

COUNTY JUSTICE COURT

CHAPTER 289

HOUSE BILL NO. 1345

(Representatives Stenehjem, DeKrey, Delmore)
(Senators C. Nelson, W. Stenehjem, Watne)

EVICITION ACTION SERVICE OF PROCESS

AN ACT to amend and reenact section 33-06-02 of the North Dakota Century Code, relating to service of process in eviction actions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 33-06-02 of the North Dakota Century Code is amended and reenacted as follows:

33-06-02. Appearance - Notice of intention to evict - When required - When and how served. In any action for eviction the time specified in the summons for the appearance of the defendant may not be less than three nor more than fifteen days from the date on which it is issued. If the person cannot be found in the county, of which the return of the sheriff or process server is prima facie proof, and service has been attempted at least once between the hours of 6:00 p.m. and 10:00 p.m. upon the filing of an affidavit of the plaintiff or the plaintiff's attorney stating that the defendant cannot be found or on belief that the defendant is not in this state and a copy of the summons has been mailed to the defendant at the defendant's last known address if any is known to the plaintiff, service of the summons may be made upon the defendant by the sheriff or process server posting the summons upon the door of the residential unit. In all cases arising under subsections 4, 5, 6, and 8 of section 33-06-01, three days' written notice of intention to evict must be given to the lessee, subtenant, or party in possession, before proceedings can be instituted. The notice may be served and returned as a summons is served and returned or, if the party cannot be found, then by the sheriff of the county or a process server posting the notice conspicuously upon the premises. Service by delivery of a copy of the summons to the defendant in person within the county must be made at least three days before the time fixed for the appearance of the defendant. Service elsewhere or personal service in any other mode must be made at least seven days before the time fixed for the appearance of the defendant.

Approved March 23, 1997

Filed March 24, 1997

CHAPTER 290

HOUSE BILL NO. 1343

(Representatives Stenehjem, DeKrey, Delmore)
(Senators Grindberg, C. Nelson, Watne)

EVICTION ACTION RESTITUTION OF PREMISES

AN ACT to amend and reenact section 33-06-04 of the North Dakota Century Code, relating to eviction actions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 33-06-04 of the North Dakota Century Code is amended and reenacted as follows:

33-06-04. Eviction actions not joinable with other actions - Exception - When counterclaims only interposable. An action of eviction cannot be brought in a district court in connection with any other action, except for rents and profits accrued or for damages arising by reason of the defendant's possession. No counterclaim can be interposed in such action, except as a setoff to a demand made for damages or for rents and profits. If the court finds for the plaintiff in the action, the court shall enter judgment that the plaintiff have immediate restitution of the premises. Upon a showing by the defendant that immediate restitution of the premises would work a substantial hardship on the defendant or the defendant's family, except in cases in which the eviction judgment is based in whole or in part on a disturbance of the peace, the court may stay the special execution for a reasonable period, not to exceed five days.

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