

JUDICIAL REMEDIES

CHAPTER 231

H. B. No. 728
(Aamoth and Burk)

DAMAGES FOR BREACH OF OBLIGATION

AN ACT

To provide a measure of damages for injury to property caused by the breach of an obligation not arising from contract.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Measure of Damages for Injury to Property.) The measure of damages for injury to property caused by the breach of an obligation not arising from contract, except when otherwise expressly provided by law, is presumed to be the reasonable cost of repairs necessary to restore the property to the condition it was in immediately before the injury was inflicted and the reasonable value of the loss of use pending restoration of the property, unless restoration of the property within a reasonable period of time is impossible or impracticable, in which case the measure of damages is presumed to be the difference between the market value of the property immediately before and immediately after the injury and the reasonable value of the loss of use pending replacement of the property. Restoration of the property shall be deemed impracticable when the reasonable cost of necessary repairs and the reasonable value of the loss of use pending restoration is greater than the amount by which the market value of the property has been diminished because of the injury and the reasonable value of the loss of use pending replacement.

Approved March 3, 1961.

CHAPTER 232

H. B. No. 801
(Boe)

LIABILITY OF GARNISHEE

AN ACT

To amend and reenact section 32-09-28 of the North Dakota Century Code, relating to liability of a garnishee.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 32-09-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-09-28. Liability of Garnishee.) From the time of the service of the summons upon the garnishee, he shall stand liable to the plaintiff to the amount of the property, money, credits, and effects belonging to the defendant then in, or which prior to the making of his disclosure may come into, his possession or under his control, or in which he shall be interested, to the extent of his right or interest therein, and all debts due or to become due to the defendant, except such as by law may be exempt from the execution. Any property, moneys, credits, and effects held by a conveyance or title void as to the creditors of the defendant shall be embraced in such liability. Provided however, that the contents of a safety deposit box in a bank is not property in the possession of or under control of such bank within the meaning of this chapter.

Approved March 7, 1961.