

JUDICIAL PROCEDURE, CIVIL RULES OF COURT

CHAPTER 292

S. B. No. 465
(Morgan, Holand, Freed)

STATUTE OF LIMITATIONS ON CERTAIN CAUSES OF ACTION

AN ACT

To amend and reenact section 28-01-18 of the North Dakota Century Code, providing that the two-year statute of limitations applies to causes of action arising under chapter 5-01 of the North Dakota Century Code, relating to alcoholic beverages.

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

Section 1. Amendment.) Section 28-01-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-01-18. Actions Having Two-year Limitations.) The following actions must be commenced within two years after the cause of action has accrued:

1. An action for libel, slander, assault, battery, or false imprisonment.
2. An action upon a statute for a forfeiture or penalty to the state.
3. An action for the recovery of damages resulting from malpractice.
4. An action for injuries done to the person of another, when death ensues from such injuries, and the cause of action shall be deemed to have accrued at the time of the death of the party injured.

5. An action for recovery of damages arising under chapter 5-01 of the North Dakota Century Code, and the cause of action shall be deemed to have accrued at the time of the alleged offense. This limitation shall not apply to any cause of action existing at the time of the enactment of this subsection.

Approved March 28, 1969.

CHAPTER 293

S. B. No. 412
(Chesrown, Holand, Freed)

JURISDICTION OVER AND SERVICE OF PROCESS ON NONRESIDENTS

AN ACT

To provide for jurisdiction over and service of process upon nonresidents in connection with causes of action arising out of the transaction of business within the state; the commission of any act which results in accrual within this state of a tort action; the ownership, use, or possession of any property, or of any interest therein, situated within this state; contracting to insure any person, property, or risk located within this state at the time of contracting; entering into a contract for services to be rendered or for materials to be furnished in this state by such person; or acting as director, manager, trustee, or other officer of any corporation organized under the laws of, or having its principal place of business within this state, or as executor or administrator of any estate within this state by such nonresident or through any employee or through an agent.

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

Section 1. Definition of Person.) As used in this Act, the word "person", whether or not a citizen or resident of this state, and whether or not organized under the laws of this state includes an individual whether operating in his own name or under his trade name, an individual's agent or personal representative, a corporation, a business trust, an estate, a trust, a partnership, an unincorporated association, and any two or more persons having a joint or common interest or any other legal or commercial entity.

Section 2. Subject to Jurisdiction.) Any person is subject to the jurisdiction of the courts of this state as to any cause of action arising from the doing personally, through an employee, or through an agent, of any of the following acts:

1. The transaction of any business within the state.
2. The commission of any act which results in accrual within this state of a tort action.
3. The ownership, use, or possession of any property, or of any interest therein, situated within this state.
4. Contracting to insure any person, property, or risk located within this state at the time of contracting.
5. Entering into a contract for services to be rendered or for materials to be furnished in this state by such person.
6. Acting as director, manager, trustee, or other officer of any corporation organized under the laws of or having its principal place of business within this state, or as executor or administrator of any estate within this state.

Section 3. Acquisition of Jurisdiction.) Service of process upon the persons subject to this Act may be made by service outside this state in the same manner provided for service within this state with the same force and effect as though service had been made within this state.

Approved April 2, 1969.

CHAPTER 294

S. B. No. 205
(Freed, Meschke)

ENFORCEMENT OF FOREIGN JUDGMENTS

AN ACT

To provide for the filing and enforcement of foreign judgments; to amend section 28-20-22 of the North Dakota Century Code, relating to affidavit of renewal; to repeal section 28-20-18 relating to docketing judgments of United States courts.

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

Section 1. Definition.) In this Act "foreign judgment" means any judgment, decree, or order of a court of the United States or of any other court which is entitled to full faith and credit in this state.

Section 2. Filing and Status of Foreign Judgments.) A copy of any foreign judgment authenticated in accordance with the Act of Congress or the statutes of this state may be filed in the office of the clerk of any district court of any county of this state. The clerk shall treat the foreign judgment in the same manner as a judgment of the district court of any county of this state. A judgment so filed has the same effect and is subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a judgment of a district court of any county of this state and may be enforced or satisfied in like manner.

Section 3. Notice of Filing.)

1. At the time of filing of the foreign judgment, the judgment creditor or his lawyer shall make and file with the clerk of court an affidavit setting forth the name and last known post-office address of the judgment creditor and otherwise complying with section 28-20-15 of the North Dakota Century Code.
2. Promptly upon the filing of a foreign judgment and the affidavit, the clerk shall mail notice of the filing of the foreign judgment to the judgment debtor

at the address given and shall make a note of the mailing in the docket. The notice shall include the name and post-office address of the judgment creditor and the judgment creditor's lawyer, if any, in this state. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.

3. No execution or other process for enforcement of a foreign judgment filed hereunder shall issue until ten days after the date the judgment is filed.

Section 4. Stay.)

1. If the judgment debtor shows the district court of any county that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.
2. If the judgment debtor shows the district court of any county any ground upon which enforcement of a judgment of any district court of any county of this state would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in this state.

Section 5. Fees.) Any person filing a foreign judgment shall pay to the clerk of court a filing fee of seven dollars and fifty cents. Fees for docketing, transcription, or other enforcement proceedings shall be as provided for judgments of the district court of any county of this state.

Section 6. Optional Procedure.) The right of a judgment creditor to bring an action to enforce his judgment instead of proceeding under this Act remains unimpaired.

Section 7. Uniformity of Interpretation.) This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Section 8. Short Title.) This Act may be cited as the Uniform Enforcement of Foreign Judgments Act.

