

PROPERTY

CHAPTER 552

SENATE BILL NO. 2328
(Senator Krauter)
(Representative Goetz)

SOVEREIGN LANDS

AN ACT to create and enact a new chapter to title 61 of the North Dakota Century Code, relating to the transfer of possessory interests in and the management of sovereign lands; to amend and reenact section 47-06-08 and subsection 13 of section 61-24-08 of the North Dakota Century Code, relating to the management of sovereign lands and the powers of the Garrison Diversion Conservancy District to use sovereign lands; and to repeal chapter 15-08.2 of the North Dakota Century Code, relating to the transfer of possessory interests in and the management of sovereign lands.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-06-08 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-06-08. Islands and relicted lands in navigable streams belong to state. Islands and accumulations of land formed in the beds of streams which are navigable belong to the state, if there is no title or prescription to the contrary. The control and management, including the power to execute surface and mineral leases, of islands, relictions, and accumulations of land owned by the state of North Dakota in navigable streams and waters and the beds thereof, shall be in the board of university and school lands governed by section 3 of this Act. ~~All income and proceeds derived from such lands must be deposited in the lands and minerals trust fund. This section may not be construed as affecting or changing the provisions of any contract already executed by or on behalf of the state of North Dakota or any department or agency thereof concerning such lands and does not apply to lands within the Garrison Diversion Conservancy District.~~

SECTION 2. AMENDMENT. Subsection 13 of section 61-24-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

13. ~~To exercise the control and management, including the power to dedicate to public use or to donate and convey to the United States for authorized purposes of the Garrison Diversion Unit; lands owned by the state of North Dakota in navigable streams and waters, including the bed thereof, where such lands lie within the district, as now constituted or may hereafter be modified west of the ninety-eighth meridian use navigable lakes and streams within the conservancy district for holding, impounding, and conveying water of the Garrison Diversion Unit.~~

SECTION 3. A new chapter to title 61 of the North Dakota Century Code is hereby created and enacted to read as follows:

Definitions. As used in this chapter, unless the context otherwise requires:

1. "Board" means the sovereign lands advisory board.
2. "Board of university and school lands" means that entity created by section 15-01-01.
3. "Sovereign lands" means those beds, islands, accretions, and relictions lying within the ordinary high watermark of navigable lakes and streams.
4. "State engineer" means the person appointed by the state water commission pursuant to section 61-03-01.

Administration of sovereign lands. All sovereign lands of the state must be administered by the state engineer and the board of university and school lands subject to the provisions of this chapter. Lands managed pursuant to this chapter are not subject to leasing provisions found elsewhere in this code.

Transfer of possessory interests in real property. All possessory interests now owned or that may be acquired except oil, gas, and related hydrocarbons, in the sovereign lands of the state owned or controlled by the state or any of its officers, departments, or the Bank of North Dakota, together with any future increments, are transferred to the state of North Dakota, acting by and through the state engineer. All such possessory interests in oil, gas, and related hydrocarbons in the sovereign lands of the state are transferred to the state of North Dakota, acting by and through the board of university and school lands. These transfers are self-executing. No evidence other than the provisions of this chapter is required to establish the fact of transfer of title to the state of North Dakota, acting by and through the state engineer and board of university and school lands. Proper and sufficient delivery of all title documents is conclusively presumed.

Existing contracts and encumbrances recognized. The transfers made by this chapter are subject to all existing contracts, rights, easements, and encumbrances made or sanctioned by the state or any of its officers or departments.

Duties and powers of the state engineer. The state engineer shall manage, operate, and supervise all properties transferred to it by this chapter; may enter into any agreements regarding such property; may enforce all rights of the owner in its own name; may issue and enforce administrative orders and recover the cost of the enforcement from the party against which enforcement is sought; and may make and execute all instruments of release or conveyance as may be required pursuant to agreements made with respect to such assets, whether such agreements were made heretofore, or are made hereafter.

Duties and powers of the board of university and school lands. The board of university and school lands shall manage, operate, and supervise all properties transferred to it by this chapter; may enter into any agreements regarding such property; may enforce all subsurface rights of the owner in its own name; and may make and execute all instruments of release or conveyance as may be required pursuant to agreements made with respect to

such assets, whether such agreements were made heretofore, or are made hereafter.

Deposit of income. All income derived from the lease and management of the lands acquired by the state engineer and board of university and school lands pursuant to this chapter and not belonging to other trust funds must be deposited in the lands and minerals trust fund.

