

COUNTIES

CHAPTER 102

SENATE BILL NO. 2142

(Senator Lyson)
(Representative Wieland)

SHERIFF FEES AND COMMISSIONS

AN ACT to amend and reenact sections 11-15-07, 11-15-08, 11-15-09, and 23-15-04 of the North Dakota Century Code, relating to fees and commissions collected by sheriffs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-15-07 of the North Dakota Century Code is amended and reenacted as follows:

11-15-07. County fees. The sheriff shall charge and collect the following fees on behalf of the county:

1. For serving a summons, writ of attachment, writ of execution, subpoena, notice of motion, or other notice or order of the court, order of replevin, injunctive order, citation, or any other mesne process and making a return thereon, in addition to the actual incurred costs of postage and long-distance telephone calls a total of ~~ten~~ twenty dollars for each person served.
2. For making a return of not-found, ~~ten~~ twenty dollars.
3. For taking and filing a bond in claim and delivery or any other undertaking to be furnished and approved by the sheriff, ~~ten~~ twenty dollars.
4. For making a copy of any process, bond, or paper, other than as is herein provided, two dollars per page.
5. For levying or executing any writ, ~~twenty-five~~ forty dollars.
6. For calling an inquest to appraise any goods and chattels that the sheriff may be required to have appraised, ~~ten~~ twenty-five dollars, and each appraiser ~~shall~~ is entitled to receive ~~fifty~~ one hundred dollars to be taxed as costs.
7. For advertising a sale by means of a sheriff's notice of sale, in addition to any publishing fees, ~~ten~~ twenty dollars.
8. For making a deed to land sold on execution or ~~pursuant to~~ under an order of sale, ~~ten~~ twenty dollars.

9. For issuing a certificate of redemption when property has been redeemed from a sale under execution or upon the foreclosure of a mortgage, ~~ten~~ twenty dollars.
10. For selling real or personal property under foreclosure of any lien or mortgage, ~~fifty~~ seventy-five dollars.
11. For boarding prisoners, a sum to be determined by the board of county commissioners, by resolution in advance, which sum must be per meal for meals actually served, and ~~must be~~ may not be less than two dollars for breakfast, two dollars and fifty cents for dinner, and three dollars and fifty cents for supper.

SECTION 2. AMENDMENT. Section 11-15-08 of the North Dakota Century Code is amended and reenacted as follows:

11-15-08. Commissions collected by sheriff.

1. Except as provided in section 11-15-09, the sheriff is entitled to collect commissions on behalf of the county on all moneys received and disbursed by the sheriff on an execution, order of sale, order of attachment, requisition in claim and delivery, or decree for the sale of real or personal property as follows:
 - a. On the first one thousand dollars, ~~fifty~~ seventy-five dollars.
 - b. On all moneys in excess of one thousand dollars, one percent.
2. Except as provided in subsection 3, if no sale is held under subsection 1, the sheriff may not collect a commission.
3. If personal property is taken by the sheriff on an execution, under a requisition in claim and delivery, or under a writ of attachment and applied in satisfaction of the debt without sale, the sheriff is entitled to collect the commission specified in subsection 1 based upon the appraised value of the property. The sheriff shall deliver the commissions to the county treasurer under section 11-15-14.

SECTION 3. AMENDMENT. Section 11-15-09 of the North Dakota Century Code is amended and reenacted as follows:

11-15-09. Allowances when plaintiff bids in property at sale. When the person in whose favor an execution or order of sale has been issued by the court bids in the property sold under the execution or pursuant to the judgment, the sheriff or other person making the sale shall collect on behalf of the county either of the following fees, and no more:

1. When the amount for which the property is bid on does not exceed one thousand dollars, ~~twenty~~ forty dollars.
2. When the amount for which the property is bid on exceeds one thousand dollars, ~~thirty~~ seventy-five dollars.

