

JUDICIAL REMEDIES

CHAPTER 310

S. B. No. 41

(Freed, Holand, Nething, Ringsak)
(From Legislative Research Committee Study)

REIMBURSEMENT OF MOVING EXPENSES IN EMINENT DOMAIN PROCEEDINGS

AN ACT

To amend and reenact section 32-15-22.1 of the North Dakota Century Code, relating to reimbursement for moving expenses pursuant to eminent domain proceedings.

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

Section 1. Amendment.) Section 32-15-22.1 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-15-22.1. Eminent Domain—Compensation for Moving Personal Property.) Whenever property is taken or is about to be taken under eminent domain, and the owner or former owner of such property has, at the time of the taking or of taking possession of the property, personal property located on it, he shall be compensated for the cost of moving such personal property to a new location within this state, selected by him, such cost to be determined on the basis of reasonable estimates or to be evidenced by actual paid receipts to be produced to the condemning authority; provided, however, that such cost shall not exceed the value of the property to be moved. The amount therefor shall be paid directly to the owner or former owner by the condemning authority, and in case of inability to agree, either party may bring an action in the same court in which the condemnation action has been or might have been brought, for a judicial determination of the issues between the parties, or, the matter may be determined in the condemnation action itself.

Approved March 25, 1969.

CHAPTER 311

H. B. No. 147

(Aamoth)

ACCRUAL OF RIGHT TO DAMAGES
IN EMINENT DOMAIN CASES

AN ACT

To amend and reenact section 32-15-23 of the North Dakota Century Code, relating to the time when the right to damages accrues in eminent domain cases.

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

Section 1. Amendment.) Section 32-15-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-15-23. When Right to Damages Accrues.) For the purpose of assessing compensation and damages the right thereto shall be deemed to have accrued at the date of the taking and its actual value at that date shall be the measure of compensation for all property actually to be taken, and the basis of damages to the property not actually taken, but injuriously affected, in all cases when such damages are allowed as provided in section 32-15-22. The time of the taking shall be determined by the court.

Approved March 5, 1969.

CHAPTER 312

S. B. No. 201
(Goldberg, Chesrown)

COSTS IN EMINENT DOMAIN
ACTIONS

AN ACT

To amend and reenact section 32-15-32 of the North Dakota Century Code, relating to costs in eminent domain actions.

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

Section 1. Amendment.) Section 32-15-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-15-32. Costs.) The court may in its discretion award to the defendant reasonable actual or statutory costs or both, which may include interest from the time of taking except interest on the amount of a deposit which is available for withdrawal without prejudice to right of appeal, costs on appeal, and reasonable attorney's fees for all judicial proceedings. If the defendant appeals and does not prevail, the costs on appeal may be taxed against him. In all cases when a new trial has been granted upon the application of the defendant and he has failed upon such trial to obtain greater compensation than was allowed him upon the first trial, the costs of such new trial shall be taxed against him.

Approved March 28, 1969.

CHAPTER 313

H. B. No. 356
(Kelsch)

SHORT-TERM MORTGAGE FORECLOSURE**AN ACT**

To amend and reenact section 32-19.1-01 of the 1967 Supplement to the North Dakota Century Code, relating to the power of parties to a real estate mortgage to agree to short-term foreclosure and eliminating therefrom the necessity for a power of sale; and to amend and reenact section 32-19.1-06 of the 1967 Supplement to the North Dakota Century Code, relating to the manner in which notice of record shall be given of the amount due on foreclosure of a short-term mortgage.

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

Section 1. Amendment.) Section 32-19.1-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-19.1-01. Mortgage May Provide For Foreclosure Under Chapter.) The parties to a real estate mortgage upon property involving an area not to exceed three acres may provide in said mortgage that upon default in the conditions of the mortgage, may be foreclosed as provided in this chapter.

Section 2. Amendment.) Section 32-19.1-06 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-19.1-06. Sheriff's Certificate of Sale to Contain Recitation of Redemption Period.) In the event of a foreclosure under this chapter where authorized by the terms of the mortgage and by law, there shall be contained in the sheriff's certificate of sale a statement as to the period of redemption fixed by the court according to law and contained in the judgment.

Approved March 14, 1969.

H. B. No. 402
(Atkinson, Aafedt, R. Peterson, Gackle, Aamoth)

VOLUNTARY PARTIAL PAYMENT OF CLAIMS

AN ACT

To permit the voluntary partial payment of claims without having payment and receipt construed as a release of claims or an admission of liability, and to otherwise determine the effect of such payments and the procedure thereafter.

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

Section 1.) No voluntary partial payment of a claim against any person based on alleged liability of that person for injury or damage arising out of any occurrence shall be construed as an admission of fault or liability. Such payment shall not be admissible in any action as evidence for the purpose of determining the amount of any judgment or the liability of any person with respect to such occurrence.

Section 2.) No receipt of a voluntary partial payment of a claim against any person based on alleged liability of that person for injury or damage arising out of any occurrence shall be construed as a waiver or release of the claim by the person receiving such payment, unless a written waiver or release is given. No receipt or payment of a voluntary partial payment of a claim shall reduce the amount of damages which may be pleaded and proved in a court proceeding between the parties.

Section 3.) Upon final voluntary compromise settlement of the claim the parties may make any agreement they desire concerning previous voluntary partial payments. If the claim is tried in a court, after entry of judgment involving the claim, any such voluntary partial payment shall be treated as a credit against the judgment and shall be deducted from the amount of the judgment. If, after entry of judgment involving the claim, it shall be determined by the judgment that the amount of injury or damages is less than the voluntary payments already made, the payer of the payments shall have no right of action for the recovery of amounts by which the voluntary payments exceed such final court judgment.

Approved March 25, 1969.