Advisory board - Responsibilities. There is created a sovereign lands advisory board. The board's responsibility is to advise the state engineer and the board of university and school lands on general policies as well as specific projects, programs, and uses regarding sovereign lands. The board, being solely advisory, has no authority to require the state engineer or the board of university and school lands to implement or otherwise accept the board's recommendations.

Members of the board - Organization - Meetings.

1. The board consists of the manager of the Garrison Diversion Conservancy District, the state engineer, the commissioner of university and school lands, the director of state parks and recreation, the state game and fish commissioner, and the state health officer, or their representative.
2. The state engineer is the board's secretary.
3. The board shall meet at least four times a year at the office of the state engineer, or at any other place decided upon by the board.
4. The board may adopt rules to govern its activities.

SECTION 4. REPEAL. Chapter 15-08.2 of the North Dakota Century Code is hereby repealed.

Approved April 12, 1989
Filed April 12, 1989

CHAPTER 553

SENATE BILL NO. 2106
(Committee on Industry, Business and Labor)
(At the request of the Attorney General)

SECURITY DEPOSIT ITEMIZATION

AN ACT to amend and reenact subsection 2 of section 47-16-07.1 of the North Dakota Century Code, relating to the application of security deposits by lessors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 47-16-07.1 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. A lessor may apply security deposit money and accrued interest upon termination of a lease towards:
 - a. Any damages the lessor has suffered by reason of deteriorations or injuries to the real property or dwelling through the negligence of the lessee or his guest.
 - b. Any unpaid rent.
 - c. The costs of cleaning or other repairs which were the responsibility of the lessee, and which are necessary to return the dwelling unit to its original state when the lessee took possession, reasonable wear and tear excepted.

Application of any portion of a security deposit towards damages not paid to the lessee upon termination of the lease shall be itemized by the lessor. Such itemization together with the amount due shall be delivered or mailed to the lessee at the last address furnished lessor, along with a written notice within thirty days after termination of the lease and delivery of possession by the lessee. The notice shall contain a statement of any amount still due the lessor or the refund due the lessee. A lessor is not required to pay interest on security deposits if the period of occupancy was less than nine months in duration.

Approved March 22, 1989
Filed March 23, 1989

CHAPTER 554

SENATE BILL NO. 2301
(Olson, Maxson)

PLATTED LAND HOMESTEAD EXEMPTION WAIVER

AN ACT to amend and reenact section 47-18-05.1 of the North Dakota Century Code, relating to waiver of homestead exemptions on platted property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-18-05.1 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-18-05.1. Waiver of homestead exemption - Notice required - Exemption for platted property.

1. 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.

2. This section does not apply to mortgages on property platted under chapter 40-50.

Approved April 12, 1989
Filed April 13, 1989

CHAPTER 555

HOUSE BILL NO. 1377
(Kneil)

PLANE COORDINATE SYSTEM

AN ACT to amend and reenact sections 47-20.2-01, 47-20.2-02, 47-20.2-03, 47-20.2-04, 47-20.2-05, and 47-20.2-06 of the North Dakota Century Code, relating to the North Dakota plane coordinate system; and to repeal sections 47-20.2-07, 47-20.2-08, and 47-20.2-09 of the North Dakota Century Code, relating to the North Dakota plane coordinate system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-20.2-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-20.2-01. Purpose of chapter North Dakota coordinate system zones defined. It is the purpose of this chapter to recognize and adopt for the state of North Dakota the system of plane coordinates which has been established by the United States coast and geodetic survey. It is not the purpose of this chapter to affect existing surveys; but this chapter shall not preclude the use of the plane coordinate system in updating existing surveys. The systems of plane coordinates which have been established by the national oceanic and atmospheric administration national ocean survey/national geodetic survey or its successors for defining and stating the geographic positions or locations of points on the surface of the earth within this state are, as of the effective date of this Act, to be known and designated as the North Dakota coordinate system of 1927 and the North Dakota coordinate system of 1983. For the purpose of the use of this system these systems, the state is divided into a north zone and a south zone:

1. The area now included in the following counties shall constitute constitutes the north zone: Divide, Williams, McKenzie, Mountrail, Burke, Renville, Ward, McLean, Bottineau, McHenry, Sheridan, Pierce, Rolette, Towner, Benson, Wells, Foster, Eddy, Ramsey, Cavalier, Pembina, Walsh, Nelson, Grand Forks, Griggs, Steele, Traill.
2. The area now included in the following counties shall constitute constitutes the south zone: Dunn, Golden Valley, Slope, Bowman, Adams, Hettinger, Stark, Mercer, Oliver, Morton, Grant, Sioux, Emmons, Burleigh, Kidder, Logan, McIntosh, Stutsman, Barnes, LaMoure, Dickey, Cass, Ransom, Sargent, Richland.

