional material of any school approved by the commission shall state or imply that its program of instruction is the sole vehicle for which the education requisites for licensure shall be attained. Schools or their representatives shall not promote their school in such a manner as to state or imply that their program excels over any other course of instruction.

History: Amended effective July 1, 2022.

General Authority: NDCC ~~28-32-02~~, 43-23-08

Law Implemented: NDCC 43-23-08

70-02-02-10. ~~Classroom~~Course hour.

~~A classroom~~course hour in a course shall be defined as fifty minutes of lecture in classroom attendance or the equivalent materials through correspondence in a school approved by the department of public instruction. No more than eight hours of instruction can be taken in one day.

History: Amended effective October 1, 2015; July 1, 2022.

General Authority: NDCC ~~28-32-02,~~ 43-23-08

Law Implemented: NDCC 43-23-08

70-02-02-11. Coordinators.

Repealed effective July 1, 2022.

~~—Coordinators or the principal instructor of commission approved program shall be responsible for the conduct and administration of each course presentation, and shall be held responsible for punctuality of classroom session, student attendance records, instructor performance and attendance, examination administration, and student certification.~~

~~**General Authority:** NDCC 43-23-08~~

~~**Law Implemented:** NDCC 43-23-08~~

70-02-02-12. Examinations.

Each prelicensure ~~course of instruction~~ shall ~~utilize written~~include examinations as a component of ~~measurement for determination of~~to determine successful course completion ~~of a course of study.~~

The weight of ~~written examination~~examinations as the determination of successful completion of a course and the criteria for passing of examinations may be developed by each school ~~based on each school's educational concepts.~~ However, the commission may direct alterations in examination procedures, criteria for passing, and the administration whenever deemed necessary. Each school shall furnish the commission with copies of its examinations.

History: Amended effective July 1, 2022.

General Authority: NDCC 43-23-08, 43-23-08.2

Law Implemented: NDCC 43-23-08, 43-23-08.2

70-02-02-13. Certificate of ~~approval~~completion.

Each school shall issue to the students successfully completing a course of instruction an official certificate of completion which reflects the school's name, course title, ~~course number,~~ and number of classroom hours (or other recognized educational unit) involved in the course. Such certificate, 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.

History: Amended effective July 1, 2022.

General Authority: NDCC 43-23-08, 43-23-08.2

Law Implemented: NDCC 43-23-08, 43-23-08.2

70-02-02-14. Facilities.

Repealed effective July 1, 2022.

~~—Each course of study shall have such classrooms and such other facilities and supportive personnel as is necessary to adequately implement the program.~~

~~General Authority: NDCC 43-23-08~~

~~Law Implemented: NDCC 43-23-08~~

70-02-02-15. Course content must not be duplicated.

Repealed effective July 1, 2022.

~~—The commission shall not accept for the educational requisites for broker or salesperson applications which have more than one course with the same course title and level or same course content and level.~~

~~General Authority: NDCC 43-23-08~~

~~Law Implemented: NDCC 43-23-08~~

70-02-02-16. No credit given for salesmanship courses.

Repealed effective July 1, 2022.

~~—No courses of instruction shall operate under commission approval which will offer a course of instruction based on salesmanship, sales techniques, nor shall a sales training course offered by a real estate firm be considered eligible for consideration of commission approval.~~

~~General Authority: NDCC 43-23-08~~

~~Law Implemented: NDCC 43-23-08~~

70-02-02-17. Correspondence courses.

Repealed effective July 1, 2022.

~~—Applicants for brokers' or salespersons' licenses who have completed the required course hours through a correspondence school must have also successfully passed a midterm and final examination. This examination shall be prepared by the applicant's correspondence school and be taken before a proctor appointed by a school approved by the commission.~~

~~General Authority: NDCC 43-23-08~~

~~Law Implemented: NDCC 43-23-08~~

70-02-02-18. ~~Distance education~~Online-only asynchronous prelicensure courses must be approved~~certified~~.

~~Courses of study offered in a distance education format must be approved by the real estate commission and certified by the association of real estate license law officials.~~Online-only asynchronous prelicensure courses must be certified by the association of real estate license law officials before being approved by the commission. A student must complete the ~~distance-education~~online-only asynchronous prelicensure course within one year of the date of enrollment.

History: Effective December 1, 1999; amended effective July 1, 2022.