SECTION 4. AMENDMENT. Section 23-15-04 of the North Dakota Century Code is amended and reenacted as follows:

23-15-04. Exceptions. Nothing in this

1. This chapter ~~prohibits the following~~ does not prohibit:
4. a. ~~Any~~ A licensed wholesaler, dealer, or jobber from selling at wholesale fireworks ~~which that~~ are not herein prohibited.
2. b. The sale of any kind of fireworks for shipment directly out of the state.
3. c. The use of fireworks by ~~airplanes, railroads, or other~~ transportation agencies for signal purposes or illumination.
4. d. The sale or use of blank cartridges for a show or theater, for signal or ceremonial purposes in athletics or sports, or for use by military organizations.
2. ~~Application~~ An application for a license as distributor must be made to the state fire marshal on forms prescribed by the state fire marshal. ~~Application~~ An application for a license as a retailer must be made to the county sheriff on forms prescribed by the state fire marshal. Each application must be accompanied by the required fee, which must be two hundred fifty dollars for a distributor's license and ~~five~~ twenty dollars for a retailer's license. Fees for distributors' licenses must be deposited in the general fund in the state treasury and fees for retailers' licenses must be deposited in the county general fund. The license is valid only for the calendar year in which issued and must at all times be displayed at the place of business of the licensee. The licenses are in addition to any other license required by law or municipal ordinance. The licensing provisions of this section do not; ~~however,~~ apply to a retailer who is required to become licensed by any municipality. Any license fee levied by a municipality must be deposited in the municipality's general fund.

~~It is unlawful for any~~ A person not licensed as a wholesaler or retailer ~~to may not~~ bring any fireworks into this state, and ~~it is unlawful for any~~ a retailer ~~in this state to~~ may not sell any fireworks ~~which that~~ have not been purchased from a wholesaler licensed under this chapter. ~~Any persons~~ A person licensed under this chapter shall keep available for inspection by the state fire marshal or any sheriff, police officer, or local fire marshal a copy of each invoice for fireworks purchased as long as any fireworks included on the invoice are held in the licensee's possession, which invoice must show the license number of the wholesaler from whom the purchase was made.

Approved March 7, 2005

Filed March 8, 2005

CHAPTER 103

SENATE BILL NO. 2180

(Senators Holmberg, Trenbeath)

RECORDING OF PERSONAL REPRESENTATIVE'S DEEDS

AN ACT to amend and reenact section 11-18-03 of the North Dakota Century Code, relating to instruments recorded without auditor's certificate.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-18-03 of the North Dakota Century Code is amended and reenacted as follows:

11-18-03. Instruments entitled to record without regard to taxes. The following instruments may be recorded by the recorder without the auditor's certificate referred to in section 11-18-02:

1. A sheriff's or referee's certificate of sale on execution or on foreclosure of a mortgage.
2. A mineral deed conveying oil, gas, and other minerals in or under the surface of lands.
3. A ~~final decree of distribution~~ personal representative's deed or any order document terminating joint tenancy or a life estate or any judgment or decree affecting title to real estate, which must be presented to the auditor's office prior to being placed of record in order to allow the auditor to make such changes in the tax rolls of the auditor's office as may be necessary.
4. Any deed conveying to the state, or to any political subdivision or municipal corporation thereof, any right of way for use as a public street, alley, or highway.
5. Any plat, replat, or auditor's lot accompanied by a resolution requesting the recording of the plat, replat, or auditor's lot by the governing body of a political subdivision.

Approved March 14, 2005

Filed March 14, 2005

CHAPTER 104

SENATE BILL NO. 2024

(Legislative Council)

(Advisory Commission on Intergovernmental Relations)

DOCUMENT PRESERVATION FUND

AN ACT to create and enact a new section to chapter 11-18 of the North Dakota Century Code, relating to county recorder reports to the legislative council regarding use of document preservation funds; to amend and reenact sections 11-18-05 and 11-18-22 of the North Dakota Century Code, relating to the expiration of the document preservation fund; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-18-05 of the North Dakota Century Code is amended and reenacted as follows:

11-18-05. (~~Effective through June 30, 2005~~) Fees of recorder. The recorder shall charge and collect the following fees:

1. For recording an instrument affecting title to real estate:
 - a. Deeds, mortgages, and all other instruments not specifically provided for in this subsection, ten dollars for the first page and three dollars for each additional page. In addition, for all documents recorded under this section that list more than five sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for the first page of each instrument recorded under this subdivision must be placed in the document preservation fund.
 - (1) "Page" means one side of a single legal size sheet of paper not exceeding eight and one-half inches [21.59 centimeters] in width and fourteen inches [35.56 centimeters] in length.
 - (2) The printed, written, or typed words must be considered legible by the recorder before the page will be accepted for recording.
 - (3) Each real estate instrument must have a legal description considered to be adequate by the recorder before such instrument will be accepted for recording.
 - (4) A space of at least four inches by three and one-half inches [10.16 by 8.89 centimeters] square must be provided on the first or last page of each instrument for the recorder's recording information. If recording information can only be placed on the reverse side of an instrument, an additional page charge must be levied.