SECTION 2. AMENDMENT. Section 47-20.2-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-20.2-02. Zone designation in coordinate system North Dakota coordinate system names defined. As established for use in the north zone,

the North Dakota coordinate system shall be of 1927 or the North Dakota coordinate system of 1983 is named, and in any land description in which it is used it shall must be designated the "North North Dakota coordinate system of 1927, north zone" zone, or the North Dakota coordinate system of 1983, north zone. As established for use in the south zone, the North Dakota coordinate system shall be of 1927 or the North Dakota coordinate system of 1983 is named, and in any land description in which it is used it shall must be designated the "North North Dakota coordinate system of 1927, south zone" zone, or the North Dakota coordinate system of 1983, south zone.

SECTION 3. AMENDMENT. Section 47-20.2-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-20.2-03. Plane coordinates North Dakota coordinate system defined. The plane coordinates of coordinate values for a point on the earth's surface, to be used in expressing the geographic position or location of such point in the appropriate zone of this system, shall consist of two distances, expressed in United States survey feet [meters] and decimals of a foot [meter] when using the North Dakota coordinate system of 1927. One of these distances, to be known as the X-coordinate, shall give the position in an east and west east-west direction; the other, to be known as the Y-coordinate, shall give the position in a north and south north-south direction. These coordinates shall be made to depend upon and conform to the coordinates on the North Dakota coordinate system, of the triangulation and traverse stations of the United States coast and geodetic survey within the state of North Dakota; as those coordinates have been determined by the said survey plane rectangular coordinate values for the monumented points of the North American horizontal geodetic control network as published by the national ocean survey/national geodetic survey, or its successors, and the plane coordinates which have been computed on the systems defined in this chapter. Any such station may be used for establishing a survey connection to either North Dakota coordinate system. For the purposes of converting coordinates of the North Dakota coordinate system of 1983 from meters to feet, the international survey foot must be used. The conversion factor is: one foot equals 0.3048 meter exactly.

SECTION 4. AMENDMENT. Section 47-20.2-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-20.2-04. Reference to tracts extending into other coordinate zones: When any tract of land to be defined by a single description extends from one into the other of the coordinate zones, the positions of all points on its boundaries may be referred to either of the two zones, the zone which is used being specifically named in the description. Federal and state coordinate description same tract - Federal precedence. Whenever coordinates based on the North Dakota coordinate system are used to describe any tract of land which in the same document is also described by reference to any subdivision, line, or corner of the United States public land surveys, the description by coordinates must be construed as supplemental to the basic description of each subdivision, line, or corner contained in the official plats and field notes filed of record, and, in the event of any conflict, the description by reference to the subdivision, line, or corner of the United States public land surveys prevails over the description by coordinates, unless the coordinates are upheld by adjudication, at which time the coordinate description will prevail. This chapter does not require any purchaser or mortgagee to rely on a description, any part of which depends exclusively

upon the North Dakota coordinate system, unless the description has been adjudicated as provided in this section.

SECTION 5. AMENDMENT. Section 47-20.2-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-20.2-05. ~~North~~ North Dakota coordinate system ~~system~~ origins defined.

1. For the purposes of more precisely defining the ~~North~~ North Dakota coordinate system ~~system~~ of 1927, the following definition definitions by the United States coast and geodetic survey ~~is~~ are adopted:
 - a. The North Dakota coordinate system of 1927, north zone, is a Lambert conformal conic projection of the Clarke spheroid of 1866, having standard parallels at north latitudes, forty-seven degrees twenty-six minutes and ~~at~~ at forty-eight degrees forty-four minutes along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian one hundred degrees thirty minutes west of Greenwich and the parallel forty-seven degrees zero minutes north latitude. This origin is given the coordinates:
 $x = 2,000,000$ feet [609.6 kilometers], and $y = 0$ feet [0 kilometers].
 - b. The North Dakota coordinate system of 1927, south zone, is a Lambert conformal conic projection of the Clarke spheroid of 1866, having standard parallels at north latitudes forty-six degrees eleven minutes and ~~at~~ at forty-seven degrees twenty-nine minutes along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian one hundred degrees thirty minutes west of Greenwich and the parallel forty-five degrees forty minutes north latitude. This origin is given the coordinates:
 $x = 2,000,000$ feet [609.6 kilometers], and $y = 0$ feet [0 kilometers].
2. The position of the North Dakota coordinate system shall be as marked on the ground by triangulation or traverse stations established in conformity with standards adopted by the United States coast and geodetic survey for first-order and second-order work; whose geodetic positions have been rigidly adjusted on the North American datum of 1927; and whose coordinates have been computed on the system herein defined. Any such station may be used for establishing a survey connection with the North Dakota coordinate system. For the purposes of more precisely defining the North Dakota coordinate system of 1983, the following definition by the national ocean survey/national geodetic survey is adopted:
 - a. The North Dakota coordinate system of 1983, north zone, is a Lambert conformal conic projection of the North American datum of 1983, having standard parallels at north latitude of forty-seven degrees twenty-six minutes and forty-eight degrees forty-four minutes along which parallels the scale shall be