Section 9. Amendment.) Section 28-20-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-20-22. Affidavit of Renewal—Where Filed—Entry.) If the judgment was rendered in a district court of this state, or was entered upon a transcript from a county court with increased jurisdiction, or upon an abstract of a judgment of a justice of the peace, the affidavit for renewal shall be filed with the clerk of the district court where such judgment was first docketed. If the judgment filed and docketed was a foreign judgment, the affidavit for renewal may be filed with the clerk of any district court where the same has been docketed. The clerk of the district court immediately shall enter the affidavit for renewal at length in the judgment book in the same manner and with the same effect as the original judgment, and he shall enter in his judgment docket, after a statement of the original judgment, the fact of renewal, the date of renewal, and the amount for which the judgment is renewed. A copy of the affidavit of renewal and the docket entries thereon, certified by the clerk of the district court wherein the same is filed, may be filed and docketed in any other county of the state in which a transcript of the original judgment was filed.

Section 10. Repeal.) Section 28-20-18 of the North Dakota Century Code is hereby repealed.

Approved March 8, 1969.

CHAPTER 295

H. B. No. 199
(Atkinson, Kelsch, Burke, Lang)

AMERCEMENT OF SHERIFF

AN ACT

To amend and reenact section 28-21-19 of the 1967 Supplement to the North Dakota Century Code, relating to the amercement of a sheriff.

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

Section 1. Amendment.) Section 28-21-19 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-21-19. Amercement of Sheriff.) If any sheriff or other officer shall refuse or neglect to execute any writ of execution directed to him which has come to his hands as to real or personal property of the debtor which has been made known to the sheriff by the judgment creditor, or his agent or attorney of record, or shall refuse or neglect to sell any personal or real property, or shall refuse or neglect to return any writ of execution to the proper court, on or before the return day, or shall refuse or neglect on demand to pay over to the judgment creditor or his agent or attorney of record all moneys by him collected or received for the use of said party at any time after collecting or receiving the same, except as otherwise provided, or shall refuse or neglect on demand made by the judgment debtor or his agent or attorney of record, to pay all surplus received from any sale, such sheriff or other officer, on motion in court and two days' notice thereof in writing, shall be amerced in an amount not to exceed that which would have been realized by the judgment creditor or judgment debtor, plus reasonable attorney's fees, plus two hundred dollars.

Approved March 8, 1969.

CHAPTER 296

S. B. No. 241
(Holand)

REDEMPTION OF PROPERTY FROM
EXECUTION SALE

AN ACT

To amend and reenact section 28-24-02 of the North Dakota Century Code, relating to redemption of real estate from execution sale.

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

Section 1. Amendment.) Section 28-24-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-24-02. Payment on and Period of Redemption.) The judgment debtor or redemptioner may redeem the property from the purchaser within one year (six months in redemptions under subsection 1 of section 32-19.1-04 of the 1967 Supplement to the North Dakota Century Code) after the sale on paying the purchaser the amount of his purchase with interest thereon at the same rate as is provided in the original instrument upon which the judgment is based, which rate shall not exceed the maximum rate provided in section 47-14-09, together with the amount of any insurance premiums, assessments or taxes which the purchaser may have paid thereon after the purchase, and interest at the same rate on such amount, and, if the purchaser is also a creditor having a lien prior to that of the redemptioner other than the judgment under which such purchase was made, the amount of such lien with interest.

Approved March 25, 1969.

CHAPTER 297

H. B. No. 148
(Aamoth)

EXPERT WITNESS FEES

AN ACT

To amend and reenact subsection 5 of section 28-26-06 of the North Dakota Century Code, relating to expert witness fees and to permit fees for initial appraisals in eminent domain cases.

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

Section 1. Amendment.) Subsection 5 of section 28-26-06 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. The fees of expert witnesses. Such fees shall not exceed one hundred dollars per day for each witness, plus his actual expense. The following shall nevertheless be in the sole discretion of the trial court:
 - a. The number of expert witnesses who shall be allowed fees or expenses;
 - b. The amount of fees to be paid such allowed expert witnesses, up to the one hundred-dollar per-day individual limitation, including an amount for time expended in preparation for trial and an amount not to exceed two hundred fifty dollars for an initial appraisal in eminent domain cases; and
 - c. The amount of costs for actual expenses to be paid such allowed expert witnesses.

Approved March 5, 1969.

CHAPTER 298

S. B. No. 308
(Meschke, Chesrown)

AWARDING OF EXPENSES TO PARTY
INJURED BY BAD FAITH PLEADINGS

AN ACT

To authorize payment of reasonable expenses and attorney's fees where untrue allegations and denials in pleadings are made without reasonable cause and not in good faith.

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

Section 1. Pleadings Not Made in Good Faith.) Allegations and denials in any pleadings in court, made without reasonable cause and not in good faith, and found to be untrue, shall subject the party pleading them to the payment of reasonable expenses, actually incurred by the other party by reason of the untrue pleading, together with a reasonable attorney's fee, to be summarily taxed by the court at the trial.

Approved March 20, 1969.

CHAPTER 299

S. B. No. 277
(Chesrown, Meschke)

TIME FOR APPEAL TO
SUPREME COURT

AN ACT

To amend and reenact section 28-27-04 of the North Dakota Century Code, relating to the time for appeal to the supreme court in civil cases.

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

Section 1. Amendment.) Section 28-27-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-27-04. Time for Appeal.) An appeal from a judgment may be taken within ninety days after the entry thereof by default or after written notice of the entry thereof in case the party against whom it is entered has appeared in the action, and from an order within sixty days after written notice of the same shall have been given to the party appealing.

Approved March 17, 1969.