General Authority: NDCC 43-23-08, 43-23-08.1, 43-23-08.2

Law Implemented: NDCC 43-23-08, 43-23-08.2

CHAPTER 70-02-03

70-02-03-01. Application of licensee responsibilities.

The commission shall have the power to investigate and to ~~suspend or revoke a broker's or salesperson's license~~discipline a licensee upon violation by a licensee of any provisions of the licensee responsibilities.

History: Amended effective January 1, 1992; April 1, 2008; July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08

Law Implemented: NDCC 43-23-11.1(1)

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 ~~conducted by mail, telephone, the internet, the world wide web, electronic mail, electronic bulletin board, or other similar electronic common carrier systems, business cards, signs, television, radio, magazines, newspapers, and telephonic greetings or answering machine messages.~~
2. 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 ~~prominently displayed~~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.
3. Contact information. Advertising must include information on how the public can contact the real estate brokerage agency.
4. 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.
5. 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.
6. A real estate broker may advertise, in the licensee's own name, property which is owned by the licensee, provided that ~~immediately~~ following the licensee's name where it appears in the advertisement, the words "Owner/Licensed Broker" must also appear. The provisions of this subsection apply both to active broker licensees and licensees whose license is on an inactive status.
7. A real estate salesperson may advertise in that person's own name property which is owned by the salesperson, provided that ~~immediately~~ 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.
8. 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.

History: Effective January 1, 1992; amended effective February 1, 2004; April 1, 2008; July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08

Law Implemented: NDCC 43-23-11.1(1)

70-02-03-06. Offer to purchase.

A ~~broker or salesperson~~licensee shall promptly tender to the seller every written offer to purchase obtained on the property involved and, upon obtaining a proper acceptance of the offer to purchase, shall promptly deliver true executed copies of same, signed by the seller and purchaser, to both seller and purchaser. All ~~brokers and salespersons~~licensees shall make certain that all of the terms and conditions of the real estate transaction are included in the offer to purchase. ~~Brokers and salespersons~~Licensees shall also make certain that any changes in the text of the offer made by the seller are agreed to and initiated by the offeror in the first place before proceeding with the transaction. If any changes made are material or extensive, the entire offer or contract should be rewritten.

History: Amended effective January 1, 1992; July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08, 43-23-11.1(1)

Law Implemented: NDCC 43-23-11.1(1)

70-02-03-07. Closing statements.

In every real estate sales transaction wherein the closing is handled by an attorney, bank, ~~savings and loan association~~, or similarly recognized individual or group other than a real estate broker, it shall be the responsibility of the broker involved to see the party or parties represented by the broker receive a complete, detailed closing statement showing all of the receipts and disbursements handled in such transaction. The broker must retain true copies of such statements for the represented party or parties in the broker's files.

History: Amended effective April 1, 2008; July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08

Law Implemented: NDCC 43-23-11.1(1)(o)

70-02-03-09. Use of false or misleading documents.

Any ~~broker or salesperson licensed by the commission~~licensee who uses, proposes the use of, agrees to the use of, or knowingly permits the use of any contract of sale, earnest money agreement, loan application, mortgage, note, or other document, which is not made known to the prospective lender or the loan guarantor, to enable the purchaser to obtain a larger loan than the true sales price would allow, or to enable the purchaser to qualify for a loan which the purchaser otherwise could not obtain, shall be deemed to have engaged in a course of misconduct permitting suspension or revocation of the broker's or salesperson's license ~~as a broker or salesperson~~or assessment of fines.

History: Amended effective August 1, 1981; January 1, 1992; July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08, 43-23-11.1(1)

Law Implemented: NDCC 43-23-11.1(1)

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 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 buy for oneself, either directly or indirectly, property listed with the salesperson's ~~employer~~-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 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.

History: Amended effective January 1, 1992; [July 1, 2022](#).

General Authority: NDCC [28-32-02](#), [43-23-08](#), 43-23-11.1(1)

Law Implemented: NDCC 43-23-11.1(1)

CHAPTER 70-02-04 CONTINUING EDUCATION

Section

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70-02-04-22	Distance <u>Online-Only Asynchronous</u> Education Courses Must Be <u>Certified and</u> Approved
70-02-04-23	Model Rule for Distance Education <u>[Repealed]</u>

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

As used in this chapter, continuing education, unless the context otherwise requires, means ~~accredited educational experience derived from participation in approved lectures, seminars, distance education, and correspondence courses~~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.

