

## **CHAPTER 16.1-12**

### **CERTIFICATES OF NOMINATION - VACANCIES**

#### **16.1-12-01. Certificate of nomination - Party and independent.**

A certificate of nomination must be:

1. The certificate of nomination required to be executed by the state or a county canvassing board pursuant to sections 16.1-15-40 and 16.1-15-21, respectively, for party nominations;
2. The certificate of nomination by petition for independent nominations provided for by this chapter; or
3. The certificate of nomination executed by a state or district executive committee for party nominations provided for by this chapter.

#### **16.1-12-02. Certificates of nomination by petition - Form and contents.**

Certificates of nomination for nominees for an office to be filled at a general or special election, except for an office appearing on the no-party ballot, may be made as provided by this section. Except for nominees for president of the United States, names of nominees so nominated must appear on the ballot as independent nominations. The names of nominees for president of the United States may appear on the ballot with a designation, not to exceed five words, that names the organization or political party to which the presidential candidate affiliates. The designation may not falsely indicate an affiliation with or the support of any political party organized in accordance with this title or include any substantive word or phrase that is profane or that is already included in or resembles the name of a political party entitled to a separate column under section 16.1-11-30. Except for candidates for the office of president of the United States, each certificate of nomination by petition must meet the specifications for nominating petitions set forth in section 16.1-11-16. A political party or organization desiring to submit to the secretary of state the name of a qualified candidate for the office of the president of the United States may begin gathering the signatures for the certificate of nomination on the first day of January of a presidential election year and shall submit the petition to the secretary of state before four p.m. on the sixty-fourth day before the general election. The signatures on the petition must be in the following number:

1. Except as provided in subsection 3, if the nomination is for an office to be filled by the qualified electors of the entire state, there must be no fewer than one thousand signatures.
2. If the nomination is for an office to be filled by the qualified electors of a district less than the entire state, the number of signatures must be at least two percent of the resident population of the district as determined by the most recent federal decennial census, but in no case may more than three hundred signatures be required.
3. If the nomination is for the office of president, there must be no fewer than four thousand signatures and the petition must contain the names of the presidential and vice presidential candidates along with the names of the elector nominees and alternate elector nominees for the office of the North Dakota presidential electors. The elector nominees and alternate elector nominees must be qualified electors of North Dakota.
4. If the petition is for the office of governor or lieutenant governor, it must contain the names and other required information of candidates for both those offices.

##### **16.1-12-02.1. Applicant's name placed upon ballot - Affidavit to accompany petition.**

Upon receipt by the secretary of state of the certificate of nomination provided for in section 16.1-12-02 accompanied by the following affidavit, the secretary of state shall place the applicant's name upon the general election ballot. The affidavit may be filed electronically, through the mail, or by personal delivery, and must be in the possession of the appropriate filing officer before four p.m. on the sixty-fourth day before the general or special election. If the affidavit is filed electronically, the candidate shall retain the original copy. The affidavit must be substantially as follows:

State of North Dakota )  
 ) ss.  
 County of \_\_\_\_\_ )  
 I, \_\_\_\_\_, being sworn, say that I reside at \_\_\_\_\_, in the city of \_\_\_\_\_, in the county of \_\_\_\_\_, state of North Dakota; and zip code of \_\_\_\_\_; that I am a candidate for nomination to the office of \_\_\_\_\_ to be chosen at the general election to be held on \_\_\_\_\_, \_\_\_\_\_, and I request that my name be printed upon the general election ballot as provided by law, as a candidate of \_\_\_\_\_ party for said office. I am requesting that my name be listed on the ballot as I have identified my ballot name below. I understand that nicknames are allowed as part of my ballot name, but titles and campaign slogans are not permissible. I have reviewed the requirements to hold office and I certify that I am qualified to serve if elected.

\_\_\_\_\_ Ballot name requested  
 Date \_\_\_\_\_ Candidate's signature  
 Subscribed and sworn to before me on \_\_\_\_\_, \_\_\_\_\_.  
 \_\_\_\_\_ Notary Public  
 NOTARY SEAL My Commission Expires \_\_\_\_\_

