Fifty-ninth Legislative Assembly of North Dakota In Regular Session Commencing Tuesday, January 4, 2005

HOUSE BILL NO. 1064 (Representatives Klemin, Sitte)

AN ACT to amend and reenact section 27-08.1-04 of North Dakota Century Code, relating to the awarding of attorney's fees in cases removed from small claims court to district court.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 27-08.1-04 of the North Dakota Century Code is amended and reenacted as follows:

27-08.1-04. Election to proceed in small claims court irrevocable. Election by the plaintiff to use the procedures provided for in this chapter is irrevocable. In the event the plaintiff elects to discontinue the proceedings, the court shall enter its order accordingly, and unless otherwise provided in the order the dismissal must be deemed to be with prejudice. By election to proceed in small claims court, the plaintiff waives the right to appeal to any other court from the decision of the small claims court. The defendant waives the right to appeal from the decision of the small claims court upon receiving the order for appearance as required herein, unless the defendant elects to remove the action from the small claims court to district court. If the defendant elects to remove the action to district court, the defendant must serve upon the plaintiff a notice of the removal and file with the clerk of the court to which the action is removed a copy of the claim affidavit and the defendant elects to remove the action from small claims court to district court, the district court shall award attorney's fees to a prevailing plaintiff.

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House Vote:	Yeas	91	Nays	0	Absent	3	
Senate Vote:	Yeas	45	Nays	0	Absent	2	
					Chief	Clerk of the	e House
Received by the Governor at M. on							, 2005.
Approved at	N	1. on					, 2005.
					Gove	rnor	
Filed in this office this day of							, 2005,
at o'	clock	M.					
					Secre	tary of Stat	e