History: Effective August 1, 1981; amended effective May 1, 1986; January 1, 2006; [July 1, 2022](#).

General Authority: NDCC 28-32-02, [43-23-08](#), 43-23-08.2

Law Implemented: NDCC 43-23-08.2

70-02-04-02. Hours required.

To qualify for the renewal of a real estate license, each broker or salesperson must complete ~~nine~~[twelve](#) hours of continuing education in approved courses every continuing education period. The continuing education period is twelve months preceding the renewal application deadline date. 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.

History: Effective August 1, 1981; amended effective January 1, 1992; October 1, 1993; December 1, 1999; July 1, 2010; October 1, 2015; [July 1, 2022](#).

General Authority: NDCC 28-32-02, 43-23-08(6), [43-23-08.2](#)

Law Implemented: NDCC 43-23-08.2

70-02-04-03. Hour defined.

An hour of continuing education ~~means a clock hour. A clock hour may be a fifty-minute hour~~[is fifty minutes. Time spent on breaks does not count toward the fifty-minute hour.](#)

History: Effective August 1, 1981; amended effective July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08, 43-23-08.2

Law Implemented: NDCC 43-23-08.2

70-02-04-04. Exceptions and extensions.

The commission may make exceptions and grant extensions for continuing education as follows:

1. For reasons of health, military service, or other good cause if adequate proof is provided to the commission; and
2. A nonresident licensee ~~may be~~ is exempted from the continuing education requirements if the licensee meets the real estate licensing requirements in the state of the licensee's residence.

History: Effective August 1, 1981; amended effective July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08, 43-23-08.2

Law Implemented: NDCC 43-23-08.2

70-02-04-05. Nonqualifying courses.

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

1. ~~"Gram courses" for examinations.~~
- ~~2. Offerings~~ Courses in ~~mechanical~~ general office and business skills, such as ~~typing, speed reading, memory improvement, language, and~~ report writing.
- ~~3.2.~~ Sales promotion or other meetings held in conjunction with the general business of the ~~attendee or the attendee's employer~~ licensee's broker.
- ~~4. Time devoted to breakfast, luncheons, or dinners.~~
- ~~5.3.~~ Any course certified by the use of a challenge examination. All students must complete the required number of classroom hours in order to receive ~~certification~~ credit.

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

History: Effective August 1, 1981; amended effective January 1, 1992; October 1, 1993; December 1, 1999; January 1, 2006; July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08, 43-23-08.2

Law Implemented: NDCC 43-23-08.2

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

The commission may approve ~~any course, seminar, conference, correspondence course, or equivalent that is~~ 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 offering~~, will consider, ~~but not be limited to,~~ the following criteria:

1. ~~Course offerings~~ Courses will be eligible for approval only if the total instruction time ~~of the offering~~ is two hours or more.
2. A ~~school~~ course sponsor shall certify to the best of its knowledge the attendance of each student at the offering. The ~~school's~~ course sponsor's criteria for measuring attendance shall be submitted in the application for course approval ~~on a form prescribed by the commission.~~

3. The ~~school~~course sponsor shall maintain, for a minimum of three years, records of students successfully completing any course ~~offering~~.
4. Credit ~~will be earned on the basis of attendance, or in the case of correspondence courses, completion of the course~~is earned based on in-person or virtual attendance or completion of online-only asynchronous courses.
5. Each course ~~of study~~ shall have a coordinator ~~or administrator~~ supervising the program. ~~The coordinator shall be qualified, either through previous education or experience, to administer a real estate course of study, to evaluate course content and instructors, and to analyze examinations.~~
6. All instructors in a real estate course ~~of study shall file with the commission credentials showing the necessary specialized preparation, training, and experience to ensure competent instruction. Approval of each instructor will be on an individual basis, and approval must be obtained from the commission prior to the instructor's lecture in an approved course of study~~shall complete and submit an instructor application for each course before teaching the course. Instructors, ~~lecturers, seminar leaders, and others who present a continuing education requirement course offering~~ 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.

History: Effective August 1, 1981; amended effective October 1, 1993; July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08, 43-23-08.2

Law Implemented: NDCC 43-23-08.2

70-02-04-07. Application for approval of ~~course offerings~~courses.