**16.1-12-02.2. Certificate of candidacy by write-in candidates.**

1. An individual who intends to be a write-in candidate for president of the United States or for statewide or judicial district office at any election shall file a certificate of write-in candidacy with the secretary of state by four p.m. on the twenty-first day before the election. The certificate must contain the name and address of the candidate and be signed by the candidate. Before the thirteenth day before the election, the secretary of state shall certify the names of the candidates to each county auditor as write-in candidates.
2. An individual who intends to be a write-in candidate at the general election for president of the United States shall file a certificate of write-in candidacy with the secretary of state by four p.m. on the twenty-first day before the general election. The certificate must contain the names and addresses of the candidates for presidential electors for that presidential candidate and a certification of acceptance signed by each candidate for elector. The candidate shall sign the certificate. The certificate may also include the name and address of a candidate for vice president of the United States and a certification of acceptance signed by that candidate. The secretary of state shall prescribe the form of the certificate of write-in candidacy and the certification of acceptance. Before the thirteenth day before the election, the secretary of state shall certify the names of the presidential candidates and the presidential electors to each county auditor as write-in candidates.
3. An individual who intends to be a write-in candidate for any legislative district office shall file a certificate of write-in candidacy with the secretary of state. The certificate must contain the name, address, and signature of the candidate. Certificates must be filed by four p.m. on the twenty-first day before the election.
4. A certificate under this section is not required when:
  - a. No names will appear on the ballot for an office;
  - b. The number of candidates appearing on the ballot for an office is less than the number to be elected; or
  - c. The number of candidates appearing on the ballot for a party office is less than the number of nominations a party is entitled to make.
5. An individual required to file a certificate of write-in candidacy may not seek more than one office appearing on the primary and general election ballots.

**16.1-12-02.3. Nominating petition for an independent candidate not to be circulated more than one hundred fifty days before filing time - Special election.**

A petition provided for in this chapter may not be circulated or signed more than one hundred fifty days before the date when any petition must be filed under this chapter. Any signatures to a petition obtained more than one hundred fifty days before that date may not be counted. A nominating petition for a special election may not be circulated or signed more than thirty days before the date when the petition must be filed.

**16.1-12-03. Certificate of nomination to contain only one name - Individual to participate in only one nomination - Exception.**

No certificate of nomination provided for by this chapter, except in the case of presidential electors, may contain the name of more than one nominee for each office to be filled. An individual elected or appointed to an office appearing on the no-party ballot or seeking nomination and election to a no-party office may also seek nomination to legislative office and may serve in the legislative assembly, unless the no-party office is the office of district court judge, or a statewide elective office. Except as may be permitted in this section, no individual may participate directly or indirectly in the nomination of more than one individual for each office to be filled on the general election ballot, except an individual may sign a certificate of nomination by petition for more than one individual for each office, and no individual may accept a nomination to more than one office on the general election ballot. No political party is entitled to more than one set of nominees on the official general election ballot.

**16.1-12-04. Certificates of nomination - Time and place of filing.**

1. Certificates of nomination for nominees for offices to be filled by the qualified electors of the entire state must be filed with the secretary of state. Not less than fifty-five days before any general or special election to fill any statewide office, the secretary of state shall electronically transmit a certified list to each county auditor the names of the individuals nominated for statewide office according to this chapter as shown on the certificates of nomination filed in the secretary of state's office.
2. Certificates of nomination for nominees for county offices must be filed with the county auditor of the county in which the candidate resides.
3. Certificates of nomination must, without regard to the means of delivery, be filed and in the actual possession of the appropriate officer not later than four p.m. on the sixty-fourth day prior to the day of election.
4. The secretary of state and the county auditors shall keep on file for six months all certificates of nomination filed with them under this chapter and all certificates of nomination must be open to public inspection during regular business hours.

**16.1-12-05. Secretary of state to certify nominations to county auditor - Duty of county auditor.**

Repealed by S.L. 1997, ch. 200, § 4.

**16.1-12-06. Individual nominated by more than one party.**

When one individual has been nominated for the same office by more than one body of electors qualified to make nominations for public office, the nominee shall file with the secretary of state on or before the last day fixed by law for filing certificates of nomination for the office, a signed statement designating the political party the nominee desires to represent. The political party so designated must be the political party of one of the bodies of electors by whom the individual was nominated. In the absence of a timely written designation as provided by this section, the secretary of state shall place the individual's name with the name of the political party of the body of electors from which the individual's nomination was received first.

**16.1-12-07. If nominee declines - Certificate void.**

Any individual intending to decline a nomination shall do so by filing written notice of that intention with the officer with whom the certificate nominating the individual is filed. If the written

notice is filed with the appropriate officer within forty-eight hours after four p.m. on the sixty-fourth day before the election, the nomination is void. If written notice is mailed, it must be in the physical possession of the appropriate officer within forty-eight hours after four p.m. on the sixty-fourth day before the election.

