

PROPERTY

CHAPTER 552

HOUSE BILL NO. 1468
(Nowatzki, G. Berg)

FARM LEASE CROP OWNERSHIP

AN ACT to amend and reenact sections 47-16-03 and 47-16-04 of the North Dakota Century Code, relating to agricultural lease title reservations.

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

SECTION 1. AMENDMENT. Section 47-16-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-16-03. Filing farm lease containing reservation of title to crop - Waiver of rights on failure to file. When a lease of a farm contains a provision reserving title in the lessor to all or any part of the crops in the lessor excess of the rental share of the lessor until the stated conditions of the lease have been complied with by the lessee and a division of the crop is made, such lease must be filed in the office of the register of deeds in the county in which the land described therein is located prior to July first in the year in which the crops are raised to render such reservation of title effective as to subsequent purchasers or encumbrancers of the lessee any part of the grain raised upon such over and above the lessor's rental share produced upon the land. The failure to file such lease or contract in accordance with the requirements of this section shall constitute constitutes a waiver by the lessor of all rights reserved by him that person over and above that person's rental share in such crops as against any subsequent purchaser or encumbrancer of the lessee.

SECTION 2. AMENDMENT. Section 47-16-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-16-04. Products during lease belong to lessee. The In the absence of any agreement to the contrary between the lessor and the lessee, the products received from real property during the term of a lease belong to the lessee.

Approved March 27, 1987
Filed March 30, 1987

CHAPTER 553

SENATE BILL NO. 2071
(Legislative Council)
(Interim Oil and Gas Committee)

INSPECTION OF OIL AND GAS RECORDS

AN ACT to create and enact a new section to chapter 47-16 of the North Dakota Century Code, relating to inspection of oil and gas production and royalty payment records.

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

SECTION 1. A new section to chapter 47-16 of the North Dakota Century Code is hereby created and enacted to read as follows:

Inspection of production and royalty payment records. A royalty owner, a royalty owner's assignee, or a designated representative, upon written notice, is entitled to inspect and copy the oil and gas production and royalty payment records for the lease of the person obligated to pay royalties under the lease or division order. The person obligated to pay royalties under the lease shall make that person's oil and gas royalty payment and production records available for inspection and copying at that person's usual and customary place of business within the United States. A royalty owner may bring an action to compel the person obligated to pay royalties to allow inspection and copying of oil and gas production royalty payment records. In order for the royalty owner to prevail in such an action, the royalty owner must establish that:

1. The royalty owner or his assignee complied with notice requirements of this section;
2. The notice specified the lease involved, the time period under review and the records requested;
3. The royalty owner notified the person obligated to pay royalties at the address printed on the information statement as prescribed by rules adopted by the industrial commission pursuant to section 38-08-06.3; and
4. The person obligated to pay royalties denied inspection of the records or failed to respond within thirty days of service of notice.

The district court for the county in which the oil or gas well is located has jurisdiction over all proceedings brought pursuant to this section. If the royalty owner or the royalty owner's assignee is successful in any proceeding brought pursuant to this section, the district court shall allow the royalty owner or the royalty owner's assignee to recover court costs; reasonable costs, fees, disbursements, and expenses incurred by the royalty owner or the royalty owner's assignee or a designated representative in inspecting and copying the oil and gas production and royalty payment records of the person obligated to pay royalties under the lease; and reasonable attorney's fees.

Approved March 12, 1987

Filed March 16, 1987

CHAPTER 554

HOUSE BILL NO. 1059
(Legislative Council)
(Interim Oil and Gas Committee)

DIVISION ORDERS

AN ACT to create and enact a new section to chapter 47-16 of the North Dakota Century Code, relating to the definition and operation of oil and gas division orders.

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

SECTION 1. A new section to chapter 47-16 of the North Dakota Century Code is hereby created and enacted to read as follows:

Division orders - Definition, function, and operation. A division order is an instrument executed by the operator, the royalty owners, and any other person having an interest in the production directing the purchaser of oil or gas to pay for the products taken in the proportions set out in the instrument. Royalty payments may not be withheld because an interest owner has not executed a division order. A division order may not alter or amend the terms of the oil and gas lease. A division order that varies the terms of the oil and gas lease is invalid to the extent of the variance and the terms of the oil and gas lease take precedence.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 555

SENATE BILL NO. 2450
(Senators Kelsh, D. Meyer, Krauter)
(Representatives Shockman, Brokaw, Marks)

HOMESTEAD EXEMPTION WAIVER

AN ACT to create and enact a new section to chapter 47-18 of the North Dakota Century Code, relating to notice of waiver of homestead exemption.