A ~~school~~course sponsor shall apply for approval of ~~course offerings on~~courses in a form prescribed by the commission. The application form shall include, ~~but not be limited to, the following information and enclosures:~~

1. The name, address, ~~and~~ telephone number, and website of the ~~school~~course sponsor.
2. The name and electronic mail address of the course coordinator.
3. The title of the course ~~offering~~.
- ~~3.4.~~ A ~~complete~~ description ~~of~~, copies, or examples of all materials to be distributed to the participants.
- ~~4.5.~~ The date and exact location of ~~each presentation of~~ the course ~~offering~~.
- ~~5.6.~~ The duration and time of course ~~offering~~.
- ~~6.7.~~ 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.
- ~~7.8.~~ A sample of any proposed advertising used for promotional purposes.

~~8.9.~~ The method of evaluation of the program.

~~9.10.~~ The procedure for measuring attendance.

~~10.11.~~ ~~A description of the faculty, including name, professional background, and practical or teaching experience. A complete resume may be furnished.~~ An instructor application for each instructor.

12. A fee not to exceed one hundred dollars per course.

History: Effective August 1, 1981; amended effective July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08, 43-23-08.2

Law Implemented: NDCC 43-23-08.2

70-02-04-09. Application for post course approval.

A ~~school~~course sponsor may seek approval of a course subsequent to a course offering by submitting all information requested on the commission's application forms.

History: Effective August 1, 1981; amended effective July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08, 43-23-08.2

Law Implemented: NDCC 43-23-08.2

70-02-04-10. Material change.

The ~~school's~~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.

History: Effective August 1, 1981; amended effective July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08, 43-23-08.2

Law Implemented: NDCC 43-23-08.2

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

The commission may deny, suspend, or revoke approval of a real estate course ~~offering,~~ 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.

History: Effective August 1, 1981; amended effective July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08, 43-23-08.2

Law Implemented: NDCC 43-23-08.2

70-02-04-12. Correspondence programs.

Repealed effective July 1, 2022.

~~—The amount of credit to be allowed for correspondence programs shall be recommended by the program sponsor based upon the average completion time calculated by the sponsor after it has conducted "field tests". Although the program sponsor must make recommendations concerning the number of credit hours that should be granted, the number of credit hours that will be granted shall be determined by the commission.~~

~~**History:** Effective August 1, 1981; amended effective January 1, 1992; January 1, 2006.~~

~~**General Authority:** NDCC 43-23-08.2~~

~~**Law Implemented:** NDCC 43-23-08.2~~

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

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

History: Effective August 1, 1981; amended effective December 1, 1999; July 1, 2010; July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08(6), 43-23-08.2

Law Implemented: NDCC 43-23-08.2

70-02-04-14. Maximum hours of accreditation per day.

Repealed effective July 1, 2022.

~~—The commission will allow a maximum of eight hours of accreditation per day for prelicensing, postlicensing, and continuing education.~~

~~**History:** Effective August 1, 1981; amended effective October 1, 2015.~~

~~**General Authority:** NDCC 43-23-08.2~~

~~**Law Implemented:** NDCC 43-23-08.2~~

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

Any salesperson applicant, upon successful completion of the required postlicensing education requirement, evidence of which has been furnished to the commission by the salesperson applicant's broker, who completed the prerequisite ninety hours of course of study to obtain a license is exempt from the continuing education requirement for ~~only the continuing education period during which the salesperson applicant successfully completed the postlicensing education~~ the first license renewal. Any broker applicant, 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.

History: Effective August 1, 1981; amended effective January 1, 1992; December 1, 1999; January 1, 2006; July 1, 2010; July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08(6), 43-23-08.2

Law Implemented: NDCC 43-23-08.2

70-02-04-16. Service as a lecturer, discussion leader, or speaker an instructor.

~~For those persons who serve as a lecturer, discussion leader, or speaker regarding a real estate continuing education program, the commission will grant~~ Instructors who are licensees may request one-hour credit for every hour of service as an instructor or speaker of a unique course, not to exceed fifty percent of the continuing education requirement for any continuation education period and not to replace any mandatory continuing education requirement. Requests for credit must be accompanied by an outline of the instruction, ~~discussion, or speech.~~ No credit shall be given for the teaching of a course which is the same or substantially the same as one taught for credit within the same continuing education period. The maximum credit given for service as a lecturer, discussion leader, or speaker will not exceed fifty percent of the continuing education requirement for any continuing education period and be submitted before a licensee renews their license. The commission may disapprove a request.

History: Effective August 1, 1981; amended effective December 1, 1999; July 1, 2010; July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08(6), 43-23-08.2

Law Implemented: NDCC 43-23-08, 43-23-08.2

70-02-04-17. Responsibilities of program course sponsors.

