

**HOUSE BILL NO. 1324**

Introduced by

Representatives R. Kelsch, Carlisle, Kretschmar, Mahoney

1 A BILL for an Act to amend and reenact section 28-21-08 of the North Dakota Century Code,  
2 relating to execution of levies on personal property.

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

4 **SECTION 1. AMENDMENT.** Section 28-21-08 of the 1995 Supplement to the North  
5 Dakota Century Code is amended and reenacted as follows:

6 **28-21-08. Property subject to levy - Manner of levy.** All goods, chattels, moneys,  
7 and other property, both real and personal, or any interest therein, of the judgment debtor not  
8 exempt by law, and all property and rights of property seized and held under attachment in the  
9 action are subject to execution. Shares and interests in any corporation or company, and debts  
10 and credits, and all other property, both real and personal, and any interest in real or personal  
11 property, and all other property not capable of manual delivery, may be taken on execution and  
12 sold as provided in this chapter. The levy under an execution must be made as follows:

- 13 1. Upon real property, the sheriff shall file with the register of deeds of the county in  
14 which the property is located, a notice of levy that has been signed by the sheriff  
15 and that states the names of the parties to the action and a description of the  
16 property.
- 17 2. On personal property capable of manual delivery, the sheriff shall take the property  
18 into custody. When taking the property, the sheriff shall deliver a copy of the  
19 execution and notice of levy to the person from whom the property was taken.
- 20 3. Upon money, judgments, drafts, promissory notes, or other papers of like  
21 character, by serving a copy of the execution and levy and the full name of the  
22 judgment debtor and the judgment debtor's social security number or date of birth  
23 to the person who has custody of such the property, except as may be provided for  
24 in chapter 32-09.1.

- 1           4.   On the contents of a safe deposit box, by serving a copy of the execution and levy  
2                   and the full name of the judgment debtor and the judgment debtor's social security  
3                   number or date of birth to the person who has custody of the safe deposit box.
- 4           5.   On other personal property, the sheriff shall leave a copy of the execution and a  
5                   notice of levy under an execution with the person holding the property or:
- 6               a.   If the property consists of a right or share in the stock of a corporation or  
7                   interest or profits thereon, with the president or other head of the corporation,  
8                   or the secretary, cashier, or managing agent thereof.
- 9               b.   If the property consists of membership interests in a limited liability company  
10                  or interest or profits thereon, with the president or other head of the limited  
11                  liability company or the secretary, treasurer, or managing agent thereof.
- 12   The sheriff may elect not to seize property during the time period the debtor has to claim  
13   exemptions under chapter 28-22 or in the case of property which by reason of its bulk or other  
14   cause cannot be removed immediately and upon service of the notice of levy in accordance  
15   with this section and section 28-21-12, the levy is as valid and effectual as if the property had  
16   been seized and the possession and control thereof retained by the officer. The lien of the writ  
17   of execution is effectual from the time the actual levy is made in accordance with this section  
18   and section 28-21-12.