

June 2009

TITLE 32

Judicial Remedies

Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 32. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1015 relates to the liability of the state with respect to a state employee's operation of a rental vehicle. The bill removes the requirement that the vehicle must be rented for a period of 30 days or less for the exemption from liability to apply.

House Bill No. 1042 repeals Section 32-42-04, which relates to a reporting requirement of medical malpractice insurance providers. Because the last year the report was required to be filed with the Insurance Commissioner was 1999, this section became obsolete.

House Bill No. 1069 relates to the evidence required in a civil action involving a motor vehicle accident resulting in bodily injury. The bill changes the alcohol concentration from ten one-hundredths of 1 percent to eight one-hundredths of 1 percent to be consistent with other provisions of law relating to alcohol concentration amounts.

House Bill No. 1104 clarifies that certain risk management records in the possession of the Office of Management and Budget or a public entity are privileged and exempt.

House Bill No. 1122 relates to the authorization of agencies to limit the liability to the state of certain contracting parties. The bill provides that contracts for economic forecasting for the Office of Management and Budget may contain a provision limiting the state's ability to seek and recover indirect consequential damages if the director of the Office of Management and Budget and the Attorney General determine that the services cannot be effectively obtained without the limitation and that the limitation does not pose any significant risk of loss to the state and is in the best interests of the state.

House Bill No. 1205 provides for the procedural requirements of a transfer of structured settlement. A structured settlement is an arrangement for periodic payment of damages for personal injuries or sickness established by settlement or judgment in resolution of a tort claim or for periodic payments in settlement of a workers' compensation claim. The bill includes the information that is required to be disclosed to the payee, the requirements for the approval of transfers of structured settlement payment rights, the procedure for the approval of transfers, and procedures for the settlement of disputes.

House Bill No. 1430 relates to successor corporation asbestos-related liabilities. The bill provides that the cumulative successor asbestos-related liabilities of an innocent successor corporation are limited to the fair market value of the total gross assets of the transferor determined as of the time of the merger or consolidation. The bill provides a procedure for establishing fair market value of total gross assets. The bill also provides that the bill applies to all asbestos claims filed against an innocent successor on or after August 1, 2009, and to any pending asbestos claims against an innocent successor in which trial has not commenced as of August 1, 2009.

Senate Bill No. 2256, which relates to contracts between the state and a political subdivision, removes the exception that a contract between a state and a political subdivision may not contain a provision that requires one party to assume the liability of the other unless the agreement is entered into in good faith and is set forth in a separate writing signed by both parties. This bill became effective on April 23, 2009.