

PROPERTY

CHAPTER 500

SENATE BILL NO. 2247
(Lodoen)

CONDOMINIUM BYLAWS

AN ACT to amend and reenact section 47-04.1-07 of the North Dakota Century Code, relating to bylaws of condominiums.

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

SECTION 1. AMENDMENT. Section 47-04.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-04.1-07. Administration - Bylaws - Rules and regulations.

1. The unit owners of each project shall provide for the administration of each project. The unit owners or administrative body established by the unit owners shall provide by bylaws for the maintenance of common elements, limited common elements where applicable, assessment of expenses, payment of losses, division of profits, disposition of hazard insurance proceeds, and similar matters. A true copy of such bylaws ~~shall~~ must be annexed to the declaration set forth in section 47-04.1-02 when adopted, and made a part thereof and filed in the office of the register of deeds. No modification of or amendment to the bylaws ~~shall be~~ is valid unless set forth in an amendment to the declaration and ~~such~~ unless the amendment is duly recorded in the office of the register of deeds.
2. The following provisions may not be included in the bylaws:
 - a. Provisions that base assessment of common charges on the basis of whether the occupant of a unit is an owner, a tenant, or other person.
 - b. Provisions that make payment of losses, division of profits, disposition of hazard proceeds, or any other topic that is within the scope of the bylaws, based on

whether the occupant of a unit is an owner, a tenant or other person.

3. All bylaws, rules, and regulations as adopted by the unit owners or administrative body of the project shall ~~shall~~ must be reduced to writing and made available to every owner of any interest in the project.
4. The unit owners shall also cause to be recorded in the office of the register of deeds the name of the person or persons who are responsible for the administrative duties and who may be designated as agent or agents for all owners for the service of legal process and possess such power and authority as may be provided in the bylaws.

Approved March 15, 1983

CHAPTER 501

HOUSE BILL NO. 1543
(Representatives A. Meier, Black, Serenus Hoffner)
(Senator Matchie)

MOBILE HOME STORM SHELTER OWNERSHIP

AN ACT relating to the ownership and transfer of storm shelters by mobile home owners in mobile home parks.

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

SECTION 1. Mobile home storm shelters - Placement and transfer of ownership. Upon approval of the mobile home park owner, the owner of a mobile home located in the park may construct a storm shelter in the mobile home park. The approval shall be in writing and shall set forth the type, location, and use of the shelter, and shall also include an agreement between the park owner and the mobile home owner concerning ownership of the shelter.

Notwithstanding section 47-06-04, the agreement between the owner of the mobile home and the park owner shall provide that the owner of the mobile home is the owner of the shelter and may remove the shelter provided the land is returned to its original condition during any time that person owns the mobile home. The shelter owner may also transfer ownership of the shelter to either a person who purchases the mobile home or to the mobile home park owner. If a suitable price cannot be agreed upon with the mobile home park owner, the shelter owner is deemed to have transferred the shelter to the park owner without cost, unless the shelter is removed or the shelter is transferred to a purchaser of the mobile home as provided in this section. If the park owner is unwilling to assume ownership of the shelter, he may require the mobile home owner to remove the shelter and return the land to its original condition.

The park owner shall not be liable for any injury or damages which may occur to the mobile home owner as a result of the installation or use of the mobile home storm shelter.

All shelters must meet with the approval of local governing bodies.

Approved April 5, 1983

CHAPTER 502

HOUSE BILL NO. 1467
(Wold)CORPORATE AUTHORITY IN PROPERTY
TRANSFERS

AN ACT to provide for a presumption of corporate authority in property transfers; to amend and reenact subsection 2 of section 47-19-03 and section 47-19-20 of the North Dakota Century Code, relating to instruments executed on behalf of corporations; and to repeal chapter 10-07 of the North Dakota Century Code, relating to the authority of corporate officers of foreign and domestic corporations to execute instruments on behalf of the corporation.

