

# PROPERTY

## CHAPTER 452

SENATE BILL NO. 2449  
(Longmire, Chesrown)

### TRANSFER OF PERSONAL PROPERTY

AN ACT to amend and reenact sections 47-11-01 and 47-11-02 of the North Dakota Century Code relating to the transfer of personal property by sale or exchange and interests in trusts, and to repeal sections 47-11-03, 47-11-04, and 47-11-05 of the North Dakota Century Code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 47-11-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-11-01. MODE OF TRANSFER - GENERAL PROVISIONS.) The mode of transferring personal property other than the beneficial interest in an express trust is regulated, except as otherwise specifically provided in this title, in title 41, Uniform Commercial Code and title 17, Uniform Consumer Credit Code.

SECTION 2. AMENDMENT.) Section 47-11-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-11-02. INTEREST IN EXPRESS TRUSTS - OPERATION OF LAW OR WRITTEN INSTRUMENT REQUIRED.) The beneficial interest in an express trust can be transferred only by operation of law or by a written instrument subscribed by the person making the transfer or by his agent.

SECTION 3. REPEAL.) Sections 47-11-03, 47-11-04, and 47-11-05 of the North Dakota Century Code are hereby repealed.

Approved March 30, 1971

## CHAPTER 453

HOUSE BILL NO. 1072  
(Jenkins, Metzger, Olienyk, Sandness)  
(From Legislative Council Study)

## RECOGNITION OF FOREIGN ACKNOWLEDGMENTS

AN ACT to create and enact sections 47-19-14.1, 47-19-14.2, 47-19-14.3, 47-19-14.4, 47-19-14.5, 47-19-14.6, 47-19-14.7, and 47-19-14.8 of the North Dakota Century Code, to provide for uniform recognition of notarial acts done outside the state; to amend and reenact sections 47-19-26 of the North Dakota Century Code, relating to forms of certificates of acknowledgment; and to repeal sections 47-19-15, 47-19-16, 47-19-17, 47-19-17.1, 47-19-17.2, and 47-19-31 of the North Dakota Century Code, relating to recognition of foreign acknowledgments and acknowledgments made outside this state but within the United States.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 47-19-14.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

47-19-14.1. RECOGNITION OF NOTARIAL ACTS PERFORMED OUTSIDE THIS STATE.) For the purposes of this section and sections 47-19-14.2 and 47-19-14.7, "notarial acts" mean acts which the laws and regulations of this state authorize notaries public of this state to perform, including the administering of oaths and affirmations, taking proof of execution and acknowledgments of instruments, and attesting documents. Notarial acts may be performed outside this state for use in this state with the same effect as if performed by a notary public of this state by the following persons authorized pursuant to the laws and regulations of other governments in addition to any other person authorized by the laws and regulations of this state:

1. A notary public authorized to perform notarial acts in the place in which the act is performed.
2. A justice, judge, clerk, or deputy clerk of any court of record in the place in which the notarial act is performed.
3. An officer of the foreign service of the United States, a consular agent, or any other person authorized by regulation of the United States depart-

ment of state to perform notarial acts in the place in which the act is performed.

4. A commissioned officer or noncommissioned officer in active service with the armed forces of the United States and any other person authorized by regulation of the armed forces to perform notarial acts, if the notarial act is performed for one of the following, or his dependents: a merchant seaman of the United States, a member of the armed forces of the United States, or any other person serving with or accompanying the armed forces of the United States.
5. Any other person authorized to perform notarial acts in the place in which the act is performed.

SECTION 2.) Section 47-19-14.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

47-19-14.2. AUTHENTICATION OF AUTHORITY OF OFFICER.)

1. If the notarial act is performed by any of the persons described in subsections 1 through 4, inclusive, of section 47-19-14.1, other than a person authorized to perform notarial acts by the laws or regulations of a foreign country, written indication of his title or rank and serial number, if any, is sufficient proof of the authority of a holder of that rank or title to perform the act. Further proof of his authority is not required.
2. If the notarial act is performed by a person authorized by the laws or regulations of a foreign country to perform the act, there is sufficient proof of the authority of that person to perform the act if:
  - a. Either a foreign service officer of the United States, resident in the country in which the act is performed, or a diplomatic or consular officer of the foreign country, resident in the United States, certifies that a person holding that office is authorized to perform the act;
  - b. The official seal of the person performing the notarial act is affixed to the document; or
  - c. The title of the person, and an indication of his authority to perform notarial acts appears either in a recognized digest of foreign law, or in a list customarily used as a source of such information.
3. If the notarial act is performed by a person other than one described in subsections 1 and 2 of this

section, there is sufficient proof of the authority of that person to act, if the clerk of a court of record, in the place in which the notarial act is performed, certifies to the official character of that person, and to his authority to perform the notarial act.