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

SECTION 1. A new section to chapter 47-18 of the North Dakota Century Code is hereby created and enacted to read as follows:

Waiver of homestead exemption - Notice required. All mortgages on homesteads executed after June 30, 1987, which are not purchase money agreements must contain the following statement printed in a conspicuous manner, and must be signed and dated by the person waiving the exemption at the time the contract is executed:

I understand that homestead property is in many cases protected from the claims of creditors and exempt from judicial sale, and that by signing this contract, I voluntarily give up my right to this protection for this property with respect to claims based upon this contract.

Approved March 27, 1987
Filed March 30, 1987

CHAPTER 556

SENATE BILL NO. 2495
(Olson)

NOTARIES PUBLIC

AN ACT to amend and reenact section 47-19-14.1 of the North Dakota Century Code, relating to recognition of notarial acts.

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 amended and reenacted 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 by any jurisdiction 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 department 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.

Approved March 13, 1987
Filed March 16, 1987

CHAPTER 557

SENATE BILL NO. 2104
(Committee on Judiciary)
(At the request of the Supreme Court)

DOCUMENT CERTIFICATION BY COUNTY JUDGE

AN ACT to repeal section 47-19-37 of the North Dakota Century Code, relating to the requirement that the clerk of district court certify to the signature of a county judge when a document that has been notarized or certified by the county judge is used in a county other than the county in which the judge resides.

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

SECTION 1. REPEAL. Section 47-19-37 of the 1985 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 558

SENATE BILL NO. 2214
(Committee on Finance and Taxation)
(At the request of the State Treasurer)

PERFORMING RIGHTS LICENSING AND
COPYRIGHT

AN ACT to amend and reenact section 47-21-08 of the North Dakota Century Code, relating to the tax levied on selling and licensing performing rights or music or dramatico-musical compositions; and to repeal sections 47-21-01, 47-21-02, 47-21-03, 47-21-04, 47-21-05, 47-21-06, 47-21-07, 47-21-09, and 47-21-10 of the North Dakota Century Code, relating to copyrights for musical and dramatico-musical compositions.

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

SECTION 1. AMENDMENT. Section 47-21-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-21-08. Tax levied on selling and licensing performing rights of music or dramatico-musical compositions - Payable to state tax commissioner. A tax shall be levied and collected for the act or privilege of selling, licensing, or otherwise disposing of performing rights in music or dramatico-musical compositions in this state, in an amount equal to five percent of the gross receipts of all such sales, licenses, or other disposition of performing rights in this state, payable to the state tax commissioner for the benefit of the general fund of the state, on or before the fifteenth day of March of each year, with respect to the gross receipts of the preceding calendar year. The state tax commissioner shall adopt and publish rules and regulations not in conflict ~~herewith~~ with this section, as well as a ~~form of return and any other~~ the forms necessary to carry out the provisions of this section.

SECTION 2. REPEAL. Sections 47-21-01, 47-21-02, 47-21-03, 47-21-04, 47-21-05, 47-21-06, 47-21-07, 47-21-09, and 47-21-10 of the North Dakota Century Code are hereby repealed.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 559

HOUSE BILL NO. 1126
(Committee on Industry, Business and Labor)
(At the request of the Secretary of State)

TRADEMARK REGISTRATION

AN ACT to amend and reenact subsection 6 of section 47-22-02 and sections 47-22-03, 47-22-04, 47-22-05, 47-22-06, 47-22-08, and 47-22-09 of the North Dakota Century Code, relating to the registration of trademarks.

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

SECTION 1. AMENDMENT. Subsection 6 of section 47-22-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. Consists of or comprises a trademark which so resembles a trademark registered in this state or a ~~trademark or trade name previously used in this state by another and not abandoned, corporate name, limited partnership name, or fictitious name registered with the office of the secretary of state,~~ as to be likely, when applied to the goods of the applicant, to cause confusion or mistake or to deceive.