exact. The origin of coordinates is at the intersection of the meridian one hundred degrees thirty minutes west of Greenwich and the parallel forty-seven degrees zero minutes north latitude. This origin is given the coordinates:

x = 600,000.0000 meters, and y = 00.0000 meters.

- b. The North Dakota coordinate system of 1983, south zone, is a Lambert conformal conic projection of the North American datum of 1983, having standard parallels at north latitude of forty-six degrees eleven minutes and forty-seven degrees twenty-nine minutes along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian one hundred degrees thirty minutes west of Greenwich and the parallel forty-five degrees forty minutes north latitude. This origin is given the coordinates:

x = 600,000.0000 meters, and y = 00.0000 meters.

SECTION 6. AMENDMENT. Section 47-20.2-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-20.2-06. Coordinates to be established in conformity with standards. North Dakota coordinate system - Use of term. The use of the North Dakota coordinate system of 1927 north zone or south zone or the North Dakota coordinate system of 1983 north zone or south zone on any map, report of survey, or other document must be limited to coordinates based on the North Dakota coordinate systems as defined in this chapter. The map, report, or document must include a statement describing the standard of accuracy, as defined by the national ocean survey/national geodetic survey, maintained in developing the coordinates shown therein. The coordinates must be established in conformity with these standards:

1. No coordinates based on the North Dakota coordinate system, purporting to define the position of a point on a land boundary, shall may be presented to be recorded in any public records or deed records unless such the point is connected to a triangulation or traverse station established in conformity with the standards prescribed in section 47-20.2-05 this chapter. The connecting traverse or triangulation shall conform to the standards set forth in section 47-20.2-05, and a copy of the calculations of the connection shall be included in the description.
2. Stations Coordinate values used in land descriptions under this section may be set by any duly authorized public agency, registered professional engineer, or must be certified by a duly registered land surveyor, if said stations conform to the standards of section 47-20.2-05, and if the descriptions and calculations thereof are of public record under the laws of this state.

SECTION 7. REPEAL. Sections 47-20.2-07, 47-20.2-08, and 47-20.2-09 of the North Dakota Century Code are hereby repealed.

Approved March 14, 1989
Filed March 15, 1989

CHAPTER 556

SENATE BILL NO. 2221
(Committee on Finance and Taxation)
(At the request of the Tax Department)

ADMINISTRATION OF VARIOUS TAX LAWS

AN ACT to create and enact a new section to chapter 47-21 and a new subsection to section 57-40.3-11 of the North Dakota Century Code, relating to penalty and interest on tax levied on selling and licensing performing rights and fixing motor vehicle excise tax audit assessments; and to amend and reenact section 57-37.1-01 of the North Dakota Century Code, relating to the federalization of the estate tax.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 47-21 of the North Dakota Century Code is hereby created and enacted to read as follows:

Administration. The provisions of chapter 57-39.2, pertaining to the administration of the retail sales tax, including provisions for penalty and interest, not in conflict with the provisions of this chapter, shall govern the administration of the tax levied by this chapter.

SECTION 2. AMENDMENT. Section 57-37.1-01 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37.1-01. Definitions. The following words, terms, and phrases, when used in this chapter, have the meaning ascribed to them in this section, except when the context clearly indicates a different meaning:

1. "Federal gross estate" means the gross estate of a decedent as determined for federal estate tax purposes pursuant to the provisions of the United States Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, 1988.
2. "Federal taxable estate" means the taxable estate of a decedent as determined for federal estate tax purposes pursuant to the provisions of the United States Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, 1988.
3. "Nonresident decedent" means an individual who at the time of his or her death was not a resident decedent.
4. "Personal representative" or "personal representative of an estate" means the executor or administrator of the decedent, or, if there is no executor or administrator appointed, qualified, and acting within this state, then any person in actual or constructive possession of any property having a situs in this state which is included in the federal gross estate of the decedent.