4. The signature and title of the person performing the notarial act are prima facie evidence that he is a person with the designated title and that the signature is genuine.

SECTION 3.) Section 47-19-14.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

47-19-14.3. CERTIFICATE OF PERSON TAKING ACKNOWLEDGMENT.) The person taking an acknowledgment shall certify that:

1. The person acknowledging appeared before him and acknowledged that he executed the instrument; and
2. The person acknowledging was known to the person taking the acknowledgment, or that the person taking the acknowledgment had satisfactory evidence that the person acknowledging was the person described in and who executed the instrument.

SECTION 4.) Section 47-19-14.4 of the North Dakota Century Code is hereby created and enacted to read as follows:

47-19-14.4. RECOGNITION OF CERTIFICATE OF ACKNOWLEDGMENT.) The form of a certificate of acknowledgment used by a person whose authority is recognized under section 47-19-14.2 shall be accepted in this state if:

1. The certificate is in a form prescribed by the laws or regulations of this state;
2. The certificate is in a form prescribed by the laws or regulations applicable in the place in which the acknowledgment is taken; or
3. The certificate contains the words "acknowledged before me" or their substantial equivalent.

SECTION 5.) Section 47-19-14.5 of the North Dakota Century Code is hereby created and enacted to read as follows:

47-19-14.5. CERTIFICATE OF ACKNOWLEDGMENT.) The words "acknowledged before me", or their substantial equivalent, as used in a certificate of acknowledgment made by a person taking an acknowledgment outside this state shall mean:

1. That the person acknowledging appeared before the



State of \_\_\_\_\_  
County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent and title of officer or agent) of (name of corporation acknowledging), a (state or place of incorporation) corporation, on behalf of the corporation.

\_\_\_\_\_  
(Signature of person taking acknowledgment)  
\_\_\_\_\_  
(Title or rank)  
\_\_\_\_\_  
(Serial number, if any)

3. For a partnership:

State of \_\_\_\_\_  
County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this (date) by (name of acknowledging partner or agent), partner (or agent), on behalf of (name of partnership), a partnership.

\_\_\_\_\_  
(Signature of person taking acknowledgment)  
\_\_\_\_\_  
(Title or rank)  
\_\_\_\_\_  
(Serial number, if any)

4. For an individual acting as attorney in fact for a principal:

State of \_\_\_\_\_  
County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this (date) by (name of attorney in fact) as attorney in fact on behalf of (name of principal).

\_\_\_\_\_  
(Signature of person taking acknowledgment)  
\_\_\_\_\_  
(Title or rank)  
\_\_\_\_\_  
(Serial number, if any)

5. For a public officer, trustee, guardian, personal representative, or other representative:

State of \_\_\_\_\_  
County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this (date) by (name and title of position).

\_\_\_\_\_  
(Signature of person taking acknowledgment)  
\_\_\_\_\_  
(Title or rank)  
\_\_\_\_\_  
(Serial number, if any)

SECTION 7.) Section 47-19-14.7 of the North Dakota Century Code is hereby created and enacted to read as follows:

47-19-14.7. PRIOR ACKNOWLEDGMENTS NOT AFFECTED.) A notarial act performed prior to the effective date of sections 47-19-14.1 through 47-19-14.8 shall not be affected by those sections. Sections 47-19-14.1 through 47-19-14.8 provide an additional method of proving notarial acts, and do not diminish or invalidate the recognition accorded to notarial acts by other laws or regulations of this state.

SECTION 8.) Section 47-19-14.8 of the North Dakota Century Code is hereby created and enacted to read as follows:

47-19-14.8. SHORT TITLE - UNIFORMITY OF INTERPRETATION.) Sections 47-19-14.1 through 47-19-14.8 may be cited as the "Uniform Recognition of Acknowledgments Act", and the Act shall be so interpreted as to make uniform the laws of those states which enact it.

SECTION 9. AMENDMENT.) Section 47-19-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-19-26. CERTIFICATE OF ACKNOWLEDGMENT - FORMS.) An officer taking an acknowledgment of an instrument within this state must endorse thereon or attach thereto a certificate substantially in the forms prescribed in sections 47-19-27, 47-19-28, 47-19-29, and 47-19-30.

SECTION 10. REPEAL.) Sections 47-19-15, 47-19-16, 47-19-17, 47-19-17.1, 47-19-17.2, and 47-19-31 of the North Dakota Century Code are hereby repealed.

Approved February 20, 1971