

HOUSE BILL NO. 1472

Introduced by

Representatives Koppelman, DeKrey, Maragos

Senators Dever, Nelson

1 A BILL for an Act to create and enact a new section to chapter 27-08.1 of the North Dakota
2 Century Code, relating to appeals from small claims court; and to amend and reenact sections
3 27-08.1-02, 27-08.1-03, and 27-08.1-04 of the North Dakota Century Code, relating to small
4 claims court procedure.

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

6 **SECTION 1. AMENDMENT.** Section 27-08.1-02 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **27-08.1-02. Commencement of action - Claim affidavit.** Actions in the small claims
9 court are commenced whenever any person executes and files with the court a claim affidavit,
10 and causes the affidavit to be served by a person of legal age, not a party to or interested in the
11 action, on the defendant or mails it to the defendant by certified mail along with a form upon
12 which the defendant must indicate whether a hearing is requested ~~and whether the defendant~~
13 ~~elects to remove the action to district court.~~ If, within twenty days of service of the affidavit and
14 form, the court has not received a request for a hearing or ~~an election to remove to district~~
15 ~~court,~~ or if the defendant indicates that a hearing is not requested, a hearing will not be
16 scheduled and judgment may be entered against the defendant by default. If the defendant
17 requests a hearing in small claims court, the hearing must be not less than ten days and not
18 more than thirty days after receipt of the request. Except for an action under subdivision e of
19 subsection 2 of section 27-08.1-01, the mailing or personal service may be made anywhere
20 within the state. Forms used in small claims court actions must be approved by the state court
21 administrator and obtained from, or at the direction of, the clerk of district court or in electronic
22 form from the supreme court.

23 **SECTION 2. AMENDMENT.** Section 27-08.1-03 of the North Dakota Century Code is
24 amended and reenacted as follows:

1 ~~the action to district court, the defendant must serve upon the plaintiff a notice of the removal~~
2 ~~and file with the clerk of the court to which the action is removed a copy of the claim affidavit~~
3 ~~and the defendant's answer along with the filing fee, except for an answer fee, required for civil~~
4 ~~actions.~~

5 **SECTION 4.** A new section to chapter 27-08.1 of the North Dakota Century Code is
6 created and enacted as follows:

7 **Appeals.** The defendant may appeal from the decision of a small claims court to the
8 district court for a jury trial anew. The plaintiff may appeal to the district court for a bench trial
9 anew. The request for an appeal must be made within twenty days of the decision of the small
10 claims court. The party that requests an appeal may not appeal the decision of the district
11 court. The party that requests an appeal shall pay all filing fees for the party that does not
12 request an appeal.