5. "Resident decedent" means an individual whose residence at the time of his or her death was in North Dakota according to the rules for determining residence as provided in section 54-01-26.
6. "Situs of property" means, as to real property, the state or country in which it was situated at the time of the decedent's death; as to tangible personal property, the state or country in which it was normally kept or located at the time of the decedent's death; as to intangible personal property, the state or country in which the decedent was a resident at death; and when used in reference to property having a situs in North Dakota it also means the county in which the property has its situs as determined in accordance with this subsection. Provided, however, that as to intangible personal property a resident may specify in his or her will that the situs of all, or of particular items of, intangible personal property shall be at any ~~such~~ location within a county or counties in this state at which he or she had resided for at least fifteen years after attaining eighteen years of age.
7. "Tax commissioner" means the tax commissioner of the state of North Dakota.
8. ~~"United States Internal Revenue Code of 1954, as amended" means the United States Internal Revenue Code of 1954 as amended through December 31, 1986, and also includes references to the Internal Revenue Code of 1986-~~

SECTION 3. AMENDMENT. A new subsection to section 57-40.3-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

If upon audit the commissioner determines that a motor vehicle excise tax has not been paid or an additional tax is due, the commissioner shall give notice of determination of the tax due to the person liable for the tax. The notice of determination of tax due fixes the tax finally and irrevocably unless within fifteen days of the date of the notice the person against whom the tax is assessed applies to the commissioner for a hearing under chapter 28-32 or unless the commissioner reduces the liability relating to assessments on the commissioner's own motion. The provisions of chapter 57-39.2 not in conflict with the provisions of this chapter govern the administration of the tax levied in this chapter.

Approved March 9, 1989
Filed March 9, 1989

CHAPTER 557

SENATE BILL NO. 2214
(Committee on Industry, Business and Labor)
(At the request of the Secretary of State)

TRADE NAMES

AN ACT to create and enact two new sections to chapter 47-25 of the North Dakota Century Code, relating to assignment or cancellation of trade names; and to amend and reenact sections 47-25-02, 47-25-03, 47-25-04, and 47-25-05 of the North Dakota Century Code, relating to trade names.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-25-02 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-25-02. Trade name - Registration - Statement - Contents —~~Change of registration.~~ Any person who engages in business in this state under a trade name may register with the secretary of state for purposes of registering a trade name, a statement executed by each owner upon blanks furnished by the secretary of state, setting forth: (1) the trade name to be registered, (2) the name or names and addresses of each and every owner of the business, and (3) the nature of the business in detail. ~~If, however, the interest of any person or persons engaged in business under a trade name shall change or cease to exist; or any other person shall become interested therein; such change shall be registered within ninety days after any change shall take place in the ownership of the business or any part thereof in the same manner as an original registration.~~

SECTION 2. AMENDMENT. Section 47-25-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-25-03. Trade name - Nature. No trade name registered shall be the same as, or deceptively similar to, the name of any other trade name, domestic or foreign corporation name, or limited partnership authorized to do business in this state, or a name the right to which is in any manner reserved or registered in the office of the secretary of state.

SECTION 3. AMENDMENT. Section 47-25-04 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-25-04. Trade names - Registration - ~~Fee Fees~~ - Renewal - Notice. For the registration of each trade name as provided for in this chapter, there shall be paid to the secretary of state a fee of twenty-five dollars for an original registration, a fee of twenty-five dollars for an assignment, and a fee of ten dollars for ~~a~~ any other change in the original registration as provided in this chapter. Any registration shall remain in force for a period of five years from the date of the original registration, and may be renewed by reregistering in the same manner as an original registration, if renewed within thirty days before the expiration date. The secretary of

state shall notify the registrant by mail at least ninety days before the expiration of such registrations.

SECTION 4. AMENDMENT. Section 47-25-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-25-05. Certificate of registration — ~~Publication~~. Every certificate of the registration of a trade name, within thirty days from the time of the registration of such trade name, ~~shall~~ must be indexed in the office of the secretary of state and a copy of the certificate ~~shall~~ must be given to the registrant.