- b. Instruments satisfying, releasing, assigning, subordinating, continuing, amending, or extending more than one instrument previously recorded in the county in which recording is requested, ten dollars for the first page and three dollars for each additional page plus three dollars for each such additional document number or book and page. In addition, for all documents recorded under this section which list more than five separate sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for the first page of each instrument recorded under this subdivision must be placed in the document preservation fund.
 - c. Plats, irregular tracts, or annexations, ten dollars for one lot plus ten cents for each additional lot, with the exception of auditor's lots which must be a single charge of seven dollars.
 - d. All instruments presented for recording after June 30, 2001, must contain a one-inch [2.54-centimeter] top, bottom, or side margin on each page of the instrument for the placement of computerized recording labels. An instrument that does not conform to this margin requirement may be recorded upon payment of an additional fee of ten dollars.
2. For filing any non-central indexing system instrument, ten dollars.
3. For making certified copies of any recorded instrument or filed non-central indexing system instrument, the charge is five dollars for the first page and two dollars for each additional page. For making a noncertified copy of any recorded instrument or filed non-central indexing system instrument, a fee of not more than one dollar per instrument page.
4. For filing, indexing, making, or completing any statement, abstract, or certificate under the Uniform Commercial Code central filing data base, the computerized central notice system or the computerized statutory liens data base, for receiving printouts, and for other services provided through the computerized system, the fee is the same as that provided in sections 41-09-96 and 54-09-11.
5. The recorder may establish procedures for providing access for duplicating records under the recorder's control. Such records include paper, photostat, microfilm, microfiche, and electronic or computer-generated instruments created by governmental employees.
6. Duplicate recorders' records stored offsite as a security measure are not accessible for reproduction.

(Effective after June 30, 2005) Fees of recorder. The recorder shall charge and collect the following fees:

1. For recording an instrument affecting title to real estate:
 - a. Deeds, mortgages, and all other instruments not specifically provided for in this subsection, seven dollars for the first page and three dollars for each additional page. In addition, for all documents recorded under this section that list more than five

sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index.

- (1) "Page" means one side of a single legal size sheet of paper not exceeding eight and one-half inches [21.59 centimeters] in width and fourteen inches [35.56 centimeters] in length.
 - (2) The printed, written, or typed words must be considered legible by the recorder before the page will be accepted for recording.
 - (3) Each real estate instrument must have a legal description considered to be adequate by the recorder before such instrument will be accepted for recording.
 - (4) A space of at least four inches by three and one-half inches [10.16 by 8.89 centimeters] square must be provided on the first or last page of each instrument for the recorder's recording information. If recording information can only be placed on the reverse side of an instrument, an additional page charge must be levied.
- b. Instruments satisfying, releasing, assigning, subordinating, continuing, amending, or extending more than one instrument previously recorded in the county in which recording is requested, seven dollars for the first page and three dollars for each additional page plus three dollars for each such additional document number or book and page. In addition, for all documents recorded under this section which list more than five separate sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index.
 - e. Plats, irregular tracts, or annexations, ten dollars for one lot plus ten cents for each additional lot, with the exception of auditor's lots which must be a single charge of seven dollars.
 - d. All instruments presented for recording after June 30, 2001, must contain a one-inch [2.54-centimeter] top, bottom, or side margin on each page of the instrument for the placement of computerized recording labels. An instrument that does not conform to this margin requirement may be recorded upon payment of an additional fee of ten dollars.
2. For filing any non-central indexing system instrument, ten dollars.
 3. For making certified copies of any recorded instrument or filed non-central indexing system instrument, the charge is five dollars for the first page and two dollars for each additional page. For making a noncertified copy of any recorded instrument or filed non-central indexing system instrument, a fee of not more than one dollar per instrument page.
 4. For filing, indexing, making, or completing any statement, abstract, or certificate under the Uniform Commercial Code central filing data base, the computerized central notice system or the computerized statutory liens data base, for receiving printouts, and for other services provided

through the computerized system; the fee is the same as that provided in sections 41-09-06 and 54-09-11.