SECTION 2. AMENDMENT. Section 47-22-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-22-03. Application for registration. Subject to the limitations set forth in this chapter, any person who adopts and uses a trademark in this state may file in the office of the secretary of state, on a form to be furnished by the secretary of state, an application for registration of that trademark setting forth, but not limited to, the following information:

1. The name and business address of the person applying for such registration; and, if a corporation, the state of incorporation;
2. The goods in connection with which the mark is used and the mode or manner in which the mark is used in connection

with such goods and the class, or classes, in which such goods fall;

3. The date when the trademark was first used anywhere and the date when it was first used in this state by the applicant or his predecessor in business; and
4. A statement that the applicant is the owner of the trademark and that no other person has the right to use such trademark in this state either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive or to be mistaken therefor.

The application shall be signed ~~and verified~~ by the applicant or by a member of the firm or an officer of the corporation or association applying.

The application shall be accompanied by a specimen or facsimile of such trademark in ~~triplicate~~ duplicate.

The application for registration shall be accompanied by a filing fee of twenty thirty dollars for one class of goods and twenty dollars for each additional class, payable to the secretary of state.

SECTION 3. AMENDMENT. Section 47-22-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-22-04. Certificate of registration. Upon compliance by the applicant with the requirements of this chapter, the secretary of state shall cause a certificate of registration to be issued and delivered to the applicant. The certificate of registration shall be issued under the signature of the secretary of state and the seal of the state, and it shall show the name and business address and, if a corporation, the state of incorporation, of the person claiming ownership of the trademark, the date claimed for the first use of the trademark anywhere and the date claimed for the first use of the trademark in this state, the class, or classes, of goods and a description of the goods on which the trademark is used, a ~~reproduction~~ facsimile of the trademark, the registration date and the term of registration.

Any certificate of registration issued by the secretary of state under the provisions hereof or a copy thereof duly certified by the secretary of state shall be admissible in evidence as competent and sufficient proof of the registration of such trademark in any action or judicial proceedings in any court of this state.

SECTION 4. AMENDMENT. Section 47-22-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-22-05. Duration and renewal. Registration of a trademark hereunder shall be effective for a term of ten years from the date of registration and, upon application filed ~~within six months~~ prior

to the expiration of such term, on a form to be furnished by the secretary of state, the registration may be renewed in the same manner as a new application for a like term. A renewal fee of twenty thirty dollars for one class of goods and twenty dollars for each additional class, payable to the secretary of state, shall accompany the application for renewal of the registration.

A trademark registration may be renewed for successive periods of ten years in like manner.

The secretary of state shall notify registrants of trademarks hereunder of the necessity of renewal within the year next ninety days preceding the expiration of the ten years from the date of registration by writing to the last known address of the registrants.

Any registration in force on the date on which this chapter shall become effective shall expire ten years from the date of the registration or of the last renewal thereof or one year after the effective date of this chapter, whichever is later, and may be renewed by filing an application with the secretary of state on a form furnished by him and paying the aforementioned renewal fee therefor within six months prior to the expiration of the registration.

SECTION 5. AMENDMENT. Section 47-22-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-22-06. Assignment. Any trademark and its registration hereunder shall be assignable with the good will of the business in which the trademark is used, or with that part of the good will of the business connected with the use of and symbolized by the trademark. Assignment shall be by instruments in writing duly executed and may be recorded with made by the assignor on forms provided by the secretary of state setting forth the name and business address of the assignor and the assignee, the trademark certificate number, and the class or classes of goods on which the trademark will appear. The assignment must be filed by the secretary of state upon the payment of a fee of five thirty dollars payable to the secretary of state who, upon recording of the assignment, shall issue in the name of the assignee a new certificate for the remainder of the term of the registration or of the last renewal thereof. An assignment of any registration under this chapter shall be void as against any subsequent purchaser for valuable consideration without notice unless it is recorded with the secretary of state within three months after the date thereof or prior to such subsequent purchase.

