

2011 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1355

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee  
Fort Union Room, State Capitol

HB 1355  
January 27, 2011  
13560

☐ Conference Committee

Committee Clerk Signature

*Carmen Hart*

## Explanation or reason for introduction of bill/resolution:

Relating to certificates and certified copies issued by the sec. of state and the fees collected from real estate investment trusts, fees charged & collected by the sec. of state & svc of process on the sec. of state

## Minutes:

**Vice Chairman Randy Boehning** opened the hearing on HB 1355.

**Al Jaeger, Secretary of State**, appeared in support. **Attachment 1.** When talking about the amendment he stated that it was brought to our attention that the word must is inappropriate because these rules of evidence are established by the supreme court. We cannot by legislation say that they must use them. We were told that if a case was ever appealed that this would be unconstitutional, so it is changed to may. One of the reasons we have the contractor part amendment in there is that we have contractors that operate without a license and the state's attorney is suppose to prosecute them. Sometimes in those situations—we just had one recently where it kind of blows our mind—but the state's attorney subpoenas us. In this case one of my high level people was being subpoenaed to go to Minot. The only question that they would have been asked was this contractor licensed? What we are hoping with the Section 2 and the may is that the state's attorney or any other legal person that needs something will realize that the office can provide a certified copy and that it may be used for evidence that something exists or doesn't exist.

**Vice Chairman Randy Boehning:** Looking at your amendment, I am assuming on your first line that should be Line 3 instead of Line e?

**Al Jaeger:** Yes.

**Vice Chairman Randy Boehning:** We will just make a correction on that.

**Rep. Lisa Meier:** On your first page in Section 1—currently is your office charging a fee when you issue certificates for real estate investments?

**Al Jaeger:** We charge for all certified copies. This is to match all of the other fees. We only have a handful of real investment trusts so this is basically a neutral type thing. Yes, whenever we provide certified copies, there is a fee.

**Rep. Lisa Meier:** Currently for real investment trusts, is there a fee being charged?

**Al Jaeger:** Yes. It was a fee that was established that doesn't match with everything else in our system. By just having a handful that is a different fee creates a lot of complications. We would rather that all the certifications be the same, and so that is why it is being changed.

**Rep. Karen Karls:** When you have a license for say a contractor who is an electrical contractor and then loses his electrical license, does your office keep track of that on the contractor side or on the electrician side?

**Al Jaeger:** We license contractors regardless of what kind of contracting they do. There are other licenses required by other entities that need to be—if you want to do electrical work, you need to be licensed under the electrical board. If you do plumbing, you need to be licensed by the plumbing board. If one of those boards happens to revoke whatever license that they have, it doesn't impact what they have as a contractor's license. We do not receive notification as such and if we did, there is nothing that we could really do about that.

**Rep. Karen Karls:** In other words, they could still advertise that they are a licensed contractor even though they have no electrician license any longer?

**Al Jaeger:** They could advertise that they are a licensed contractor. If they are advertising that they are a licensed electrician, it is my understanding that the electrical board has the legal means to stop them from doing that. They could go to court. They could do a number of things to get an injunction, a court order, something for that person to stop them from advertising that they are a licensed contractor. That issue was brought to us, and we have reviewed it. The situation was an isolated case. At first we were going to try to work with it and found out that it wasn't going to be workable. The thing that puzzles us is that the electrical board has the legal means to stop that person from advertising that they can do electrical work.

There was no one neutral or in opposition to HB 1355.

The hearing was closed.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee  
Fort Union Room, State Capitol

HB 1355  
January 27, 2011 (PM)  
13582

☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to certificates and certified copies issued by the sec. of state and the fees collected from real estate investment trusts, fees charged & collected by the sec. of state & svc of process on the sec. of state

## Minutes:

**Chairman Bette Grande** opened the discussion on HB 1355. The attached amendment was handed out. **Attachment 1.**

**Rep. Lisa Meier** made a motion to accept the Secretary of State's amendments.

**Rep. Karen Rohr** seconded the motion.

**Vice Chairman Randy Boehning** pointed out that there was a typing error.

**Chairman Bette Grande:** Line 1 should say Line 3.

**A voice vote was taken to accept the amendment. Motion carried.**

**Vice Chairman Randy Boehning** made a motion for a **Do Pass as amended.**

**Rep. Lisa Meier** seconded the motion.

**DO PASS AS AMENDED, 13 YEAS, 0 NAYS. Rep. Ron Guggisberg is the carrier of this bill.**

# FISCAL NOTE

Requested by Legislative Council  
01/18/2011

Bill/Resolution No.: HB 1355

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Pertains to the providing of certified copies. The fee portion only changes fees to match existing fees for other entities. It does not have any fiscal impact.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