5. The recorder may establish procedures for providing access for duplicating records under the recorder's control. Such records include paper, photostat, microfilm, microfiche, and electronic or computer-generated instruments created by governmental employees.
6. Duplicate recorders' records stored offsite as a security measure are not accessible for reproduction.

SECTION 2. AMENDMENT. Section 11-18-22 of the North Dakota Century Code is amended and reenacted as follows:

11-18-22. (~~Effective through June 30, 2005~~) Document preservation fund. The county treasurer shall establish a document preservation fund to receive the portion of the recording fees authorized by section 11-18-05. The revenue in this fund may be used only for contracting for and purchasing equipment and software for a document preservation, storage, and retrieval system; training employees to operate the system; maintaining and updating the system; and contracting for the offsite storage of microfilm or electronic duplicates of documents for the county recorder's office.

SECTION 3. A new section to chapter 11-18 of the North Dakota Century Code is created and enacted as follows:

Document preservation fund - Recorder reporting requirement to legislative council. Before March first of each even-numbered year, each recorder shall prepare a report that specifies how the county used the county's document preservation funds during the preceding two fiscal years; how the county's use of the document preservation funds has furthered the goal of document preservation; and the county's general strategic plans for document preservation. The county reports must be submitted to the North Dakota association of counties for compilation and submittal to the legislative council before April first of each even-numbered year.

SECTION 4. EXPIRATION DATE. Section 3 of this Act is effective through July 31, 2009, and after that date is ineffective.

Approved March 22, 2005

Filed March 22, 2005

CHAPTER 105

HOUSE BILL NO. 1197

(Representatives Wieland, Conrad, Devlin)
(Senators Bowman, Triplett)

COUNTY BUDGET PREPARATION

AN ACT to amend and reenact section 11-23-05 of the North Dakota Century Code, relating to the deadline for county budget preparation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-23-05 of the North Dakota Century Code is amended and reenacted as follows:

11-23-05. Computing amount of levy. The amount which the board of county commissioners shall levy as the county tax shall be computed by adding together the amounts of the annual appropriation and of that part of any special appropriation which is to be raised by taxation and deducting therefrom so much of the probable receipts from all sources, except loans, and so much of the unappropriated balance in the county treasury at the close of the auditor's books for the previous year as the board deems advisable. The board, on or before the October ~~first of each year~~ meeting required by section 11-11-05, shall determine the amount of taxes that shall be levied for county purposes and shall levy all such taxes in specific amounts.

Approved March 21, 2005
Filed March 22, 2005

CHAPTER 106

SENATE BILL NO. 2237

(Senator Christmann)
(Representative Galvin)

RECREATION SERVICE DISTRICTS

AN ACT to amend and reenact sections 11-28.2-01 and 11-28.2-04 of the North Dakota Century Code, relating to requirements for establishment of a recreation service district and the powers of a recreation service district.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-28.2-01 of the North Dakota Century Code is amended and reenacted as follows:

11-28.2-01. Establishment of recreation service districts - Petition - Purpose. The board of county commissioners of any county ~~in this state~~, at any meeting of ~~such~~ the board, by majority vote of all of the members may, upon the petition of ten percent of the ~~persons~~ individuals who qualify ~~pursuant to under~~ section 11-28.2-03 as voters of an area to be included within a proposed recreation service district, call for an election of all of the qualified voters of ~~such~~ the district to determine the question of the establishment of a recreation service district for the purpose of providing services, which may include police protection, sewer and water, garbage removal services, and public road construction and maintenance, in addition to ~~that those~~ provided by the local governing body or agency to summer homes, cottages, and other residences and establishments ~~as may that~~ exist within ~~such the~~ area, and provide for the improvement and control of the environmental quality of the recreation service district. ~~Said The~~ recreation service district ~~shall~~ must be limited in size and location to an area ~~which is~~ contiguous to or within one-quarter mile [402.34 meters] of the recreational waters of the area or to the areas of land which are dedicated to public use for recreational purposes. In addition, ~~said the~~ district ~~shall must~~ consist of not less than ~~fifty~~ forty privately owned seasonal homes or cottages and other residences and establishments. If a petition is presented to the board of county commissioners calling for ~~such an~~ election, ~~such the~~ petition ~~shall must~~ be accompanied by ~~such any~~ information ~~as required by~~ the board of county commissioners ~~shall require~~, including the boundaries of the proposed recreation district, the approximate number of qualified voters ~~as defined in section 11-28.2-03~~, and a sufficient deposit of money to cover all costs of ~~such the~~ election. Within sixty days after the calling of ~~such an~~ election, the board of county commissioners shall provide an election on the question of whether ~~or not~~ a recreation service district should be established and shall establish procedures for voting and other necessary matters not inconsistent with ~~the provisions of~~ this chapter. The county commissioners shall give at least thirty days' notice of the election by certified mail to all qualified voters ~~as defined in section 11-28.2-03~~. If a majority of the qualified electors voting on the question approve of the establishment of a recreation service district, ~~such the~~ district ~~shall then must~~ be organized.