SECTION 6. AMENDMENT. Section 47-22-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-22-08. Cancellation. The secretary of state shall cancel from the register:

1. After one year from the effective date of this chapter, all registrations under prior acts which are more than ten years old and not renewed in accordance with this chapter.
2. Any registration concerning which the secretary of state shall receive a voluntary written and signed request for cancellation thereof from the registrant or the assignee of record.
3. 2. All registrations granted under this chapter and not renewed in accordance with the provisions hereof.
4. 3. Any registration concerning which a state district court shall find any of the following:
 - a. That the registered trademark has been abandoned.
 - b. That the registrant is not the owner of the trademark.
 - c. That the registration was granted improperly.
 - d. That the registration was obtained fraudulently.
 - e. That the registration trademark is so similar, as to be likely to cause confusion or mistake or to deceive, to a trademark registered by another person in the United States Patent Office, prior to the date of the filing of the application for registration by the registrant hereunder, and not abandoned; provided, however, that should the registrant prove that he is the owner of a concurrent registration of his trademark in the United States Patent Office covering an area including this state, the registration hereunder shall not be canceled.
5. 4. When a district court shall order cancellation of a registration on any ground.

SECTION 7. AMENDMENT. Section 47-22-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-22-09. Classification. The following general classes of goods are established for convenience of administration of this chapter, but not to limit or extend the applicant's or registrant's rights, and a single application for registration of a trademark may include any or all goods upon which the trademark is actually being used comprised in a single class, but in no event shall a single application include goods upon which the trademark is being used which fall within different classes of goods.

The said classes are as follows:

1. Raw or partly prepared materials.

2. Receptacles.
3. Baggage, animal equipment, portfolios and pocketbooks.
4. Abrasives and polishing materials.
5. Adhesives.
6. Chemicals and chemical compositions.
7. Cordage.
8. Smokers' articles, not including tobacco products.
9. Explosives, firearms, equipments, and projectiles.
10. Fertilizers.
11. Inks and inking materials.
12. Construction materials.
13. Hardware and plumbing and steam-fitting supplies.
14. Metals and metal castings and forgings.
15. Oils and greases.
16. Paints and painters' materials.
17. Tobacco products.
18. Medicines and pharmaceutical preparations.
19. Vehicles.
20. Linoleum and oiled cloth.
21. Electrical apparatus, machines, and supplies.
22. Games, toys, and sporting goods.
23. Cutlery, machinery, and tools, and parts thereof.
24. Laundry appliances and machines.
25. Locks and safes.
26. Measuring and scientific appliances.
27. Horological instruments.
28. Jewelry and precious-metal ware.

29. Brooms, brushes, and dusters.
30. Crockery, earthenware, and porcelain.
31. Filters and refrigerators.
32. Furniture and upholstery.
33. Glassware.
34. Heating, lighting, and ventilating apparatus.
35. Belting, hose, machinery packing, and nonmetallic tires.
36. Musical instruments and supplies.
37. Paper and stationery.
38. Prints and publications.
39. Clothing.
40. Fancy goods, furnishings, and notions.
41. Canes, parasols, and umbrellas.
42. Knitted, netted and textile fabrics, and substitutes therefor.
43. Thread and yarn.
44. Dental, medical, and surgical appliances.
45. Soft drinks and carbonated waters.
46. Foods and ingredients of foods.
47. Wines.
48. Malt beverages and liquors.
49. Distilled alcoholic liquors.
50. Merchandise not otherwise classified.
51. Cosmetics and toilet preparations.
52. Detergents and soaps.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 560

HOUSE BILL NO. 1586
(Cleveland)

HIGHER EDUCATION PATENT INCOME

AN ACT to amend and reenact section 47-28-02 of the North Dakota Century Code, relating to sharing of income from patents from inventions and discoveries by faculty, officials, and employees of state institutions of higher education.