**16.1-12-08. Vacancy occurring on ballot before election day but after ballots are printed - Stickers used.**

Repealed by S.L. 2001, ch. 203, § 9.

**16.1-12-09. Filling vacancy existing on no-party ballot - Petition required - Time of filing.**

1. Whenever a vacancy exists on a no-party ballot for a state office or for judge of a district court, the vacancy may be filled by filing with the secretary of state, before four p.m. on the sixty-fourth day, a written petition as provided in section 16.1-11-06, stating that the petitioner desires to become a candidate for election to the office for which a vacancy exists. The petition for the nomination of any individual to fill the vacancy must be signed by qualified electors equal in number to at least two percent of the total vote cast for the office of governor in the state or district, at the most recent general election at which the office of governor was voted upon, but in no case may more than three hundred signatures be required.
2. Whenever a vacancy exists on a no-party ballot in a county or district within a county, the vacancy may be filled by filing with the county auditor before four p.m. of the sixty-fourth day a written petition as provided in section 16.1-11-11, stating the petitioner desires to become a candidate for election to the office for which a vacancy exists. The petition for the nomination of any individual to fill the vacancy must be signed by qualified electors equal in number to at least thirty percent of the total vote cast for the office of governor at the most recent general election in the county or district at which the office of governor was voted upon, but in no case may more than three hundred signatures be required.
3. A vacancy in the no-party ballot must be deemed to exist when:
  - a. A candidate nominated at the primary election dies, resigns, or otherwise becomes disqualified to have the candidate's name printed on the ballot at the general election.
  - b. No candidates were nominated at the primary election because the office did not yet exist.
  - c. The timing of the vacancy in an office makes it impossible to have the office placed on the ballot.
4. The petition or certificate of endorsement may be filed electronically, through the mail, or by personal delivery, and must be complete and in the possession of the filing officer before four p.m. on the sixty-fourth day before the general or special election.

**16.1-12-10. Party committee to fill vacancy occurring after nomination for party office.**

1. If a vacancy occurs in a slate of statewide candidates after the candidates have been nominated at the primary election, the state executive committee of the party that submitted the slate of statewide candidates may fill the vacancy by filing a certificate of nomination with the secretary of state. The chairman and secretary of the committee shall make and file with the secretary of state a certificate setting forth the cause of the vacancy, the name of the individual for whom the new nominee is to be substituted, the fact the committee was authorized to fill vacancies, and any other information required to be provided in an original certificate of nomination. When the certificate of nomination to fill a vacancy is filed, the secretary of state shall certify the new nomination and the name of the individual who has been nominated to fill the vacancy in place of the original nominee to the various county auditors. If the secretary of state already has forwarded the certificate, the secretary of state shall certify to the county auditors the name and address of the new nominee, the office the new nominee is

- nominated for, the party or political principle the new nominee represents, and the name of the individual for whom the new nominee is substituting, as soon as possible. Failure to publish the name of a new nominee does not invalidate the election.
2. If a vacancy occurs in a slate of legislative candidates after the candidates have been nominated at the primary election, the executive committee of the district in which the vacancy occurs and of the party that submitted the slate of legislative candidates may fill the vacancy by filing a certificate of nomination with the secretary of state. The chairman and secretary of the committee shall make and file with the secretary of state a certificate setting forth the cause of the vacancy, the name of the individual for whom the new nominee is to be substituted, the fact the committee was authorized to fill vacancies, and any other information required to be provided in an original certificate of nomination. When the certificate of nomination to fill a vacancy is filed, the secretary of state shall certify the new nomination to the various county auditors affected by the change by forwarding to the auditors the name of the individual who has been nominated to fill the vacancy in place of the original nominee, as soon as possible. The certification must include the name and address of the new nominee, the office the new nominee is nominated for, the party or political principle the new nominee represents, and the name of the individual for whom the new nominee is substituting. Failure to publish the name of a new nominee does not invalidate the election.
  3. A vacancy in a nomination following a primary election may not be filled according to subsection 1 or 2 unless the nominated candidate:
    - a. Dies;
    - b. Would be unable to serve, if elected, as a result of a debilitating illness;
    - c. Ceases to be a resident of the state;
    - d. Is nominated to be a member of the legislative assembly and, at the time of the election, will not be a resident of the legislative district to be represented; or
    - e. Ceases to be qualified to serve, if elected, as otherwise provided by law.
  4. Vacancies to be filled according to this section may be filled not later than the sixty-fourth day before the election.