

**HOUSE BILL NO. 1058**

Introduced by

Judiciary Committee

(At the request of the Supreme Court)

1 A BILL for an Act to amend and reenact section 27-08.1-04 of the North Dakota Century Code,  
2 relating to small claims.

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

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

6 **27-08.1-04. Election to proceed in small claims court irrevocable.**

7 Election by the plaintiff to use the procedures provided for in this chapter is irrevocable. In  
8 the event the plaintiff elects to discontinue the proceedings, the court shall enter its order  
9 accordingly, and unless otherwise provided in the order the dismissal must be deemed to be  
10 with prejudice. By election to proceed in small claims court, the plaintiff waives the right to  
11 appeal to any other court from the decision of the small claims court. The defendant waives the  
12 right to appeal from the decision of the small claims court upon receiving the order for  
13 appearance as required herein, unless the defendant elects to remove the action from the small  
14 claims court to district court. If the defendant elects to remove the action to district court, the  
15 defendant must serve upon the plaintiff a notice of the removal and file with the clerk of the  
16 court to which the action is removed a copy of the claim affidavit and the defendant's answer  
17 along with the filing fee, except for an answer fee, required for civil actions. If the defendant  
18 elects to remove the action from small claims court to district court, the district court shall award  
19 attorney's fees to a prevailing plaintiff. The supreme court may award reasonable attorney's  
20 fees on appeal from the district court judgment.