



North Dakota Real Estate Commission  
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May 23, 2023 -- News from the N.D. Real Estate Commission --

## **Wholesaling requirements change the current license law**

Beginning August 1, 2023, the N.D. Real Estate Commission (NDREC) will implement law changes made by the legislature which require a license and written disclosure for the practice commonly referred to as “wholesaling.”

These new law changes, [NDCC 43-23-06.1 \(9\)\(i\)](#), [43-23-07 \(2\)](#), and [43-23-24](#):

- Define “wholesaler” – as “a person that enters an agreement to make income or profit from the transfer of or equitable interest in residential real property.”
- Define “residential real property” in new “Wholesale buyers and sellers – Disclosure” section – meaning “real property with fewer than 5 dwelling units.”
- Define wholesaling process – as a broker or salesperson who “publicly markets for sale an equitable interest in a contract for the purchase of real property between a property owner and a prospective purchaser.”
- Add a section stating the wholesaler of residential real property must disclose in writing – A new section states that “a wholesaler of residential real property shall disclose in writing to all parties to the agreement that the wholesaler holds an equitable interest in the property, may not be able to convey title to the property, and intends to make a profit or income from the transfer of the equitable interest.”
- Allow contract for sale to be cancelled and earnest money retained or must be refunded if wholesaler doesn’t disclose all required information in writing -- If the wholesaler does not disclose in writing the wholesaler’s equitable interest in the property and all required information, the other seller or buyer “may cancel the contract for sale at any time before the close of escrow without penalty.” Then, the seller “may retain any earnest money paid by the wholesaler” and the buyer “must be refunded all earnest money paid by the buyer.”

The N.D. legislature approved these changes to NDCC 43-23, the license law, earlier this year by passing HB 1190. NDREC voted unanimously to support 1190 with letters submitted to House and Senate committees hearing the bill. The bill passed the House 82-8 and the Senate 46-1. See it [here](#).

Check out [realestatend.org](http://realestatend.org) for the complete current license law, and other information and updates [here](#).

2022-2023 North Dakota Real Estate Commission: Steven Link, chair; Tate Cymbaluk, vice chair; members: Scott Breidenbach, Sandra Meyer, and Steven Bitz. Executive director: Jeanne Prom. Legal counsel: David Phillips.