

Sixty-first
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1404

Introduced by

Representatives Kasper, Dosch, Ruby, Weiler

Senators Fischer, Klein

1 A BILL for an Act to create and enact a new section to chapter 27-08.1 of the North Dakota
2 Century Code, relating to appeals from small claims court; and to amend and reenact section
3 27-08.1-02 of the North Dakota Century Code, relating to small claims court procedure.

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

5 **SECTION 1. AMENDMENT.** Section 27-08.1-02 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **27-08.1-02. Commencement of action - Claim affidavit.** Actions in the small claims
8 court are commenced whenever any person executes and files with the court a claim affidavit,
9 and causes the affidavit to be served by a person of legal age, not a party to or interested in the
10 action, on the defendant or mails it to the defendant by certified mail along with a form upon
11 which the defendant must indicate whether a hearing is requested and whether the defendant
12 elects to remove the action to district court. If, within twenty days of service of the affidavit and
13 form, the court has not received a request for a hearing or an election to remove to district
14 court, or if the defendant indicates that a hearing is not requested, a hearing will not be
15 scheduled and judgment may be entered against the defendant by default. If the defendant
16 requests a hearing in small claims court, the hearing must be not less than ten days and not
17 more than thirty days after receipt of the request. Except for an action under subdivision e of
18 subsection 2 of section 27-08.1-01, the mailing or personal service may be made anywhere
19 within the state. Forms used in small claims court actions must be approved by the state court
20 administrator and obtained from, or at the direction of, the clerk of district court or in electronic
21 form from the supreme court. Any party to an action pending in small claims court may obtain a
22 change of judge or change of referee pursuant to section 29-15-21, except that either a district
23 judge or a referee may be appointed to act in place of the disqualified judge or referee.

1 **SECTION 2.** A new section to chapter 27-08.1 of the North Dakota Century Code is
2 created and enacted as follows:

3 **Appeals from small claims court.** Either the plaintiff or the defendant may appeal
4 from the decision of a small claims court to the district court. The district court shall try the
5 matter de novo. The request for an appeal must be made within twenty days of the decision of
6 the small claims court. The party that requests an appeal shall pay all filing fees for the party
7 that does not request an appeal.