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

SECTION 1. Presumption of corporate authority of officers - Application. An officer of any foreign or domestic corporation is presumed to have the power and authority to execute and acknowledge, in its behalf, any instrument granting, conveying, or otherwise affecting any interest in or lien upon any property of the corporation, including contracts, mortgages, deeds, plats, replats, easements, rights of way, options, dedications, restrictions, releases, and satisfactions. Any such instrument executed by an officer of the corporation prior to July 1, 1983, and otherwise proper, is valid and effective.

SECTION 2. AMENDMENT. Subsection 2 of section 47-19-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. If executed by a corporation, by execution and acknowledgment by the person or persons authorized to execute instruments under ~~sections 10-07-01 and 10-07-02~~ section 1 of this Act;

SECTION 3. AMENDMENT. Section 47-19-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-19-20. Identity of person acknowledging - Proof required. The acknowledgment of an instrument must not be taken unless the officer taking it knows or has satisfactory evidence on the oath or affirmation of a credible witness that the person making such the acknowledgment is the individual who is described in and who executed the instrument, or if executed by a corporation, that the officer making such acknowledgment is authorized to make it as provided in ~~sections 10-07-01 and 10-07-02~~ section 1 of this Act.

SECTION 4. REPEAL. Chapter 10-07 of the North Dakota Century Code is hereby repealed.

Approved March 16, 1983

CHAPTER 503

HOUSE BILL NO. 1428
(Martinson)

DEFINITION OF MINERALS IN DEEDS OR GRANTS

AN ACT to amend and reenact section 47-10-24 of the North Dakota Century Code, relating to the definition of "minerals" in deeds, grants, or conveyances of title to real property.

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

SECTION 1. AMENDMENT. Section 47-10-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-10-24. Description and definition of minerals in leases and conveyances. ~~No conveyance~~ All conveyances of mineral rights or royalties ~~separate from the surface rights~~ in real property in this state, excluding leases, shall be construed to grant or convey to the grantee thereof any interest in and to any gravel, coal, clay or uranium unless the intent to convey such interest is specifically and separately set forth in the instrument of conveyance all minerals of any nature whatsoever except those minerals specifically excluded by name in the deed, grant, or conveyance, and their compounds and byproducts, but shall not be construed to grant or convey to the grantee any interest in any gravel, clay, or scoria unless specifically included by name in the deed, grant, or conveyance.

No lease of mineral rights in this state shall be construed as passing any interest to any minerals except those minerals specifically included and set forth by name in the lease. For the purposes of this paragraph the naming of either a specific metalliferous element, or nonmetalliferous element, and if so stated in lease, shall be deemed to include all of its compounds and byproducts, and in the case of oil and gas, all associated hydrocarbons produced in a liquid or gaseous form so named shall be deemed to be included in the mineral named. The use of the words "all other minerals" or similar words of an all-inclusive nature in any lease shall not be construed as leasing any minerals except those minerals specifically named in the lease and their compounds and byproducts.

Approved April 5, 1983

CHAPTER 504

HOUSE BILL NO. 1432
(Martinson)

MINERALS DEFINED IN DEEDS OR CONVEYANCES

AN ACT to amend and reenact section 47-10-25 of the North Dakota Century Code, relating to the definition of "minerals" in deeds, grants, or conveyances of title to real property.

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

SECTION 1. AMENDMENT. Section 47-10-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-10-25. Meaning of minerals in deed, grant, or conveyance of title to real property. In any deed, grant, or conveyance all deeds, grants, or conveyances of the title to the surface of real property executed on or after July 1, 1975 1983, in which all or any portion of the minerals are reserved or excepted and thereby effectively precluded from being transferred with the surface, the use of the word "minerals" or the phrase "all other minerals" or similar words or phrases of an all-inclusive nature all minerals, of any nature whatsoever, shall be interpreted construed to mean only be reserved or excepted except those minerals specifically named excluded by name in the deed, grant, or conveyance and their compounds and byproducts. Gravel, clay, and scoria shall be transferred with the surface estate unless specifically reserved by name in the deed, grant, or conveyance.

