

# CONCILIATION OF CONTROVERSIES

## CHAPTER 38.

(S. B. No. 158.—Olson, Garberg and Oksendahl.)

### CONCILIATION OF CONTROVERSIES.

AN ACT to provide for Conciliation of Controversies and to Repeal Sections 9187, 9188, 9189, 9190, 9191 and 9192 of the Compiled Laws of North Dakota, 1913.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. CONCILIATION BOARDS CREATED.] It shall be the duty of District Court Judges to establish a Conciliation Board in each county of their respective districts within ninety days from the taking effect of this act. Each such Conciliation Board shall consist of such number of Conciliator as the District Court Judge of such county shall determine, and he shall have power to increase the number thereof and to remove Conciliators at his pleasure, but at no time shall there be less than six members nor more than twelve members on any such boards. These members shall not include the County Court Judge, who shall be an ex-officio member of the Conciliation Board for his county.

§ 2. ELIGIBILITY AND COMPENSATION.] Every person having the qualifications of a voter shall be eligible for appointment as Conciliator for the county in which he resides. Any member of the bar who acts as Conciliator shall not thereafter appear, in any subsequent proceeding, on behalf of either party to any controversy submitted to him as Conciliator. The moving party to any controversy shall pay to the Conciliator a summons fee of twenty-five cents in all cases involving a sum of ten dollars or less, and fifty cents in cases involving a sum of over ten dollars. In every case where conciliation is effected the acting conciliator shall be entitled to receive for his services the sum of one dollar where the amount of controversy is ten dollars or less, and two dollars where the amount is over ten dollars and less than one hundred dollars, and two per centum of the amount involved where the amount is over one hundred dollars; said amounts to be assessed against either party, or part against each, at the discretion of the conciliator. Provided; that when two or more conciliators participate in a hearing a like fee shall be paid to each of them.

§ 3. APPOINTMENT AND OATH.—Conciliators shall be appointed and removed by order of the District Court judges for the counties in which they reside, entered upon the docket of the District for each county. Within ten days from the date of their appointment, and before entering upon the discharge of their duties, they shall take an oath of office prescribed by the judge appointing them.

§4. ORGANIZATION.—The District Court judge shall be chairman ex-officio of the Conciliation Board in each county of his district. He shall call such meetings of Conciliators as he shall deem proper, preside over such meetings and instruct Conciliators in respect to their duties. Upon his request any such Conciliator shall make report to him in writing of his official acts.

§ 5. CONCILIATION PROCEEDINGS PRE-REQUISITE TO PROCESS.] After the expiration of said 90 days no process shall be issued in commencement of a civil suit by any justice of the peace or by any other trial court unless the moving party shall file in court a certificate of a conciliator showing that an attempt has been made to effect a settlement of the claim and that such attempt has failed; but the foregoing shall not apply to actions known as provisional or remedial remedies, actions involving title to or possession of real estate and suits involving over \$200. Provided, however, that any District Court Judge in chambers may in a particular instance, on a proper showing, direct the issuance of any such process in any trial court without recourse to conciliation proceedings.

§ 6. APPLICATION FOR CONCILIATION]. Any person presuming to have any civil claim not specified as an exception in Section 5, before commencing suit, shall request one of the Conciliators for the county in which he resides, or in which the person complaining resides, to act Conciliator. Thereupon such Conciliator if qualified and able to act, shall summon by letter or telephone or personally the party complained of to appear before him at a certain time. Upon the hours set for such conciliation hearing, if the parties are present, it shall be the duty of the Conciliator to hear the parties and their witnesses and to endeavor to effect an amicable settlement of the controversy agreeable to law and equity. Conciliators may in their discretion, administer oaths and require statements under oath. They shall make no record of the evidence adduced, and no parts of the proceedings shall be admitted as evidence, or considered at the trial of the case, and no Conciliator shall be competent as a witness in respect thereto in any subsequent proceeding.

§ 7. CHARGE OF VENUE.]—At the time of the first hearing and before proof has been submitted by any party, the parties may by mutual agreement elect to submit their controversy to another Conciliator than the one first selected; and in such case the first Conciliator shall dismiss the proceedings and make no record of report thereof.

§ 8. CONTINUANCES.—Conciliators shall have power to continue their hearings from time to time to meet the convenience of the parties.

§ 9. **CONCILIATORS MAY SIT TOGETHER.**—Conciliators shall have power to request the assistance of other Conciliators of their county in any conciliation proceeding, and in case two or more Conciliators officiate in respect to any controversy any one of them may certify the proceedings on behalf of all.

§ 10. **CONCILIATORS NOT OBLIGED TO SERVE.**—No Conciliator is obliged to act in any given controversy, and shall not act if he has any interest in the controversy or is a member of the immediate family of either of the parties, unless consent is given. In case no conciliator convenient to the moving party is obtainable then the County Judge of that county shall act as Conciliator.

§ 11. **CONCILIATOR'S REPORT.**—In every case in which a Conciliator shall serve he shall forthwith certify to the District Court for his county the terms of the agreement, if any be effected. The report shall describe the claimant's demand and embody the terms of settlement, bearing the signatures of the parties. It shall be entered upon the docket of the District Court and thenceforth shall have the full force and effect of a judgment of the said court, but shall be subject to any terms concerning its satisfaction which the parties shall have agreed upon, and subject to the lawful orders of the judge for such District Court.

§ 12. **FAILURE TO AGREE.**—In case the party complained of shall fail to appear at the conciliation hearing or for any other reason there shall be no settlement of the controversy by agreement of the parties, then the Conciliator shall give to either or both parties, upon request, his certificate to the effect that an attempt has been made in good faith by the moving party to effect a settlement of a controversy, which shall be concisely described, and that the attempt has failed.

§ 13. **PERSONAL APPEARANCE.**—The parties to all conciliation proceedings shall appear in person, except that, for good cause shown, the Conciliator may permit a party to be represented by another person, not a member of the bar. In order to be so represented the party unable to appear shall authorize his representative to appear and act for him in effecting a settlement of the controversy by agreement, or by arbitration, if the representative shall so elect, and shall be bound by the acts of his representative the same as if he were present in person.

§ 14. **ARBITRATION BY CONCILIATOR.**—Whenever both parties shall agree in writing to submit their controversy to a Conciliator for his determination as arbitrator, the Conciliator shall receive the evidence and within five days make his award, which award shall be filed in the District Court for that county and be entered upon the docket as a judgment by award and shall have the full force and effect of a judgment of such Court.

§ 15. **REPEAL.**—Sections 9187, 9188, 9189, 9190, 9191 and 9192 of the Compiled Laws of North Dakota 1913, are hereby repealed.

Approved March 10, 1921.