In addition to other responsibilities imposed on program course sponsors, they must comply with the following:

1. Disclose to prospective participants the prerequisites, course content, and number of continuing education hours in the program.
2. Selection and review of instructors. The program sponsor or coordinator has the obligation for selecting and assigning qualified instructors for the continuing education program. Sponsors are required to evaluate the performance of the instructors at the conclusion of each program to determine their suitability for continuing to serve as instructors in the future.

History: Effective August 1, 1981; amended effective July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08, 43-23-08.2

Law Implemented: NDCC 43-23-08.2

70-02-04-18. Facilities.

Repealed effective July 1, 2022.

~~—Each course offering shall have classrooms, facilities, and personnel necessary to implement the offerings adequately.~~

~~**History:** Effective August 1, 1981.~~

~~**General Authority:** NDCC 43-23-08.2~~

~~**Law Implemented:** NDCC 43-23-08.2~~

70-02-04-20. Inspections and audits.

By applying for the commission's approval of any course in real estate, the sponsor or coordinator agrees to permit periodic inspections, audits, and monitoring by the commission or its authorized representative for the purpose of evaluating facilities, course content, instructor performance, or any other relevant aspect of the administration and conduct of such course.

History: Effective August 1, 1981; amended effective July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08, 43-23-08.2

Law Implemented: NDCC 43-23-08.2

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

All ~~schools, seminars, and workshops~~ course sponsors shall provide an individual certificate of attendance completion to each licensee upon completion of the ~~educational program or training session~~ course under the following conditions:

1. No certificate of attendance 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, course title, course number, date, location of course, number of approved credit hours, and ~~signature of~~ course sponsor or instructor.
3. The licensee shall retain the ~~attendance~~ 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.

History: Effective August 1, 1981; amended effective December 1, 1999; January 1, 2006; July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08, 43-23-08.2

Law Implemented: NDCC 43-23-08.2

70-02-04-22. ~~Distance~~Online-only asynchronous education courses must be certified and approved.

- ~~1. Courses of study offered in a distance education format must be approved by the real estate commission and offered online only and in an asynchronous format must be certified by the association of real estate license law officials, and approved by the commission. The commission may waive the certification by the association of real estate license law officials. A student must complete the distance education course within one year of the date of enrollment.~~
1. Courses which are presently certified by the association of real estate license law officials must be approved under this rule upon provision of appropriate documentation that the certification by the association of real estate license law officials is in effect and that the course meets the content requirements and any other requirements of the commission. Approval under this subsection must cease immediately if the certification by the association of real estate license law officials is discontinued for any reason.
- ~~2. Courses which are presently ARELLO-certified will be approved under this rule upon provision of appropriate documentation that the ARELLO certification is in effect and that the course meets the content requirements of the rules and statutes listed in subsection 1 and any other requirements of the real estate commission. Approval under this subsection will cease immediately should ARELLO certification be discontinued for any reason.~~

History: Effective December 1, 1999; amended effective July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-08, 43-23-08.2

Law Implemented: NDCC 43-23-08.2

70-02-04-23. Model rule for distance education.

Repealed effective July 1, 2022.

~~Distance education is defined as courses in which instruction does not take place in a traditional classroom setting but rather through other media if the teacher and student are separated by distance and sometimes by time.~~

- ~~1. A distance education course shall be approved if the real estate commission determines to its satisfaction that:
 - ~~a. The distance education course serves to protect the public by contributing to the maintenance and improvement of the quality of real estate services provided by real estate licensees to the public;~~
 - ~~b. An appropriate and complete application has been filed and approved by the real estate commission;~~
 - ~~c. The information specified in the guidelines for distance education as adopted by the real estate commission has been submitted and approved; and~~
 - ~~d. The distance education course meets the content and all other requirements prescribed in North Dakota Administrative Code chapter 70-02-02 for prelicensing education required by subsection 4 of North Dakota Century Code section 43-23-08 or the requirements prescribed in North Dakota Administrative Code chapter 70-02-04 for continuing education required by North Dakota Century Code section 43-23-08.2.~~~~
~~2. Courses which are presently ARELLO-certified will be approved under this rule upon provision of appropriate documentation that the ARELLO certification is in effect and that the course meets the content requirements of the rules and statutes listed in subsection 1 and any other requirements of the real estate commission. Approval under this subsection will cease immediately should ARELLO certification be discontinued for any reason.~~

History: Effective May 1, 2000.

