

# JUDICIAL REMEDIES

## CHAPTER 373

HOUSE BILL NO. 1320  
(Rued)

### HAZARDOUS MATERIALS DISCHARGE

AN ACT to provide for immunity from liability for provision of assistance during a hazardous materials discharge.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. Immunity for mitigating hazardous materials discharge - Exceptions. A person who assists or advises in mitigating or attempting to mitigate the effects of an actual or threatened discharge, leakage, seepage, or other release of materials or substances designated or defined as hazardous by any state or federal law or the rules and regulations of any state or federal entity, or in preventing, cleaning up, or disposing of or in attempting to prevent, cleanup, or dispose of any such discharge, leakage, seepage, or other release is not subject to any civil liability or penalty. This section does not apply to damages caused by that person's gross negligence or reckless, wanton, or intentional misconduct, nor does this section apply to any person whose act or omission caused the actual or threatened discharge, leakage, seepage, or other release and who would otherwise be liable therefore, or to any person who receives compensation other than reimbursement for out-of-pocket expenses for services in rendering such assistance or advice.

Approved March 4, 1983

## CHAPTER 374

HOUSE BILL NO. 1560  
(Representative R. Larson)  
(Senator Lodoen)

## WRITS OF ATTACHMENT

AN ACT to amend and reenact section 32-08.1-08 of the North Dakota Century Code, relating to the service of writs of attachment and limitations on seizure.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 32-08.1-08 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-08.1-08. Directions to sheriff - Several writs - Limitations on seizure.

1. The sheriff shall without delay serve copies of the writ, affidavit, and bond upon the defendant in the same manner as the summons. In the case of a nonresident or a foreign corporation, the sheriff shall serve such copies on any agent of such defendant in the county, if any be known to him. He shall cause all real and personal property or so much thereof as shall satisfy the writ to be appraised by two disinterested residents of the county, who shall be first sworn by him to make a true appraisal, which appraisal shall be signed by them, and the appraisal and inventory shall be returned with the writ. The court may, or on demand of the defendant shall, appoint a competent appraiser to appraise the property of the defendant which is subject to the writ. Copies of the appraisal, if any, and inventory shall be served upon the defendant.
2. If two or more writs against the same defendant shall be executed on the same property, an inventory and appraisal shall be made in but one of the actions, and the sheriff shall endorse on the copy served upon the defendant in the other action a notice that the property attached in the property attached in the action in which the inventory and appraisal are made, giving the title of such action; and such officer shall state in his return the fact of such endorsement.
3. If the defendant has not filed a special answer, pursuant to section 32-08.1-17, within ten days after notice of the issuance of a writ of attachment, the sheriff shall seize, in his county, so much of the property of the defendant as will satisfy the demand of the plaintiff with costs and expenses. The sheriff shall attach real property and perishable property without delay, notwithstanding the right of the defendant to file a special answer.

Approved March 15, 1983

## CHAPTER 375

SENATE BILL NO. 2259  
(Senator Stenehjem)  
(Representative Hamerlik)

## GARNISHMENT PROCEDURE

AN ACT to amend and reenact section 32-09.1-02 of the North Dakota Century Code, relating to who may be garnishees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 32-09.1-02 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-09.1-02. Creditors may proceed by garnishment. Any creditor is entitled to proceed by garnishment in any court having jurisdiction of the subject of the action, against any person, any public corporation, the United States, the state of North Dakota, or any institution, department, or agency of the state, indebted to or having any property in possession or under control, belonging to the creditor's debtor after securing a judgment against the debtor in a court of competent jurisdiction, in the cases, upon the conditions, and in the manner prescribed in this chapter. A garnishment action brought pursuant to this chapter is the exclusive procedure which may be used to execute on earnings of a debtor while those earnings are held by a third party employer.

Approved March 17, 1983

## CHAPTER 376

HOUSE BILL NO. 1382  
(Representative Conmy)

**SALE OF PREMISES UNDER JUDGMENT OF  
FORECLOSURE**

AN ACT to amend and reenact section 32-19-08 of the North Dakota Century Code, relating to by whom and where mortgaged premises under a judgment of foreclosure must be sold and the notice for and manner prescribed for the sale.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 32-19-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-19-08. Sales made by whom and where - Notice. All sales of mortgaged premises under a judgment of foreclosure must be made in the county where the premises, or some part of them, are situated, by the sheriff of ~~the that county in which the judgment is rendered,~~ or his deputy, or by some person appointed by the court for that purpose, and must be made ~~in the county where the premises, or some part of them, are situated,~~ upon the notice and in the manner prescribed by law for the sale of real property upon execution.

Approved March 4, 1983

## CHAPTER 377

HOUSE BILL NO. 1378  
(Wentz, E. Pomeroy)

### DECLARATORY JUDGMENT ON LIABILITY ACTION

AN ACT to amend and reenact section 32-23-06 of the North Dakota Century Code, relating to the rendering of declaratory judgments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 32-23-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-23-06. Entering of declaratory judgment discretionary with court. The court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding. However, the court shall render or enter a declaratory judgment or decree in an action brought by or against an insurance company to determine liability of the insurance company to the insured to defend, or duty to defend, although the insured's liability for the loss may not have been determined.

Approved March 14, 1983