

Introduced by

Legislative Management

(Advisory Commission on Intergovernmental Relations)

1 A BILL for an Act to amend and reenact subsection 3 of section 37-17.1-12 and sections
2 37-17.1-16, 37-17.1-17, and 37-17.1-27 of the North Dakota Century Code, relating to liability
3 and immunity during disaster responses.

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 be ~~only paid~~ if the property was commandeered or
8 otherwise used in management of a disaster or emergency ~~declared by the governor~~
9 ~~and its use or destruction was ordered by the governor~~ by a jurisdiction having proper
10 authority. Compensation for property or damage to property is the responsibility of the
11 jurisdiction that commandeered or otherwise used the property to the extent the
12 responsibility was not otherwise mitigated by agreement before the use of the
13 property.

14 **SECTION 2. AMENDMENT.** Section 37-17.1-16 of the North Dakota Century Code is
15 amended and reenacted as follows:

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

17 1. All functions hereunder and all other activities relating to emergency management are
18 hereby declared to be governmental functions. ~~The state, a county or city, any~~Any
19 disaster or emergency worker, an employee of a federal agency on loan or leave to
20 the state in support of emergency service response whether the emergency is
21 declared or undeclared, or any other ~~person~~individual providing goods or services
22 during an emergency if the ~~person~~individual is working in coordination with and under
23 the direction of an appropriate governmental emergency or disaster response entity,
24 complying with or reasonably attempting to comply with this chapter, or any executive

1 order or disaster or emergency operational plan pursuant to this chapter, or pursuant
2 to any ordinance relating to any precautionary measures enacted by any county or city
3 of the state, except in case of willful misconduct, gross negligence, or bad faith, is not
4 liable for the death of or injury to persons, or for damage to property, as a result of any
5 such activity. This section does not affect the right of any person to receive benefits to
6 which that person would otherwise be entitled under this chapter, or under workforce
7 safety and insurance law, or under any pension law, nor the right of any such person
8 to receive any benefits or compensation under any Act of Congress.

9 2. Any requirement for a license to practice any professional, mechanical, or other skill
10 does not apply to any authorized disaster or emergency worker who, in the course of
11 performing the worker's duties, practices the professional, mechanical, or other skill
12 during a disaster or emergency.

13 3. This section does not affect any other provision of law that may provide immunity to a
14 person that is providing volunteer assistance.

15 **SECTION 3. AMENDMENT.** Section 37-17.1-17 of the North Dakota Century Code is
16 amended and reenacted as follows:

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

18 Any person owning or controlling real estate or other premises who voluntarily and without
19 compensation grants a license or privilege, or otherwise permits the designation or use of the
20 whole or any part or parts of such real estate or premises for the purpose of emergency
21 management activities during an actual, impending, mock or practice disaster or emergency, is,
22 together with their successors in interest, if any, not civilly liable, except in the case of gross
23 negligence, for negligently causing the death of, or injury to, any person on or about such real
24 estate or premises or for loss of, or damage to, the property of such person.

25 **SECTION 4. AMENDMENT.** Section 37-17.1-27 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **37-17.1-27. State disaster relief fund - Creation - Uses.**

28 There is created in the state treasury a state disaster relief fund. Moneys in the fund are to
29 be used subject to legislative appropriations and emergency commission and budget section
30 approval for providing the required state share of funding for expenses associated with

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- 1 presidential-declared disasters in the state and for the payment of any expenses incurred under
- 2 or authorized by this chapter. Any interest or other fund earnings must be deposited in the fund.