

Sixty-fifth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1177**

Introduced by

Representative Maragos

Senator Casper

1 A BILL for an Act to amend and reenact sections 30.1-23-01 and 30.1-23-02 of the North  
2 Dakota Century Code, relating to the collection of property by affidavit and the effect of the  
3 affidavit.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 30.1-23-01 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **30.1-23-01. (3-1201) Collection of personal property by affidavit.**

- 8 1. Thirty days after the death of a decedent, any person indebted to the decedent or  
9 having possession of tangible personal property, unencumbered real property, or an  
10 instrument evidencing a debt, obligation, stock, or chose in action belonging to the  
11 decedent shall make payment of the indebtedness or deliver the tangible personal  
12 property, unencumbered real property, or an instrument evidencing a debt, obligation,  
13 stock, or chose in action to a person claiming to be the successor of the decedent  
14 upon being presented an affidavit made by or on behalf of the successor stating that:
- 15 a. The value of the entire estate subject to distribution or succession under chapters  
16 30.1-01 through 30.1-23, wherever located, less liens and encumbrances, does  
17 not exceed fifty thousand dollars.
- 18 b. Thirty days have elapsed since the death of the decedent.
- 19 c. An application or petition for the appointment of a personal representative is not  
20 pending or has not been granted in any jurisdiction.
- 21 d. The claiming successor is entitled to payment or delivery of the property.
- 22 e. A description sufficient to identify each tract of unencumbered real property  
23 owned by the decedent at the time of the decedent's death.

- 1        2. A transfer agent of any security shall change the registered ownership on the books of  
2        a corporation or limited liability company from the decedent to the successor upon the  
3        presentation of an affidavit as provided in subsection 1.

4        **SECTION 2. AMENDMENT.** Section 30.1-23-02 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6        **30.1-23-02. (3-1202) Effect of affidavit.**

7        The person paying, delivering, transferring, or issuing personal property, unencumbered  
8 real property, or the evidence thereof pursuant to affidavit is discharged and released to the  
9 same extent as if the person dealt with a personal representative of the decedent. The person is  
10 not required to see to the application of the personal property, unencumbered real property, or  
11 evidence thereof or to inquire into the truth of ~~anya~~ statement in the affidavit. If ~~anya~~ person to  
12 whom an affidavit is delivered refuses to pay, deliver, transfer, or issue ~~any~~ personal property,  
13 unencumbered real property, or evidence thereof, it may be recovered or its payment, delivery,  
14 transfer, or issuance compelled upon proof of their right in a proceeding brought for the purpose  
15 by or on behalf of the persons entitled thereto. ~~Any~~A person to whom payment, delivery,  
16 transfer, or issuance is made is answerable and accountable therefor to any personal  
17 representative of the estate or to any other person having a superior right.