The board of commissioners of a recreation service district may extend the boundaries of the district to property within or contiguous to the one-quarter mile [402.34 meters] limit through the annexation procedures provided in sections 11-28.2-06 through 11-28.2-08.

SECTION 2. AMENDMENT. Section 11-28.2-04 of the North Dakota Century Code is amended and reenacted as follows:

11-28.2-04. Powers of recreation service districts - Levying of special assessments. Each recreation service district established under the provisions of this chapter ~~shall have the authority to~~ may provide services, which may include police protection, sewer and water, garbage removal services, and public road construction and maintenance, in addition to ~~that~~ those provided by the local governing body or other agency to summer homes, cottages, and other residences and establishments ~~as may that~~ exist within its boundaries, ~~and to~~ provide for the improvement and control of the environmental quality of the recreation service district, and ~~to~~ levy special assessments ~~as may be necessary to provide such the~~ services. ~~All projects and services to be~~ Any project or service provided by a recreation service district other than ~~pursuant to under~~ section 11-28.2-04.1 ~~shall~~ must first be approved by a majority of the qualified voters of the district affected by ~~such~~ the special assessment and present and voting at an annual or special meeting called as provided in this chapter. The levying of special assessments for ~~sewer and water, garbage removal services; public road construction and maintenance,~~ and improvement of environmental quality ~~shall must~~ be levied against those parcels of property benefited in the manner provided by law for the levying of special assessments for municipalities and the costs of police protection may be levied in ~~such that~~ manner. ~~Any A~~ recreation service district may contract with other political subdivisions for joint or cooperative action as provided in chapter 54-40. The board of recreation service district commissioners ~~shall be~~ are responsible for the administration and accounting of ~~such any~~ obligations and accounts ~~as shall be~~ undertaken in accordance with ~~the provisions of~~ this chapter. The board of recreation service district commissioners shall serve as the special assessment commission and shall make ~~or cause to be made~~ a complete list of the annual benefits and assessments on each parcel of property within the district. The board shall also hear appeals from aggrieved property owners concerning assessments made, and ~~shall have the authority to~~ may increase or decrease any assessment ~~as may be if~~ just and necessary. ~~No A~~ special assessment ~~shall may not~~ exceed the benefits ~~as~~ determined by the board to the parcel of property assessed. The board ~~shall have the authority to~~ may cooperate with the state or federal government ~~or any agency or department thereof~~ in furnishing assurances and meeting local cooperation requirements, within the scope of the power of ~~said the~~ board, in connection with any project involving the construction, improvement, operation, maintenance, conservation, or use of the area, including waters, within the recreation service district.

Approved April 18, 2005
Filed April 20, 2005

CHAPTER 107

SENATE BILL NO. 2173

(Senators Wardner, Triplett)
(Representative Hawken)

COUNTY PLANNING COMMISSION COMPENSATION

AN ACT to amend and reenact section 11-33-05 of the North Dakota Century Code, relating to compensation of county planning commission members.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-33-05 of the North Dakota Century Code is amended and reenacted as follows:

11-33-05. Meetings - Officers. The commission shall meet within thirty days after its appointment and elect a chairman and other necessary officers from its membership. The commission may adopt rules and bylaws not inconsistent with the provisions of this chapter. A majority of the members of the commission shall constitute a quorum. Members of the commission may be compensated for their actual expenses in the same manner as members of the board of county commissioners. The board of county commissioners may also authorize payment of a sum not to exceed forty-five dollars per day for time actually spent in transacting the business of the planning commission, in addition to any salaries members of the planning commission receive from any other source, from the state or county or any municipality. The county auditor shall serve as secretary to the commission and shall keep all of the records and accounts of the commission.

Approved March 7, 2005

Filed March 8, 2005