

Introduced by

Representatives R. Kelsch, Carlisle, Kretschmar, Mahoney

1 A BILL for an Act to amend and reenact section 28-21-06 of the North Dakota Century Code,
2 relating to the contents of writs of execution.

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

4 **SECTION 1. AMENDMENT.** Section 28-21-06 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **28-21-06. Issuance and contents of execution.** The writ of execution must be issued
7 in the name of the state of North Dakota, attested in the name of the judge of the court that
8 entered the judgment, sealed with the seal of the court, subscribed by the clerk of that court,
9 and directed and delivered to a sheriff as provided in section 28-21-05. It must refer intelligibly
10 to the judgment, stating the date and time the judgment was filed with the clerk, the courts and
11 counties to which the judgment has been transcribed, ~~and~~ the names of the parties, the last
12 known address of the judgment debtor, the approximate age of the judgment debtor, and the
13 date of birth of the judgment debtor if known. If the execution is against the property of a
14 judgment debtor, the execution must also state the amount of money the judgment ordered the
15 debtor to pay to the judgment creditor, the date and time the judgment was docketed by the
16 clerk, the rate of interest to be used in calculating interest due on the judgment pursuant to
17 section 28-20-34, the amount of the costs accruing on the judgment as of the date of issuance
18 of the execution, and if the execution is being issued to a sheriff of a county other than that of
19 the county of the issuing writ, the date and time the judgment was docketed in the county of the
20 sheriff to whom the execution is being issued. If the execution is for the delivery of the
21 possession of real or personal property, the execution must also particularly describe the
22 property to be delivered, specify the value of the property, identify the party entitled to
23 possession of the property, and, if the same judgment orders the party against whom the
24 judgment was rendered to pay any costs, damages, or rents or profits to the party entitled to

- 1 possession of the property, list the amounts of the costs, damages, or rents or profits payable
2 as of the date of issuance of the execution. Upon receipt of an execution the sheriff shall:
- 3 1. If the execution is against the property of the judgment debtor, satisfy the judgment
4 with interest and accruing costs, which include sheriff and county costs, out of the
5 personal property of the debtor, and, if sufficient personal property cannot be
6 found, out of the real property belonging to the debtor on the day when the
7 judgment was docketed in the county or at any time thereafter. If real or personal
8 property of the debtor is in the hands of a personal representative, heir, devisee,
9 legatee, tenant of real property, or trustee, the sheriff may satisfy the judgment out
10 of that property; or
 - 11 2. If the execution is for the delivery of the possession of real or personal property,
12 deliver the possession of the property to the party entitled thereto, and satisfy any
13 costs, damages, or rents or profits recovered by the same judgment out of the
14 personal property of the party against whom it was rendered and, if sufficient
15 personal property cannot be found, out of the real property belonging to the party
16 on the day when the judgment was docketed in the county or at any time
17 thereafter. If delivery of the property cannot be had, the sheriff may satisfy the
18 judgment in the amount of the value of the property out of the real and personal
19 property of the party as if an execution against the property of the party had been
20 issued.