None

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Revenue neutral.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Expenditures neutral.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

None

Name:	Al Jaeger	Agency:	Secretary of State
Phone Number:	328-2900	Date Prepared:	01/18/2011

January 27, 2011

VK  
1/28/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1355

Page 1, line 3, after "10-34-09" insert ", 43-07-13"

Page 1, line 4, after "trusts" insert ", fees collected by the secretary of state for certified copies"

Page 1, after line 20, insert:

**"SECTION 2. AMENDMENT.** Section 43-07-13 of the North Dakota Century Code is amended and reenacted as follows:

**43-07-13. Records and certified copies thereof.**

The registrar shall maintain in the registrar's office, open to public inspection during office hours, a complete indexed record of all applications, licenses, certificates of renewal, revocations, and other information maintained on contractors. The registrar may dispose of an inactive contractor file after two years if no attempts have been made to apply for a new license or renew the license. Disposal of the license will proceed according to the provisions of chapter 54-46. Before disposal and upon request, the registrar shall furnish a certified copy of any information maintained upon receipt of the sum of ten dollars fees prescribed in section 54-09-04. Such certified copy must be received in all courts and elsewhere as prima facie evidence of the facts stated therein. Any certificate or certified copy issued by the secretary of state under this section has the same force and effect as provided in section 54-09-02.1.

Page 2, line 5, replace "must" with "may"

Page 2, line 10, replace "must" with "may"

Renumber accordingly

Date: 1-27-11  
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1355

House GOVERNMENT AND VETERAN AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.8183.01001

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep Meier Seconded By Rep Rohr

Representatives	Yes	No	Representatives	Yes	No
Chairman Bette Grande			Bill Amerman		
Vice Chairman Randy Boehning			Ron Guggisberg		
Glen Froseth			Lonny Winrich		
Karen Karls					
Lisa Meier					
Gary Paur					
Karen Rohr					
Mark Sanford					
Vicky Steiner					
Roscoe Streyle					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

*Voice  
vote to  
adopt amendment  
motion Carried*

Date: 1-27-11  
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1355

House GOVERNMENT AND VETERAN AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.8183.01001

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep Boehning Seconded By Rep Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Bette Grande	✓		Bill Amerman	✓	
Vice Chairman Randy Boehning	✓		Ron Guggisberg	✓	
Glen Froseth	✓		Lonny Winrich	✓	
Karen Karls	✓				
Lisa Meier	✓				
Gary Paur	✓				
Karen Rohr	✓				
Mark Sanford	✓				
Vicky Steiner	✓				
Roscoe Streyle	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep. Guggisberg

If the vote is on an amendment, briefly indicate intent:



**REPORT OF STANDING COMMITTEE**

**HB 1355: Government and Veterans Affairs Committee (Rep. Grande, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1355 was placed on the Sixth order on the calendar.

Page 1, line 3, after "10-34-09" insert ", 43-07-13"

Page 1, line 4, after "trusts" insert ", fees collected by the secretary of state for certified copies"

Page 1, after line 20, insert:

**"SECTION 2. AMENDMENT.** Section 43-07-13 of the North Dakota Century Code is amended and reenacted as follows:

**43-07-13. Records and certified copies thereof.**

The registrar shall maintain in the registrar's office, open to public inspection during office hours, a complete indexed record of all applications, licenses, certificates of renewal, revocations, and other information maintained on contractors. The registrar may dispose of an inactive contractor file after two years if no attempts have been made to apply for a new license or renew the license. Disposal of the license will proceed according to the provisions of chapter 54-46. Before disposal and upon request, the registrar shall furnish a certified copy of any information maintained upon receipt of the sum of ten dollars fees prescribed in section 54-09-04. Such certified copy must be received in all courts and elsewhere as prima facie evidence of the facts stated therein. Any certificate or certified copy issued by the secretary of state under this section has the same force and effect as provided in section 54-09-02.1.