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

SECTION 1. AMENDMENT. Section 47-28-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-28-02. Sharing of income from patents with inventor or discoverer. Each faculty member, official, or employee of a state institution of higher learning who conceives any inventions or makes any discovery as a result of research sponsored by his the faculty member's, official's, or employee's respective institution, and discharges his any obligations to his respective the institution shall be is entitled to share in any net proceeds that may be derived from the assignment, grant, license or other disposal of such the invention or discovery. The amount of such the net proceeds shall must be computed by or with the approval of the state board of higher education, with reasonable promptness after collection thereof, and after deducting from gross proceeds such the costs and expenses as may be reasonably allocated to the particular invention or discovery. The amount of the net proceeds paid to the faculty member, official, or employee of the institution shall must be determined by the institution as a general policy determination with the approval of the state board of higher education. A minimum of fifteen thirty percent of the net proceeds shall must be paid to a faculty member, official, or employee of a state institution of higher learning who solely conceived or made the invention or discovery, and shall must be paid in shares to two or more faculty members, officials, or employees who jointly made the invention or discovery in such respective proportions as each institution may determine.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 561

HOUSE BILL NO. 1247
(Committee on Industry, Business and Labor)
(At the request of the Board of University and School Lands)

ABANDONED PROPERTY

AN ACT to amend and reenact subsection 1 of section 47-30.1-06, subsections 2 and 5 of section 47-30.1-17, subsections 3 and 4 of section 47-30.1-18, section 47-30.1-22, subsection 3 of section 47-30.1-24, sections 47-30.1-26 and 47-30.1-35 of the North Dakota Century Code, relating to abandoned property under the Uniform Unclaimed Property Act.

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

SECTION 1. AMENDMENT. Subsection 1 of section 47-30.1-06 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any demand, savings, or matured time deposit with a banking or financial organization, including a deposit that is automatically renewable, and any funds paid toward the purchase of a share, a mutual investment certificate, or any other interest in a banking or financial organization is presumed abandoned unless the owner, within ~~twenty~~ seven years has:
 - a. In the case of a deposit, increased or decreased its amount or presented the passbook or other similar evidence of the deposit for the crediting of interest;
 - b. Communicated in writing with the banking or financial organization concerning the property;
 - c. Otherwise indicated an interest in the property as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization;
 - d. Owned other property to which subdivision a, b, or c applies and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be presumed

abandoned under this subsection at the address to which communications regarding the other property regularly are sent; or

- e. Had another relationship with the banking or financial organization concerning which the owner has:
 - (1) Communicated in writing with the banking or financial organization; or
 - (2) Otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization and if the banking or financial organization communicates in writing with the owner with regard to the property that would otherwise be abandoned under this subsection at the address to which communications regarding the other relationship regularly are sent.

SECTION 2. AMENDMENT. Subsections 2 and 5 of section 47-30.1-17 of the 1985 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

- 2. The report must be verified and include:
 - a. Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of property of the value of ~~one hundred~~ one hundred fifty dollars or more presumed abandoned under this chapter.
 - b. In the case of unclaimed funds of ~~one hundred~~ one hundred fifty dollars or more held or owing under any life or endowment insurance policy or annuity contract, the full name and last known address of the insured or annuitant and of the beneficiary according to the records of the insurance company holding or owing the funds.
 - c. In the case of the contents of a safe deposit box or other safekeeping repository or of other tangible property, a description of the property and the place where it is held and may be inspected by the administrator and any amounts owing to the holder.
 - d. The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, but items of value under ~~one hundred~~ one hundred fifty dollars each may be reported in the aggregate.

- e. The date the property became payable, demandable, or returnable, and the date of the last transaction with the apparent owner with respect to the property.
 - f. Other information the administrator prescribes by rule as necessary for the administration of this chapter.
5. Not more than one hundred twenty days before filing the report required by this section, the holder in possession of property presumed abandoned and subject to custody as unclaimed property under this chapter shall send written notice to the apparent owner at the owner's last known address informing the owner that the holder is in possession of property subject to this chapter if:
- a. The holder has in its records an address for the apparent owner which the holder's records do not disclose to be inaccurate;
 - b. The claim of the apparent owner is not barred by the statute of limitations; and
 - c. The property has a value of one hundred fifty dollars or more.

