

PROPERTY

CHAPTER 406

HOUSE BILL NO. 1302

(Representatives Carlisle, Keiser, Kliniske)

(Senators G. Nelson, Stenehjem, Wardner)

PAWNBROKER USURY LAW APPLICATION

AN ACT to amend and reenact section 47-14-09 of the North Dakota Century Code, relating to the application of state usury laws to licensed pawnbrokers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-14-09 of the North Dakota Century Code is amended and reenacted as follows:

47-14-09. Usury - Definition - Maximum contract rate - Prohibition - Exclusions.

1. Except as otherwise provided by the laws of this state, ~~no a~~ a person, ~~partnership, limited partnership, trust, association, corporation, limited liability company, or other form of business entity,~~ either directly or indirectly, ~~shall~~ may not take or receive, or agree to take or receive, in money, goods, or things in action, or in any other way, any greater sum or greater value for the loan or forbearance of money, goods, or things in action than five and one-half percent per annum higher than the current cost of money as reflected by the average rate of interest payable on United States treasury bills maturing in six months in effect for North Dakota for the six months immediately ~~prior to~~ preceding the month in which the transaction occurs, as computed and declared on the last day of each month by the state banking commissioner, but that in any event the maximum allowable interest rate ceiling ~~shall may not~~ shall ~~may not~~ may not be less than seven percent, and in the computation of interest the same ~~shall may not~~ shall ~~may not~~ may not be compounded; provided, however, that a minimum interest charge of fifteen dollars may be made. ~~No A~~ A contract ~~shall may not~~ shall ~~may not~~ may not provide for the payment of interest on interest overdue, but this section ~~shall does~~ does not apply to a contract to pay interest at a lawful rate on interest that is overdue at the time such contract is made. Any violation of this section ~~shall be~~ is deemed usury.
2. This section ~~shall does~~ does not apply to a ~~loan~~:
 - a. Bona fide pawnbroking transaction in an amount not exceeding one thousand dollars which is made by a bona fide pawnbroking business transacted under a pawnbroker's license;
 - b. Loan made to a foreign or domestic corporation, foreign or domestic limited liability company, cooperative corporation or association, or trust; ~~or~~;

- c. Loan made to a partnership, limited partnership, or association ~~which that~~ files a state or federal partnership income tax return; ~~not~~ to any loan;
 - d. Loan or forbearance of money, goods, or things in action the principal amount of which amounts to more than thirty-five thousand dollars; ~~not to any loan;~~ and
 - e. Loan made by a lending institution which is regulated or funded by an agency of a state or of the federal government.
- 3. ~~Further, without regard to~~ Notwithstanding the interest rate limit set ~~forth herein~~ under this section, state-chartered banks and the Bank of North Dakota may charge interest at a rate equal to the maximum allowable rate which lawfully may be charged for a particular type of loan by national banking associations or state or federally chartered savings and loan associations operating out of facilities located in this state.
- 4. As used in this section, "bona fide pawnbroking transaction" means a transaction with a licensed pawnbroker which includes both possession and a pledge of tangible personal property.

Approved March 27, 2001
Filed March 27, 2001

CHAPTER 407

HOUSE BILL NO. 1133

(Representative Klemin)
(Senator Trenbeath)

DOCUMENT PROOF

AN ACT to amend and reenact section 47-19-33 of the North Dakota Century Code, relating to the proof of a document.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-19-33 of the North Dakota Century Code is amended and reenacted as follows:

47-19-33. ~~Who shall not execute acknowledgments and affidavits~~ Prohibition on self-interested individuals from proving documents. ~~No person heretofore or hereafter~~ An individual authorized by law to take or receive the proof or acknowledgment of the execution of an instrument or affidavit and to certify ~~thereto shall to the same may not~~ take or receive ~~such the~~ proof, acknowledgment, or affidavit or certify to the same; if that ~~person shall be~~ individual is a party to ~~such the~~ instrument, or a member of any partnership ~~or limited liability company which shall or may be~~ that is a party to ~~such the~~ instrument, ~~nor or~~ if the husband or wife of ~~such person or officer shall be~~ that individual is a party to ~~such the~~ instrument. An acknowledgment taken or received in violation of this section is invalid.