SECTION 5. A new section to chapter 47-25 of the North Dakota Century Code is hereby created and enacted to read as follows:

Assignment. If the interest of any person engaged in business under a trade name changes or ceases to exist, or any other person becomes interested therein, the assignment of ownership must be registered within ninety days after any change takes place. Any trade name and its registration is assignable with the good will of the business in which the trade name is used. Assignment must be made by the assignor on forms provided by the secretary of state setting forth the trade name, the names and addresses of each assignee, and the nature of the business. The assignment must be filed by 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.

SECTION 6. A new section to chapter 47-25 of the North Dakota Century Code is hereby created and enacted to read as follows:

Cancellation. The secretary of state shall cancel from the register:

1. Any registration concerning which the secretary of state receives a voluntary written and signed request for cancellation from the registrant or the assignee of record.
2. Any registration concerning which a state district court finds any of the following:
 - a. That the registered trade name has been abandoned.
 - b. That the registrant is not the owner of the trade name.
 - c. That the registration was granted improperly.
 - d. That the registration was obtained fraudulently.
 - e. That the trade name registered is so similar to a trade name registered by another person as to be likely to cause confusion or mistake or to deceive.
3. Any registration a district court orders canceled on any grounds.

Approved March 14, 1989
Filed March 15, 1989

CHAPTER 558

HOUSE BILL NO. 1100
(Committee on Judiciary)
(At the request of the Commission on Uniform State Laws)

UNIFORM TRADE SECRETS ACT CHANGES

AN ACT to amend and reenact sections 47-25.1-02, 47-25.1-03, and 47-25.1-07 of the North Dakota Century Code, relating to the Uniform Trade Secrets Act, and to amend and reenact section 9 of chapter 508 of the 1983 Session Laws of North Dakota, relating to the time of taking effect of the Uniform Trade Secrets Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-25.1-02 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-25.1-02. Injunctive relief.

1. Actual or threatened misappropriation may be enjoined. Upon application to the court, an injunction shall be terminated when the trade secret has ceased to exist, but the injunction may be continued for an additional reasonable period of time to eliminate commercial advantage that otherwise would be derived from the misappropriation.
2. ~~If the court determines that it would be unreasonable to prohibit future use~~ In exceptional circumstances, an injunction may condition future use upon payment of a reasonable royalty for no longer than the period of time ~~the~~ for which use could have been prohibited. Exceptional circumstances include a material and prejudicial change of position prior to acquiring knowledge or reason to know of misappropriation that renders a prohibitive injunction inequitable.
3. In appropriate circumstances, affirmative acts to protect a trade secret may be compelled by court order.

SECTION 2. AMENDMENT. Section 47-25.1-03 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-25.1-03. Damages.

1. ~~In addition to or in lieu of injunctive relief~~ Except to the extent that a material and prejudicial change of position prior to acquiring knowledge or reason to know of misappropriation renders a monetary recovery inequitable, a complainant may be entitled to recover damages for the actual loss caused by misappropriation.

A complainant also may recover for Damages can include both the actual loss caused by misappropriation and the unjust enrichment caused by misappropriation that is not taken into account in computing damages for actual loss. In lieu of damages measured by any other method, the damages caused by misappropriation may be measured by imposition of liability for a reasonable royalty for a misappropriator's unauthorized disclosure or use of a trade secret.

2. If willful and malicious misappropriation exists, the court may award exemplary damages in an amount not exceeding twice any award made under subsection 1.

SECTION 3. AMENDMENT. Section 47-25.1-07 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-25.1-07. Effect on other law.

1. ~~This~~ Except as provided in subsection 2, this chapter displaces conflicting tort, restitutionary, and other law of this state pertaining to providing civil liability remedies for misappropriation of a trade secret.
2. This chapter does not affect:
 - a. Contractual or other civil liability or relief that is remedies, whether or not based upon misappropriation of a trade secret; or
 - b. Criminal liability for Other civil remedies that are not based upon misappropriation of a trade secret; or
 - c. Criminal remedies, whether or not based upon misappropriation of a trade secret.

SECTION 4. AMENDMENT. Section 9 of chapter 508 of the 1983 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

SECTION 9. Time of taking effect. This Act takes effect on July 1, 1983, and does not apply to misappropriation occurring prior to the effective date. With respect to a continuing misappropriation that began prior to the effective date, the Uniform Trade Secrets Act also does not apply to the continuing misappropriation that occurs after the effective date.