Page 2, line 5, replace "must" with "may"

Page 2, line 10, replace "must" with "may"

Renumber accordingly

2011 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1355

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

HB 1355  
March 9, 2011  
Job Number 15161

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Relating to certificates and certified copies issued by the secretary of the state

### Minutes:

Testimony attached

**Chairman Klein:** Opened the hearing on House Bill 1355.

**Bill Neumann, Executive Director of the State Bar Association:** In support of the bill. He said this bill is being sought because one state's attorney thought he needed to subpoena someone from his office to come up to the home county to testify to the foundation of a document on file with the Secretary of State's Office. That was a mistake on the part of the state's attorney and it was unnecessary under the rules of evidence. The records of the secretary of state should be amicable without any kind of foundational testimony. He said that there are two words that need to be changed. The word is, prima facie and he continues to state why this word is not correct and needs to be removed.

**Al Jaeger, Secretary of State:** In support of the bill. Testimony Attached. He said he agrees with Bill about taking out the word prima facie. He goes over the bill.

**Chairman Klein:** Closed the hearing.

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee  
Roosevelt Park Room, State Capitol

HB 1355  
March 9, 2011  
Job Number 15185

☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to certificates and certified copies issues by the secretary of state

## Minutes:

Amendment and Vote

**Chairman Klein:** Said they had the amendment and have a motion.

**Senator Andrist:** Moved to adopt the amendment.

**Senator Nodland:** Seconded the motion.

Roll Call Vote: Yes-7 No-0

**Senator Andrist:** Moved a do pass as amended.

**Senator Nodland:** Seconded the motion.

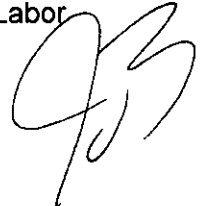
Roll Call Vote: Yes-7 No-0

Senator Andrist to carry the bill

11.8183.02001  
Title.03000

Adopted by the Industry, Business and Labor  
Committee

March 9, 2011

  
3-10-11

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1355

Page 2, line 19, remove "prima facie"

Page 2, line 24, remove "prima facie"

Renumber accordingly

Date: 3/9/11  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1355

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.8183.02001

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Andrist Seconded By Senator Nodland

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein	✓		Senator Mac Schneider	✓	
VC George L. Nodland	✓		Senator Philip Murphy	✓	
Senator John Andrist	✓				
Senator Lonnie J. Laffen	✓				
Senator Oley Larsen	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 3/9/11  
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1355

Senate Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Andrist Seconded By Senator Nodland

Senators	Yes	No	Senators	Yes	No
Chairman Jerry Klein	✓		Senator Mac Schneider		
VC George L. Nodland	✓		Senator Philip Murphy		
Senator John Andrist	✓				
Senator Lonnie J. Laffen	✓				
Senator Oley Larsen	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Andrist

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1355, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).**  
Engrossed HB 1355 was placed on the Sixth order on the calendar.

Page 2, line 19, remove "prima facie"

Page 2, line 24, remove "prima facie"

Renumber accordingly



2011 TESTIMONY

HB 1355

ALVIN A. JAEGER  
SECRETARY OF STATE  
PAGE www.nd.gov/sos



SECRETARY OF STATE  
STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 108  
BISMARCK ND 58505-0500

January 27, 2011

Attachment 1  
1355

PHONE (701) 328-2900  
FAX (701) 328-2992  
E-MAIL sos@nd.gov

TO: Rep. Grande, Chairman,  
and Members of the House Government and Veterans Affairs Committee

FR: Al-Jaeger, Secretary of State

RE: HB 1355 – Providing Certified Copies and Court Evidence

I appreciate and thank Rep. Beadle for introducing this bill on behalf of the Secretary of State.

Section 1, page 1, lines 17 through 20, establishes the fees for certifications and certified copies provided by the Secretary of State's office that relate to real estate investment trusts. This change makes them the same as those that already exist for similar certifications made for all other business entities.

Section 2, page 2, lines 1 through 15, establishes the guidelines allowing the Secretary of State to provide certificates and certified copies in various formats and that they may be received by courts, public offices, and official bodies as prima facie evidence of the existence or nonexistence of the facts stated. This same provision already exists in the chapters administered by the Secretary of State relating to various business entities (corporations, limited liability companies, etc.).

Section 3, page 2, line 19 and 23, clarifies when the law does not apply.

Section 3, page 3, lines 9 and 10, is related to a certificate of filing associated with a utility property transfer and removes an obsolete provision. This certificate is administered under the laws pertaining to the Secretary of State's Central Indexing System (N.D.C.C. § 41-09-96).