Approved March 26, 2001
Filed March 26, 2001

CHAPTER 408

HOUSE BILL NO. 1178

(Representatives Grosz, F. Klein)
(At the request of the Secretary of State)

TRADEMARK AND TRADE NAME CHANGE AND CANCELLATION

AN ACT to amend and reenact subsections 2 and 3 of section 47-22-06.1, subsection 5 of section 47-22-08, subsections 2 and 3 of section 47-25-06.1, and subsection 4 of section 47-25-07 of the North Dakota Century Code, relating to name changes of registrants and cancellations of trademarks and trade names filed with the secretary of state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 2 and 3 of section 47-22-06.1 of the North Dakota Century Code are amended and reenacted as follows:

2. A certificate of fact reciting the name change duly authenticated by the proper officer of the state or country if the registrant is a corporation ~~or~~, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership incorporated or organized in another state or country and does not have a certificate of authority to transact business in North Dakota.
3. An amendment or application for amended certificate of authority for a registrant that is a corporation ~~or~~, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership registered with the secretary of state.

SECTION 2. AMENDMENT. Subsection 5 of section 47-22-08 of the North Dakota Century Code is amended and reenacted as follows:

5. Any trademark whose registered owner is a corporation ~~or~~, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership that has ceased to exist for six months.

SECTION 3. AMENDMENT. Subsections 2 and 3 of section 47-25-06.1 of the North Dakota Century Code are amended and reenacted as follows:

2. A certificate of fact reciting the name change duly authenticated by the proper officer of the state or country if the registrant is a corporation ~~or~~, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership incorporated or organized in another state or country and does not have a certificate of authority to transact business in North Dakota; or
3. An amendment or application for amended certificate of authority for a registrant that is a corporation ~~or~~, limited liability company, limited

partnership, limited liability partnership, or limited liability limited partnership registered with the secretary of state.

SECTION 4. AMENDMENT. Subsection 4 of section 47-25-07 of the North Dakota Century Code is amended and reenacted as follows:

4. Any trade name when the registrant is a corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership that has ceased to exist for six months.

Approved March 13, 2001
Filed March 13, 2001

CHAPTER 409

HOUSE BILL NO. 1066

(Judiciary Committee)

(At the request of the Board of University and School Lands)

ABANDONED STOCK DIVIDEND CREDIT

AN ACT to create and enact section 47-30.1-21.1 of the North Dakota Century Code, relating to credits abandoned stock; and to amend and reenact subsection 1 of section 47-30.1-22 and subsection 2 of section 47-30.1-35 of the North Dakota Century Code, relating to abandoned property under the Uniform Unclaimed Property Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 47-30.1-21.1 of the North Dakota Century Code is created and enacted as follows:

47-30.1-21.1. Crediting of dividends or increments on stock to owner's account. Whenever property in the form of stock is paid or delivered to the administrator under this chapter, the owner is entitled to receive any dividends or other increments realized or accruing on the stock for as long as the stock is held by the administrator.

SECTION 2. AMENDMENT. Subsection 1 of section 47-30.1-22 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as provided in subsection 2, the administrator, within three years after the receipt of abandoned property, shall sell it to the highest bidder at public sale in whatever ~~city in the state~~ manner affords in the judgment of the administrator the most favorable market for the property involved. The administrator may decline the highest bid and reoffer the property at a public sale if in the judgment of the administrator the bid is insufficient. If in the judgment of the administrator the probable cost of sale exceeds the value of the property, it need not be offered for sale. Any public sale held under this section must be preceded by a single publication of notice, at least ~~three~~ two weeks in advance of sale, in a newspaper of general circulation in the county in which the property is to be sold.

SECTION 3. AMENDMENT. Subsection 2 of section 47-30.1-35 of the North Dakota Century Code is amended and reenacted as follows:

2. An agreement entered into after such twenty-four-month period is enforceable only if the agreement is in writing and the aggregate fee, compensation, or commission ~~paid directly or indirectly charged~~ is not in excess of ~~twenty-five~~ ten percent of the amount recovered.

Approved April 19, 2001
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