

## HOUSE BILL NO. 1042

Introduced by

Legislative Council

(Judiciary Committee)

1 A BILL for an Act to create and enact chapter 47-32 of the North Dakota Century Code, relating  
2 to technical corrections; to amend and reenact sections 1-02-12 and 16.1-01-09, subsection 2  
3 of section 57-39.2-18, and section 57-40.2-09 of the North Dakota Century Code, relating to  
4 technical corrections and improper, inaccurate, redundant, missing, or obsolete references; and  
5 to repeal section 15.1-13-32 and chapter 33-06 of the North Dakota Century Code, relating to  
6 obsolete provisions.

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

8 **SECTION 1. AMENDMENT.** Section 1-02-12 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **1-02-12. Headnote, cross-reference note, and source note.** No headnote, source  
11 note, or cross-reference note, whether designating an entire title, chapter, section, subsection,  
12 or subdivision, constitutes any part of a statute. A headnote may not be used to determine  
13 legislative intent or the legislative history for any statute. An effective date or expiration date  
14 note preceding a headnote is not a part of the headnote and is a part of the statute.

15 **SECTION 2. AMENDMENT.** Section 16.1-01-09 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **16.1-01-09. Initiative or referendum petitions - Signature - Form - Circulation.**

18 1. a. A request of the secretary of state for approval of a petition to initiate or refer  
19 a measure may be presented over the signatures of the sponsoring  
20 committee on individual signature forms that have been notarized. The  
21 secretary of state shall prepare a signature form that includes provisions for  
22 identification of the measure; the printed name, signature, and address of the  
23 committee member; and notarization of the signature. The filed signature  
24 forms must be originals.



1 (To be drafted by the secretary of state, approved by the attorney general,  
2 and attached to the petition before circulation.)

3 FULL TEXT OF THE MEASURE

4 IF MATERIAL IS UNDERSCORED, IT IS NEW MATERIAL WHICH IS BEING  
5 ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS  
6 BEING DELETED. ~~IF NO MATERIAL IS UNDERSCORED OR~~  
7 ~~OVERSTRUCK, THE MEASURE CONTAINS ALL NEW MATERIAL WHICH~~  
8 ~~IS BEING ADDED.~~ IF MATERIAL IS NOT UNDERSCORED OR  
9 OVERSTRUCK, THE MATERIAL IS EXISTING LAW THAT IS NOT BEING  
10 CHANGED.

11 [The full text of the measure must be inserted here.]

12 INSTRUCTIONS TO PETITION SIGNERS

13 You are being asked to sign a petition. You must be a qualified elector. This  
14 means you are eighteen years old, you have lived in North Dakota thirty days,  
15 and you are a United States citizen. All signers must add their complete  
16 residential address or rural route or general delivery address and the date of  
17 signing. Every qualified elector signing a petition must do so in the presence  
18 of the person circulating the petition.

19 QUALIFIED ELECTORS

20	Month,	Name of	Residential Address or	
21	Day,	Qualified	Complete Rural Route	City,
22	Year	Elector	or General Delivery	State
23			Address	

- 24 1. \_\_\_\_\_
- 25 2. \_\_\_\_\_
- 26 3. \_\_\_\_\_
- 27 4. \_\_\_\_\_
- 28 5. \_\_\_\_\_
- 29 6. \_\_\_\_\_
- 30 7. \_\_\_\_\_
- 31 8. \_\_\_\_\_



1 (Notary Seal) \_\_\_\_\_

2 (signature of notary)

3 Notary Public

4 My commission expires \_\_\_\_\_

5 4. No petition shall be circulated under the authority of article III of the Constitution of  
6 North Dakota by a person who is less than eighteen years of age, nor shall the  
7 affidavit called for by subsection 3 be executed by a person who is less than  
8 eighteen years of age at the time of signing. All petitions circulated under the  
9 authority of the constitution and of this section must be circulated in their entirety.  
10 A petition may not include a statement of intent or similar explanatory information.

11 5. When signed petitions are delivered to the secretary of state, the chairperson of  
12 the sponsoring committee shall submit to the secretary of state an affidavit stating  
13 that to the best of that person's knowledge, the petitions contain at least the  
14 required number of signatures.

15 6. An initiative or referendum petition may be submitted to the secretary of state until  
16 midnight of the day designated as the deadline for submitting the petition.

17 7. An initiative petition may be circulated for one year from the date it is approved for  
18 circulation by the secretary of state.

19 **SECTION 3.** Chapter 47-32 of the North Dakota Century Code is created and enacted  
20 as follows:

21 **47-32-01. When eviction maintainable.** An action of eviction to recover the  
22 possession of real estate is maintainable in the proper district court when:

23 1. A party, by force, intimidation, fraud, or stealth, has entered upon the prior actual  
24 possession of real property of another and detains the same.

25 2. A party, after peaceably entering upon real property, turns out by force, threats, or  
26 menacing conduct the party in possession.

27 3. A party, by force or by menaces and threats of violence, unlawfully holds and  
28 keeps the possession of any real property, whether the possession was acquired  
29 peaceably or otherwise.