Section 4, page 4, lines 13 through 17, establishes the responsibilities of the Secretary of State and the procedures to be followed in N.D.C.C. § 10-01.1-13 (on reverse side) when the Secretary of State is appointed agent for service of process. This is the act of delivering a writ or summons upon someone.

I am requesting the committee's adoption of the attached amendment which will become the new section 2 of the bill. N.D.C.C. § 43-07-13 is in the chapter that pertains to the licensing of contractors and this amendment will also cover the certificates and certified copies requested of the Secretary of State. Rather than stating a specific fee as stated in current law, the amendment adds a reference to N.D.C.C. § 54-09-04, which is the chapter that pertains to the Office of the Secretary of State and covers this fee.

In addition, the amendment changes "must" to "may" on lines 5 and 10 of the current section 2.

**10-01.1-13. Service of process on entities, nonresident governors, and the secretary of state.**

1. Until the legal existence of an entity ceases, or until the authority of a foreign entity is withdrawn or revoked, service of any process, notice, or demand on the entity or nonresident governor may be served on:
  - a. A registered agent;
  - b. A governor of the entity, whether resident in this state or not;
  - c. Any responsible person found at the registered office or at the principal executive office if located in this state; or
  - d. On the secretary of state as provided in this section.
2. Service is perfected under this section pursuant to North Dakota Rules of Civil Procedure or applicable law.
3. The secretary of state is the agent for service of process:
  - a. When a foreign entity transacts business without a certificate of authority;
  - b. When a domestic entity has been dissolved;
  - c. If an entity that previously filed a registered agent filing with the secretary of state no longer has a registered agent; or
  - d. If the registered agent, governor, or responsible person cannot with reasonable diligence be served.
4. Service of process, notice, or demand on a registered agent must be in the form of a written document.
5. Service on the secretary of state:
  - a. Shall be made by registered mail or personal delivery to the secretary of state and not by electronic communication.
  - b. Shall include the return of the sheriff, or the affidavit of an individual who is not a party, verifying that neither the registered agent nor a responsible person can be found at the registered office or at the principal executive office.
  - c. Is deemed personal service upon the entity and must be made by filing with the secretary of state:
    - (1) Three copies of the process, notice, or demand; and
    - (2) The fees provided in section 10-01.1-03.
  - d. Is returnable in not less than thirty days notwithstanding a shorter period specified in the process, notice, or demand.
6. The secretary of state shall immediately forward, by registered mail, a copy of the process, notice, or demand addressed to:
  - a. The entity at the principal executive office address of record;
  - b. Any address provided by any serving party; or
  - c. To any forwarding address provided by the United States postal service.
7. The secretary of state shall maintain a record of every process, notice, and demand served on the secretary of state under this section, including the date of service and the action taken with reference to the process, notice, or demand.
8. Service of process, notice, or demand may be perfected by any other means provided by law other than this chapter.
9. The court shall determine if service is proper.

PROPOSED AMENDMENTS TO HOUSE BILL 1355

Page 1, line e, after "10-34-09," insert "43-07-13,"

Page 1, line 4, after "trusts," insert "fees collected by the secretary of state for certified copies,"

Page 1, after line 20, insert:

**"SECTION 2.** Section 43-07-13 of the North Dakota Century Code is amended and reenacted as follows:

**43-07-13. Records and certified copies thereof.** The registrar shall maintain in the registrar's office, open to public inspection during office hours, a complete indexed record of all applications, licenses, certificates of renewal, revocations, and other information maintained on contractors. The registrar may dispose of an inactive contractor file after two years if no attempts have been made to apply for a new license or renew the license. Disposal of the license will proceed according to the provisions of chapter 54-46. Before disposal and upon request, the registrar shall furnish a certified copy of any information maintained upon receipt of the ~~sum of ten dollars~~ fees prescribed in section 54-09-04. ~~Such certified copy must be received in all courts and elsewhere as prima facie evidence of the facts stated therein.~~ Any certificate or certified copy issued by the secretary of state under this section has the same force and effect as provided in section 54-09-02.1."

Page 1, line 21, replace "SECTION 2" with "SECTION 3"

Page 2, line 5, replace "must" with "may"

Page 2, line 10, replace "must" with "may"

Page 2, line 16, replace "SECTION 3" with "SECTION 4"

Page 4, line 4, replace "SECTION 4" with "SECTION 5"

Renumber accordingly.