SECTION 3. AMENDMENT. Subsections 3 and 4 of section 47-30.1-18 of the 1985 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

3. The administrator is not required to publish in the notice any items of less than one hundred fifty dollars unless the administrator considers their publication to be in the public interest.
4. Not later than March first, or in the case of property reported by life insurance companies, not later than September first, of the year immediately following the report required by section 47-30.1-17, the administrator shall mail a notice to each person whose last known address is listed in the report and who appears to be entitled to property of the value of one hundred fifty dollars or more presumed abandoned under this chapter and any beneficiary of a life or endowment insurance policy or annuity contract for whom the administrator has a last known address.

SECTION 4. AMENDMENT. Section 47-30.1-22 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-30.1-22. Public sale of abandoned property.

1. Except as provided in ~~subsections~~ subsection 2 and 3, the administrator, within three years after the receipt of

- abandoned property, shall sell it to the highest bidder at public sale in whatever city in the state affords in the judgment of the administrator the most favorable market for the property involved. The administrator may decline the highest bid and reoffer the property ~~for~~ at a public sale if in the judgment of the administrator the bid is insufficient. If in the judgment of the administrator the probable cost of sale exceeds the value of the property, it need not be offered for sale. Any public sale held under this section must be preceded by a single publication of notice, at least three weeks in advance of sale, in a newspaper of general circulation in the county in which the property is to be sold.
2. Securities listed on an established stock exchange must be sold at prices prevailing at the time of sale on the exchange. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method the administrator considers advisable.
 3. Unless the administrator considers it to be in the best interest of the state to do otherwise, all securities, other than those presumed abandoned under section 47-30-1-10, delivered to the administrator must be held for at least one year before the administrator may sell them.
 4. Unless the administrator considers it to be in the best interest of the state to do otherwise, all securities presumed abandoned under section 47-30-1-10 and delivered to the administrator must be held for at least three years before the administrator may sell them. If the administrator sells any securities delivered pursuant to section 47-30-1-10 before the expiration of the three-year period, any person making a claim pursuant to this chapter before the end of the three-year period is entitled to either the proceeds of the sale of the securities or the market value of the securities at the time the claim is made, whichever amount is greater, less any deduction for fees pursuant to subsection 2 of section 47-30-1-23. A person making a claim under this chapter after the expiration of this period is entitled to receive either the securities delivered to the administrator by the holder, if they still remain in the hands of the administrator, or the proceeds received from sale, less any amounts deducted pursuant to subsection 2 of section 47-30-1-23, but no person has any claim under this chapter against the state, the holder, any transfer agent, registrar, or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the administrator.

- 5- The purchaser of property at any sale conducted by the administrator pursuant to this chapter takes the property free of all claims of the owner or previous holder thereof and of all persons claiming through or under them. The administrator shall execute all documents necessary to complete the transfer of ownership.

SECTION 5. AMENDMENT. Subsection 3 of section 47-30.1-24 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. If a claim is allowed, the administrator shall pay over or deliver to the claimant the property or the amount the administrator actually received or the net proceeds if it has been sold by the administrator, together with any additional amount required by section 47-30.1-25. ~~If the claim is for property presumed abandoned under section 47-30.1-10 which was sold by the administrator within three years after the date of delivery, the amount payable for that claim is the value of the property at the time the claim was made or the net proceeds of sale, whichever is greater 47-30.1-21.~~

SECTION 6. AMENDMENT. Section 47-30.1-26 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-30.1-26. Action to establish claim. A person aggrieved by a decision of the administrator or whose claim has not been acted upon within ninety days after its filing may bring an action to establish the claim in the appropriate district court, naming the administrator as a defendant. The action must be brought within ninety days after the decision of the administrator or within one hundred eighty days after the filing of the claim if the administrator has failed to act on it. ~~if the aggrieved person establishes and is awarded the claim in an action against the administrator, the court shall award costs and reasonable attorney's fees.~~

SECTION 7. AMENDMENT. Section 47-30.1-35 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-30.1-35. Agreement to locate reported property.

1. All agreements to pay compensation to recover or assist in the recovery of property reported under section 47-30.1-17, made within twenty-four months after the date payment or delivery is made under section 47-30.1-19, are unenforceable.
2. An agreement entered into after such twenty-four month period is enforceable only if the agreement is in writing and the aggregate fee, compensation, or commission paid directly or indirectly is not in excess of twenty-five percent of the amount recovered.

Approved April 15, 1987
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