- 1           4. A lessee, in person or by subtenant, holds over after the termination of the lease or  
2           expiration of the lessee's term, or fails to pay rent for three days after the rent is  
3           due.
- 4           5. A party continues in possession after a sale of the real property under mortgage,  
5           execution, order, or any judicial process and after the expiration of the time fixed by  
6           law for redemption, or after the execution and delivery of a deed, or after the  
7           cancellation and termination of any contract for deed, bond for deed, or other  
8           instrument for the future conveyance of real estate or equity in the real estate.
- 9           6. A party continues wrongfully in possession after a judgment in partition or after a  
10          sale under an order or decree of a district court.
- 11          7. A lessee or a person on the premises with the lessee's consent acts in a manner  
12          that unreasonably disturbs other tenants' peaceful enjoyment of the premises.
- 13          8. The lessee violates a material term of the written lease agreement between the  
14          lessor and lessee.

15           **47-32-02. Appearance - Notice of intention to evict - When required - When and**  
16 **how served.** In any action for eviction the time specified in the summons for the appearance of  
17 the defendant may not be fewer than three nor more than fifteen days from the date on which  
18 the summons is issued. If the person cannot be found in the county, of which the return of the  
19 sheriff or process server is prima facie proof, and service has been attempted at least once  
20 between the hours of six p.m. and ten p.m. upon the filing of an affidavit of the plaintiff or the  
21 plaintiff's attorney stating that the defendant cannot be found or on belief that the defendant is  
22 not in this state and a copy of the summons has been mailed to the defendant at the  
23 defendant's last-known address if any is known to the plaintiff, service of the summons may be  
24 made upon the defendant by the sheriff or process server posting the summons upon the door  
25 of the residential unit. In all cases arising under subsections 4, 5, 6, and 8 of section 47-32-01,  
26 three days' written notice of intention to evict must be given to the lessee, subtenant, or party in  
27 possession, before proceedings can be instituted. The notice may be served and returned as a  
28 summons is served and returned or, if the party cannot be found, then by the sheriff of the  
29 county or a process server posting the notice conspicuously upon the premises. Service by  
30 delivery of a copy of the summons to the defendant in person within the county must be made  
31 at least three days before the time fixed for the appearance of the defendant. Service

1 elsewhere or personal service in any other mode must be made at least seven days before the  
2 time fixed for the appearance of the defendant.

3 **47-32-03. Legal representatives may bring eviction actions.** Executors and  
4 administrators may bring actions of eviction in the district courts in the same manner as their  
5 testators and intestates, as the case may be.

6 **47-32-04. Eviction actions not joinable with other actions - Exception - When**  
7 **counterclaims only interposable.** An action of eviction cannot be brought in a district court in  
8 connection with any other action, except for rents and profits accrued or for damages arising by  
9 reason of the defendant's possession. No counterclaim can be interposed in such action,  
10 except as a setoff to a demand made for damages or for rents and profits. If the court finds for  
11 the plaintiff in the action, the court shall enter judgment that the plaintiff have immediate  
12 restitution of the premises. Upon a showing by the defendant that immediate restitution of the  
13 premises would work a substantial hardship on the defendant or the defendant's family, except  
14 in cases in which the eviction judgment is based in whole or in part on a disturbance of the  
15 peace, the court may stay the special execution for a reasonable period, not to exceed five  
16 days.

17 **SECTION 4. AMENDMENT.** Subsection 2 of section 57-39.2-18 of the North Dakota  
18 Century Code is amended and reenacted as follows:

19 2. Any person who ~~shall sell~~ sells tangible personal property, tickets or admissions to  
20 places of amusement, and athletic events, or steam, gas, and communication  
21 service at retail in this state after that person's permit shall have been revoked, or  
22 without procuring a permit ~~within sixty days after the effective date of this chapter,~~  
23 as provided in section 57-39.2-14, or who ~~shall violate the provisions of~~ violates  
24 section 57-39.2-09, and the officers of any corporation or the managers of any  
25 limited liability company who ~~shall so act~~ acts, ~~shall be~~ is guilty of a class A  
26 misdemeanor.

27 **SECTION 5. AMENDMENT.** Section 57-40.2-09 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29 **57-40.2-09. Records required.** Each retailer required or authorized to collect the tax  
30 imposed by this chapter, and each person using in this state tangible personal property  
31 purchased for resale or for use shall keep such records, receipts, invoices, and other pertinent

1 papers as the commissioner shall require and each such retailer or person shall preserve for a  
2 period of three years and three months all invoices and other records of such tangible personal  
3 property purchased for resale or for use. The commissioner, or any duly authorized agent, may  
4 examine the books, papers, records, and equipment of any person who sells tangible personal  
5 property or who is liable for such tax, and may investigate the character of the business of any  
6 such person to verify the accuracy of any return made, or if no return was made, to ascertain  
7 and determine the amount due. Any such books, papers, and records must be made available  
8 within this state for such examination upon reasonable notice if the commissioner shall make an  
9 order to that effect.

10           **SECTION 6. REPEAL.** Section 15.1-13-32 and chapter 33-06 of the North Dakota  
11 Century Code are repealed.