

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1025

Introduced by

Legislative Management

(Advisory Commission on Intergovernmental Relations)

1 A BILL for an Act to amend and reenact ~~subsection~~subsections 3 and 4 of section 37-17.1-12
2 and sections 37-17.1-16 ~~and~~, 37-17.1-17, and 40-22-01.1 of the North Dakota Century Code,
3 relating to liability 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 by a jurisdiction
10 having under proper authority. Compensation for property or damage to property is the
11 responsibility of the jurisdiction that commandeered or otherwise used the property
12 and only to the extent the responsibility was not otherwise mitigated by
13 agreement waived or agreed upon before the use of the property. A claim made against
14 the state must be filed and resolved as provided under subsections 4 and 5. A claim
15 made against a county or city must be made in writing to the appropriate governing
16 body within one year after the use, damage, loss, or destruction of the property under
17 proper authority is discovered or reasonably should have been discovered, may only
18 be for actual damages not recovered from claimants' property or other applicable
19 insurance, and may be paid from any combination of funds provided under section
20 40-22-01.1, disaster relief funds made available to a county or city for this purpose, or
21 other funds at the discretion of the governing body.

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

1 4. Any person claiming compensation for the use, damage, loss, or destruction of
2 property by the state under this chapter shall file a written claim therefor with the office
3 of management and budget in the form and manner required by the office. The claim
4 for compensation must be received by the office of management and budget within
5 one year after the use, damage, loss, or destruction of the property pursuant to the
6 governor's order under section 37-17.1-05 is discovered or reasonably should have
7 been discovered or compensation under this chapter is waived.

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

10 **37-17.1-16. Immunity and exemption.**

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

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

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

5 **37-17.1-17. No private liability.**

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

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

16 **40-22-01.1. Restoration of ~~certain~~ property damaged in flood control or during a**
17 **declared disaster or emergency - Special assessments for costs.**

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

1 | Special assessments against any property in the district ~~shall~~must be determined and made in
2 | the same manner as is provided for improvements by special assessments to the extent
3 | consistent herewith, and the certification and collection, including lien provisions, applicable to
4 | other special assessments ~~shall be~~are applicable hereto. Provided, however, that the provisions
5 | of sections 40-22-15, 40-22-17, and 40-22-18, relating to a resolution of necessity and protests
6 | against special assessments, ~~shall~~sections 40-22-10, 40-22-11, and 40-22-29, relating to
7 | engineers' reports, plans, and estimates, and section 40-22-19, relating to contract proposals,
8 | do not apply to special assessment districts created ~~pursuant to~~under this section.