Approved March 9, 1989
Filed March 9, 1989

CHAPTER 559

SENATE BILL NO. 2457
(Hanson)

TOWNSHIP OFFICIALS

AN ACT to amend and reenact section 47-26-04, subsections 7 and 18 of section 58-03-07, sections 58-04-05, 58-09-02, 58-13-04, and 58-13-05 of the North Dakota Century Code, relating to fence viewer fees, penalties for violations of township rules, township association membership fees, salary of township officials, mileage expenses of township assessors, and impounding animals; and to repeal subsection 19 of section 58-06-01 and section 58-13-02 of the North Dakota Century Code, relating to township budgets for 1988 and 1989 and fees of poundmasters.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-26-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-26-04. Fees of fence viewers. Each township supervisor or county commissioner ~~shall~~ may be paid by the person employing him, at the rate of ~~one dollar no more than fifteen dollars~~ per day for the time he is employed as a fence viewer. If such person neglects to pay such fees within thirty days after the service is performed, the township supervisor or county commissioner may recover the amount thereof in a civil action.

SECTION 2. AMENDMENT. Subsections 7 and 18 of section 58-03-07 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

7. To impose penalties ~~not exceeding ten dollars~~ for each offense on persons offending against any rule or regulation established by the township.
18. To authorize the expenditure of funds to pay membership fees in county, state, and national associations of township governments. ~~The expenditures shall not exceed the equivalent of the proceeds of one-tenth of one mill of the taxable valuation of the township, and may be any lesser amount.~~ This subsection shall not be construed to authorize a mill levy.

SECTION 3. AMENDMENT. Section 58-04-05 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-04-05. Organization of annual or special meetings. The qualified electors present on the day of the annual or special meeting shall be called to order by the township clerk, or, if he is not present, the qualified electors may elect by acclamation one of their number to act as chairman for the purpose of calling the meeting to order and to act as clerk after the selection of a moderator. The qualified electors shall elect by acclamation

three of their number as judges, and such judges shall be sworn and shall act as the judges of the qualifications of the qualified electors of the township. The qualified electors shall proceed to choose one of their number to preside as moderator of the meeting. The clerk of the township, if present, or in his absence, the clerk of the meeting, shall keep full minutes of its proceedings in which he shall enter at length every order, direction, rule, and regulation made by the meeting. Meeting and voting hours of an annual or special meeting shall be optional with the township board, provided proper notice is given under the provisions of this chapter. The positions of moderator, clerk, and the three judges shall be separate and distinct positions and no such positions shall be held by the same person. The moderator, clerk, and the three judges each shall ~~may~~ be entitled to a salary of ~~eight~~ no more than fifteen dollars per day for each day actually expended in the performance of their duties. Such salary shall be paid out of township funds made available for such purpose. However, in those townships in which the offices of township clerk and treasurer have been merged, the person holding such office shall receive compensation as provided by law as township treasurer only, and shall not receive additional compensation for his duties as clerk.

SECTION 4. AMENDMENT. Section 58-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-09-02. Compensation of assessor. The township assessor shall receive as compensation for his services a sum determined by the board of township supervisors for the time actually and necessarily employed in making and completing the assessment of the township and ~~fifteen~~ twenty cents per mile [1.61 kilometers] for each mile [1.61 kilometers] necessarily traveled in the performance of his duties. The compensation shall be paid out of the township treasury upon an itemized statement setting forth the actual time spent in the work of assessor, approved by the board of township supervisors.

SECTION 5. AMENDMENT. Section 58-13-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-13-04. Notice of impounding - Foreclosure of lien. If the legal charges and expenses of the poundmaster are not paid and the animals removed within ten days after they are impounded, the poundmaster shall give notice by posting in the three most public places in the township notices that the animals, describing them, are impounded and that unless they are taken away and the fees paid within thirty days after the date of the notice, the poundmaster will sell them at public vendue at the place where the township meetings usually are held. On the day designated in the notice, the poundmaster shall expose the animals for sale and sell them to the highest bidder for cash, and he shall receive two percent of the purchase money received for each animal for his services in selling the same.

SECTION 6. AMENDMENT. Section 58-13-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-13-05. Poundmaster may destroy worthless animals. If any animal taken up by the poundmaster is worthless and cannot be sold, the poundmaster shall destroy it, and the board of township supervisors shall pay the poundmaster out of the general fund of the township ~~the statutory fee for the care of such animal.~~

SECTION 7. REPEAL. Section 58-13-02 of the North Dakota Century Code and subsection 19 of section 58-06-01 of the 1987 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 28, 1989
Filed March 28, 1989

CHAPTER 560

HOUSE BILL NO. 1471
(Representative Enget)
(Senator J. Meyer)

CERTIFICATE OF DEPOSIT ABANDONMENT

AN ACT to amend and reenact subsection 1 of section 47-30.1-06 of the North Dakota Century Code, relating to abandonment of certificates of deposit.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 47-30.1-06 of the 1987 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, in the case of a matured time deposit, the banking or financial organization has mailed, at least once every seven years certified mail, requesting a return receipt, to the owner and the receipt has been returned and signed by the addressee, or unless the owner, within 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.