General Authority: NDCC 43-23-08.2

Law Implemented: NDCC 43-23-08.2

CHAPTER 70-02-05 ERRORS AND OMISSIONS INSURANCE

Section

70-02-05-01	Definitions
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70-02-05-01. Definitions.

When used in this chapter, unless the context otherwise requires:

1. "Aggregate limit" means a provision in an insurance contract limiting the maximum liability of an insurer for a series of losses in a given time period, such as the policy term.
2. "Equivalent coverage" means coverage obtained independently of the group plan available from the commission and subject to the terms and conditions as set forth in this chapter.
3. "Extended reporting period" means a designated period of time after a claims-made policy has expired during which a claim may be made and coverage triggered as if the claim has been made during the policy period.
4. "Licensee" means any active individual broker, broker associate, or salesperson.
5. "Prior acts coverage" means claims that are made during a current policy period, but the act or acts causing the claim or injuries for which the claim is made occurred prior to the inception of the current policy period.
6. "Proof of coverage" means the group plan carrier has submitted to the commission a list of all policyholders, or a licensee has submitted to the commission a certificate of ~~insurance~~ equivalent coverage with a list of all licensees covered by the policy on a form prescribed by the commission.
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, after competitive bidding, has been notified by the commission that it is the successful bidder for the group plan to provide the errors and omissions insurance contemplated by these rules; and
- e. 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.

- 8. "Retroactive date" means the date when the first real estate errors and omissions coverage was effective insuring the named insured on a claims-made basis and since which time the insured has been continuously insured.
- 9. "Single-limit liability" means the maximum limit payable, per licensee, for damages arising out of the same error, omission, or wrongful act.

History: Effective February 1, 2002; [amended effective July 1, 2022](#).

General Authority: NDCC [28-32-02](#), 43-23-19

Law Implemented: NDCC 43-23-19

70-02-05-07. Standards for equivalent coverage.

A carrier issuing insurance coverage pursuant to North Dakota Century Code section 43-23-22 must be an admitted carrier in North Dakota or an approved surplus lines carrier in the state in which the licensee being certified resides. All activities contemplated under North Dakota Century Code sections 43-23-19 through 43-23-23 must be covered.

The insurance must provide a minimum, not less than one hundred thousand dollars single-limit liability coverage for each licensee for each occurrence or claim made, not including the cost of investigation or defense, and an annual aggregate of five hundred thousand dollars for each licensee, not including the cost of investigation and defense. A [responsible designated](#) broker may comply with this requirement by certifying coverages of a minimum of five hundred thousand dollars/one million dollars, if all licensees associated with the broker are covered.

A person who resides in and is licensed in a state that has a mandated program of errors and omissions insurance and who is also licensed in North Dakota meets the requirements for errors and omissions insurance in North Dakota upon providing proof that the person meets the requirements of the person's state of residence.

History: Effective February 1, 2002; [amended effective July 1, 2022](#).

General Authority: NDCC [28-32-02](#), 43-23-19

Law Implemented: NDCC 43-23-19

70-02-05-10. ~~Surrender~~[Release](#) of license for failure to provide proof of insurance.

When a licensee receives notice of being placed on inactive status for failure to provide proof of insurance, the [licensee broker](#) shall immediately [surrender/destroy](#) the license ~~to the commission~~ [and the licensee's name and licensee's number must be removed from the broker's website](#).

History: Effective February 1, 2002; amended effective January 1, 2006; [July 1, 2022](#).

General Authority: NDCC [28-32-02](#), 43-23-19

Law Implemented: NDCC 43-23-19

70-02-05-11. Notification required for cancellation.

If insurance under equivalent coverage is to lapse or be nonrenewed, the providing company must notify the North Dakota real estate commission of its intent to lapse or nonrenew ~~a minimum of thirty days~~ before the expiration date of the term.

History: Effective February 1, 2002; amended effective July 1, 2022.

General Authority: NDCC 28-32-02, 43-23-19

Law Implemented: NDCC 43-23-19

TITLE 70.5
REAL ESTATE TRUST ACCOUNT COMMITTEE

JULY 2022

**TITLE 70.5
REAL ESTATE TRUST ACCOUNT COMMITTEE**

[Repealed effective July 1, 2022.]

Article

~~70.5-01 Real Estate Trust Account Committee Grants~~