

**FIRST ENGROSSMENT
with Senate Amendments
ENGROSSED HOUSE BILL NO. 1025**

Introduced by

Legislative Management

(Advisory Commission on Intergovernmental Relations)

1 A BILL for an Act to amend and reenact subsections 3 and 4 of section 37-17.1-12 and sections
2 37-17.1-16, 37-17.1-17, and 40-22-01.1 of the North Dakota Century Code, relating to liability
3 and immunity during disaster responses and financing of repairs.

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

5 **SECTION 1. AMENDMENT.** Subsection 3 of section 37-17.1-12 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 3. Compensation for property ~~must~~ may be ~~only~~ paid if the property was commandeered
8 or otherwise used in management of a disaster or emergency declared ~~by the~~
9 ~~governor and its use or destruction was ordered by the governor~~ under proper
10 authority and only to the extent not otherwise waived or agreed upon before the use of
11 the property. A claim made against the state must be filed and resolved as provided
12 under subsections 4 and 5. A claim made against a county or city must be made in
13 writing to the appropriate governing body within one year after the use, damage, loss,
14 or destruction of the property under proper authority is discovered or reasonably
15 should have been discovered, may only be for actual damages not recovered from
16 claimants' property or other applicable insurance, and may be paid from any
17 combination of funds provided under section 40-22-01.1, disaster relief funds made
18 available to a county or city for this purpose, or other funds at the discretion of the
19 governing body.

20 **SECTION 2. AMENDMENT.** Subsection 4 of section 37-17.1-12 of the North Dakota
21 Century Code is amended and reenacted as follows:

22 4. Any person claiming compensation for the use, damage, loss, or destruction of
23 property by the state under this chapter shall file a written claim therefor with the office
24 of management and budget in the form and manner required by the office. The claim

1 for compensation must be received by the office of management and budget within
2 one year after the use, damage, loss, or destruction of the property pursuant to the
3 governor's order under section 37-17.1-05 is discovered or reasonably should have
4 been discovered or compensation under this chapter is waived.

5 **SECTION 3. AMENDMENT.** Section 37-17.1-16 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **37-17.1-16. Immunity and exemption.**

- 8 1. All functions hereunder and all other activities relating to emergency management are
9 hereby declared to be governmental functions. The state, a county or city, any disaster
10 or emergency worker, an employee of a federal agency on loan or leave to the state in
11 support of emergency service response whether the emergency is declared or
12 undeclared, or any other person providing goods or services during an emergency if
13 the person is working in coordination with and under the direction of an appropriate
14 governmental emergency or disaster response entity, complying with or reasonably
15 attempting to comply with this chapter, or any executive order or disaster or
16 emergency operational plan pursuant to this chapter, or pursuant to any ordinance
17 relating to any precautionary measures enacted by any county or city of the state,
18 except in case of willful misconduct, gross negligence, or bad faith, is not liable for the
19 death of or injury to persons, or for damage to property except as compensation may
20 be provided in section 37-17.1-12, as a result of any such activity. This section does
21 not affect the right of any person to receive benefits to which that person would
22 otherwise be entitled under this chapter, or under workforce safety and insurance law,
23 or under any pension law, nor the right of any such person to receive any benefits or
24 compensation under any Act of Congress.
- 25 2. Any requirement for a license to practice any professional, mechanical, or other skill
26 does not apply to any authorized disaster or emergency worker who, in the course of
27 performing the worker's duties, practices the professional, mechanical, or other skill
28 during a disaster or emergency.
- 29 3. This section does not affect any other provision of law that may provide immunity to a
30 person that is providing volunteer assistance.

1 **SECTION 4. AMENDMENT.** Section 37-17.1-17 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **37-17.1-17. No private liability.**

4 Any person owning or controlling real estate or other premises who voluntarily and without
5 compensation grants a license or privilege, or otherwise permits the designation or use of the
6 whole or any part or parts of such real estate or premises for the purpose of emergency
7 management activities during an actual, impending, mock or practice disaster or emergency, is,
8 together with their successors in interest, if any, not civilly liable, except in the case of willful and
9 malicious failure to guard or warn against a dangerous condition, use, structure, or activity, for
10 negligently causing the death of, or injury to, any person on or about such real estate or
11 premises or for loss of, or damage to, the property of such person.

12 **SECTION 5. AMENDMENT.** Section 40-22-01.1 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **40-22-01.1. Restoration of certain property damaged in flood control or during a**
15 **declared disaster or emergency - Special assessments for costs.**

16 When any city ~~shall have~~has constructed any temporary emergency flood control protection
17 devices or works to protect property located within a portion of a city from flood damage or
18 expended funds for the protection of the city from flood or other peril under chapter 37-17.1 or
19 otherwise, the city may ~~cause the removal of~~maintain and remove material used in the
20 construction of ~~such~~the temporary emergency flood control protection devices or works and ~~the~~
21 repair ~~of~~ damages to land, buildings, or personal property caused by the operation of its
22 equipment upon the property while in the process of installing or removing ~~such~~the temporary
23 emergency flood protection systems. ~~Such~~The city may create by resolution of its governing
24 board a special assessment district encompassing the protected area. Special assessments
25 against the property within the district ~~shall~~must be imposed to cover the costs incurred by the
26 city in constructing and maintaining the emergency flood protection devices or works and in
27 removing the material used and in repairing the damages caused by the operation of equipment
28 while installing or removing ~~such~~the temporary emergency flood protection systems. The
29 amount to be assessed must be established by a resolution adopted by the governing board.
30 Special assessments against any property in the district ~~shall~~must be determined and made in
31 the same manner as is provided for improvements by special assessments to the extent

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1 consistent herewith, and the certification and collection, including lien provisions, applicable to
2 other special assessments ~~shall be~~are applicable hereto. Provided, however, that the provisions
3 of sections 40-22-15, 40-22-17, and 40-22-18, relating to a resolution of necessity and protests
4 against special assessments, ~~shall~~sections 40-22-10, 40-22-11, and 40-22-29, relating to
5 engineers' reports, plans, and estimates, and section 40-22-19, relating to contract proposals,
6 do not apply to special assessment districts created ~~pursuant to~~under this section.