ALVIN A. JAEGER  
SECRETARY OF STATE  
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SECRETARY OF STATE  
STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 108  
BISMARCK ND 58505-0500

March 9, 2011

TO: Senator Klein, Chairman, and Members of the Senate Industry, Business and Labor Committee

FR: Al Jaeger, Secretary of State

RE: HB 1355 – Providing Certified Copies and Court Evidence

I appreciate and thank Rep. Beadle for introducing this bill on behalf of the Secretary of State.

Section 1, page 1, lines 18 through 21: Establishes the fees for certifications and certified copies provided by the Secretary of State's office that relate to real estate investment trusts. This change makes these fees comparable to those fees already existing for similar certifications made for all other business entities registered with the Secretary of State's office.

Section 2, page 2, lines 8 through 11: This section is in the chapter in the Century Code that pertains to the licensing of contractors. The additional text will cover the certificates and certified copies requested of the Secretary of State related to contractors. Rather than stating a specific fee in this section, the change will refer to N.D.C.C. § 54-09-04, which is the chapter in the Century Code that prescribes the fees for the various services of the Office of the Secretary of State.

Section 3, page 2, lines 14 through 28: Establishes the guidelines allowing the Secretary of State to provide certificates and certified copies in various formats and that they may be received by courts, public offices, and official bodies as prima facie evidence of the existence or nonexistence of the facts stated. This same provision already exists in the chapters administered by the Secretary of State relating to various business entities (corporations, limited liability companies, etc.).

Section 4, page 3, line 2 and 6: This section of law governs the fees assessed by the Secretary of State and clarifies when the law does not apply.

Section 4, page 3, lines 23 and 24: Removes an obsolete provision in this section that relates to a fee for a certificate of filing associated with a utility property transfer, which is a filing administered under the laws pertaining to the Secretary of State's Central Indexing System (N.D.C.C. § 41-09-96).

Section 5, page 4, lines 27 through 31: Establishes the responsibilities of the Secretary of State and the procedures to be followed in N.D.C.C. § 10-01.1-13 (on reverse side) when the Secretary of State is appointed agent for service of process. This is the act of delivering a writ or summons upon someone.

**10-01.1-13. Service of process on entities, nonresident governors, and the secretary of state.**

1. Until the legal existence of an entity ceases, or until the authority of a foreign entity is withdrawn or revoked, service of any process, notice, or demand on the entity or nonresident governor may be served on:
  - a. A registered agent;
  - b. A governor of the entity, whether resident in this state or not;
  - c. Any responsible person found at the registered office or at the principal executive office if located in this state; or
  - d. On the secretary of state as provided in this section.
2. Service is perfected under this section pursuant to North Dakota Rules of Civil Procedure or applicable law.
3. The secretary of state is the agent for service of process:
  - a. When a foreign entity transacts business without a certificate of authority;
  - b. When a domestic entity has been dissolved;
  - c. If an entity that previously filed a registered agent filing with the secretary of state no longer has a registered agent; or
  - d. If the registered agent, governor, or responsible person cannot with reasonable diligence be served.
4. Service of process, notice, or demand on a registered agent must be in the form of a written document.
5. Service on the secretary of state:
  - a. Shall be made by registered mail or personal delivery to the secretary of state and not by electronic communication.
  - b. Shall include the return of the sheriff, or the affidavit of an individual who is not a party, verifying that neither the registered agent nor a responsible person can be found at the registered office or at the principal executive office.
  - c. Is deemed personal service upon the entity and must be made by filing with the secretary of state:
    - (1) Three copies of the process, notice, or demand; and
    - (2) The fees provided in section 10-01.1-03.
  - d. Is returnable in not less than thirty days notwithstanding a shorter period specified in the process, notice, or demand.
6. The secretary of state shall immediately forward, by registered mail, a copy of the process, notice, or demand addressed to:
  - a. The entity at the principal executive office address of record;
  - b. Any address provided by any serving party; or
  - c. To any forwarding address provided by the United States postal service.
7. The secretary of state shall maintain a record of every process, notice, and demand served on the secretary of state under this section, including the date of service and the action taken with reference to the process, notice, or demand.
8. Service of process, notice, or demand may be perfected by any other means provided by law other than this chapter.
9. The court shall determine if service is proper.