

HOUSE BILL NO. 1109

Introduced by

Finance and Taxation Committee

(At the request of the Tax Commissioner)

1 A BILL for an Act to amend and reenact sections 47-19-06, 57-37.1-10, and 57-37.1-21 of the
2 North Dakota Century Code, relating to the elimination of obsolete provisions relating to
3 documents required to be filed with the tax commissioner for estate tax purposes; and to
4 provide an effective date.

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

6 **SECTION 1. AMENDMENT.** Section 47-19-06 of the 1997 Supplement to the North
7 Dakota Century Code is amended and reenacted as follows:

8 **47-19-06. Death certificates - Joint tenant - Prima facie evidence of termination of**
9 **estate held.** In all cases of joint tenancy in lands, and in all cases where an estate, title, or
10 interest in, or lien upon, lands has been or may be created, which estate, title, interest, or lien
11 was or is to continue only during the life of any person named or described in the instrument by
12 which the estate, title, interest, or lien was created, a copy of the death certificate of the joint
13 tenant or of the person upon whose life the estate, title, interest, or lien was or is limited, duly
14 certified by any officer who is required by the laws of the state or country in which the record is
15 made, to keep a record of the death of persons occurring within the jurisdiction of the officer,
16 may be recorded in the office of the register of deeds of the county in which the lands are
17 situated. The legal description of any property to which the recording of the death certificate
18 relates must be attached to the death certificate. The certified copy of death certificate, or the
19 record thereof in the office, or a duly certified copy of the last mentioned record, is prima facie
20 evidence of the death of the person and the termination of the joint tenancy and all the estate,
21 title, interest, and lien as was or is limited upon the life of that person. ~~The register of deeds~~
22 ~~shall forward a copy of the recorded death certificate to the tax commissioner.~~

23 **SECTION 2. AMENDMENT.** Section 57-37.1-10 of the North Dakota Century Code is
24 amended and reenacted as follows:

1 **57-37.1-10. Personal representative to furnish necessary documents to the tax**
2 **commissioner.** The personal representative shall furnish to the tax commissioner:

- 3 1. ~~One copy of application for determination of A North Dakota estate tax for the~~
4 ~~decedent return.~~
5 2. ~~Two copies of certificate of estate tax determination.~~
6 3. ~~A copy of decedent's will, if any.~~
7 4. A copy of the federal estate tax return.
8 5. ~~3.~~ 3. ~~Such other~~ Other information as the tax commissioner shall require.

9 ~~The tax commissioner shall notify the personal representative of the amount of such~~
10 ~~assessment prior to execution of the certificate of estate tax determination, but failure to receive~~
11 ~~such notice from the tax commissioner does not excuse the nonpayment of the tax nor~~
12 ~~invalidate the tax or interest thereon in any way.~~

13 **SECTION 3. AMENDMENT.** Section 57-37.1-21 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **57-37.1-21. When return required –~~Tax commissioner's release.~~**

- 16 1. The personal representative shall file an estate tax return pursuant to this chapter
17 for the estate of any decedent for ~~which~~ whom a federal estate tax return is
18 required to be filed if the federal gross estate includes any property or interest in
19 property that has a situs in North Dakota.
20 2. ~~If it appears to the personal representative of an estate that no filing requirement~~
21 ~~for an estate tax return exists, he may file a verified petition, in duplicate, with the~~
22 ~~tax commissioner showing the value and form of ownership of all the real and~~
23 ~~personal property includable in the gross estate of the decedent. In addition to~~
24 ~~including said real and personal property in the petition, the petition must also~~
25 ~~contain the name, the age at time of death, the date of death, and the residence of~~
26 ~~the decedent, and the name of the heirs and beneficiaries of the decedent.~~
27 3. ~~If the tax commissioner finds that in no event could there be an estate tax filing~~
28 ~~requirement for the estate of the decedent, the tax commissioner shall issue to the~~
29 ~~personal representative a certificate of the tax commissioner that no estate tax~~
30 ~~return is required to be filed. Said certificate must contain a list of the real property~~
31 ~~includable in the gross estate of the decedent. This certificate may be recorded in~~

1 ~~the office of the register of deeds of the county in which lands of the decedent are~~
2 ~~situated, and such record will release as against any property described within said~~
3 ~~certificate any estate tax lien upon the estate of the named decedent.~~

4 4. If the tax commissioner finds that ~~an~~ a required estate tax return ~~is required to be~~
5 has not been filed, ~~he~~ the tax commissioner shall ~~so~~ notify the personal
6 representative of ~~his~~ the tax commissioner's finding and the ~~fact determination~~
7 ~~upon which such~~ basis for the finding is made.

8 **SECTION 4. EFFECTIVE DATE.** Section 2 of this Act is effective for estates of
9 decedents whose deaths occur after December 31, 1998.