Approved March 22, 1989
Filed March 23, 1989

CHAPTER 561

SENATE BILL NO. 2202
(Committee on State and Federal Government)
(At the request of the Board of University and School Lands)

ABANDONED PROPERTY INFORMATION

AN ACT to create and enact a new section to chapter 47-30.1 of the North Dakota Century Code, relating to the public dissemination and confidentiality of information held by the state abandoned property office; and to amend and reenact subsections 1 and 2 of section 47-30.1-18 and subsection 1 of section 47-30.1-23 of the North Dakota Century Code, relating to the time for publication of notice of abandoned property reported by life insurance companies, the contents of the publication of notice of abandoned property, and the public dissemination of information held by the state abandoned property office.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 1 and 2 of section 47-30.1-18 of the 1987 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. The administrator shall cause a notice to be published not later than March first, ~~or in the case of property reported by life insurance companies, September first,~~ of the year immediately following the report required by section 47-30.1-17 at least once a week for two consecutive weeks in a newspaper of general circulation in the county of this state in which is located the last known address of any person to be named in the notice. If no address is listed or the address is outside this state, the notice must be published in the county in which the holder of the property has its principal place of business within this state.
2. The published notice must be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned Property" and contain:
 - a. The names in alphabetical order and last known address, if any, of persons listed in the report and entitled to notice within the county as specified in subsection 1.
 - b. A statement that information concerning the property and the name and last known address of the holder may be obtained by any person possessing an interest in the property by addressing an inquiry to the administrator.
 - c. ~~A statement that, if proof of claim is not presented by the owner to the holder and the owner's right to receive the property is not established to the holder's satisfaction before April twentieth, or, in the case of property reported by life~~

~~insurance companies; before October twentieth, the property will be placed not later than May first, or in the case of property reported by life insurance companies, not later than November first, in the custody of the administrator and all further claims must thereafter be directed to the administrator.~~

SECTION 2. AMENDMENT. Subsection 1 of section 47-30.1-23 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Except as otherwise provided by this section, the administrator shall promptly deposit in the state treasury to the credit of the common schools trust fund all funds received under this chapter, including the proceeds from the sale of abandoned property under section 47-30.1-22. The administrator shall retain in a separate trust fund an amount not less than one hundred thousand dollars from which prompt payment of claims duly allowed must be made. ~~Before making the deposit, the administrator shall record the name and last known address of each person appearing from the holders' reports to be entitled to the property and the name and last known address of each insured person or annuitant and beneficiary and with respect to each policy or contract listed in the report of an insurance company its number, the name of the company, and the amount due. The record must be available for public inspection at all reasonable business hours.~~

SECTION 3. A new section to chapter 47-30.1 of the 1987 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Abandoned property lists - Preparation - Contents - Confidentiality.
The administrator shall prepare two lists with information about property paid or delivered to the administrator under section 47-30.1-19.

1. One list must refer to all property in the administrator's custody and must contain the name and last known address of each person appearing from the holders' report to be entitled to the property and the name and last known address of each insured person or annuitant and beneficiary from the report of an insurance company.
2. The second list must refer to property that has been in the administrator's custody for more than twenty-four months and must contain the following information:
 - a. The name and last known address of each person appearing from the holders' report to be entitled to the property and the name and last known address of each insured person or annuitant and beneficiary from the report of an insurance company.
 - b. The amount paid or delivered to the administrator.
 - c. The name of the person who paid or delivered the property to the administrator.
 - d. A general description of the property.

- e. Other information the administrator deems appropriate for inclusion in the list.
3. The lists described in this section must be updated semiannually.
 4. The lists described in this section must be available for public inspection at all reasonable business hours and copies of each list must be available to the public for a fee to be set by the administrator.
 5. Reports filed with the administrator under section 47-30.1-17 are not public records and are not open to public inspection until twenty-four months after the date payment or delivery is made under section 47-30.1-19.

Approved March 9, 1989
Filed March 9, 1989