Approved April 5, 1983

CHAPTER 505

HOUSE BILL NO. 1425
(Martinson)

RENTAL PROPERTY SECURITY DEPOSITS

AN ACT to amend and reenact section 47-16-07.1 of the North Dakota Century Code, relating to rental property security deposits.

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

SECTION 1. AMENDMENT. Section 47-16-07.1 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-16-07.1. Real property and dwelling security deposits - Limitations and requirements.

1. The lessor of real property or a dwelling who requires money as a security deposit, however denominated, shall deposit the money in any federally insured interest-bearing savings or passbook account established solely for security deposits. The security deposit and any interest accruing thereon shall be paid to the lessee upon termination of a lease, subject to the conditions of subsection 2. A landlord may not demand or receive security, however denominated, in an amount or value in excess of one month's rent.
2. A lessor may apply security deposit money and accrued interest upon termination of a lease towards any:
 - a. Any damages the lessor has suffered by reason of deteriorations or injuries to the real property or dwelling through the negligence of the lessee or his guest.
 - b. Any unpaid rent.
 - c. The costs of cleaning or other repairs which were the responsibility of the lessee, and which are necessary to return the dwelling unit to its original state when the lessee took possession, reasonable wear and tear excepted.

Application of a security deposit towards damages shall be itemized by the lessor. Such itemization together with the amount due shall be delivered or mailed to the lessee at the last address furnished lessor, along with a written notice within thirty days after termination of the lease and delivery of possession by the lessee. The notice shall contain a statement of any amount still due the lessor or the refund due the lessee. A lessor is not required to pay interest on security deposits if the period of occupancy was less than nine months in duration.

3. A lessor shall be is liable for treble damages for any security deposit money withheld without reasonable justification.
4. Upon a transfer in ownership of the leased real property or dwelling, the security deposit and accrued interest shall be transferred to the grantee of the lessor's interest. The grantor shall not be relieved of liability under this section until transfer of the security deposit to the grantee. The holder of the lessor's interest in the real property or dwelling at the termination of a lease shall be bound by this section even though such holder was not the original lessor who received the security deposit.
5. This section shall apply applies to the state and to political subdivisions of the state that lease real property or dwellings and require money as a security deposit.

Approved March 22, 1983

CHAPTER 506

SENATE BILL NO. 2473
(David)

LEASE TERMINATION

AN ACT to create two new sections to chapter 47-16 of the North Dakota Century Code, relating to the disposal of property abandoned by a lessee and the termination of a lease agreement induced by fraudulent misrepresentations; to amend and reenact section 33-06-02 of the North Dakota Century Code, as amended by House Bill No. 1056, as approved by the forty-eighth legislative assembly, relating to eviction actions; and to declare an emergency.

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

SECTION 1. AMENDMENT. Section 33-06-02 of the North Dakota Century Code as amended by House Bill No. 1056, as approved by the forty-eighth legislative assembly, is hereby amended and reenacted to read as follows:

33-06-02. Appearance - Notice of intention to evict - When required - When and how served. In any action for eviction the time specified in the summons for the appearance of the defendant may not be less than three nor more than fifteen days from the date on which it is issued. In all cases arising under subsections 4, 5, and 6 of section 33-06-01, three days' written notice of intention to evict must be given to the lessee, subtenant, or party in possession, before proceedings can be instituted. Such The notice may be served and returned as a summons is served and returned. Service by delivery of a copy of the summons to the defendant in person within the county must be made at least three days before the time fixed for the appearance of the defendant. Service elsewhere or personal service in any other mode must be made at least seven days before the time fixed for the appearance of the defendant.

SECTION 2. A new section to chapter 47-16 of the North Dakota Century Code is hereby created and enacted to read as follows:

Abandoned property - Disposal by lessor. Notwithstanding the provisions of any other law, property with a total value of less than one hundred dollars which is left on the premises of a leased

dwelling fifteen days after the tenant has vacated the premises after the expiration of the lease term may be retained by the lessor of that property and disposed of without legal process. The lessor is also entitled to the proceeds from the sale of this property.

SECTION 3. A new section to chapter 47-16 of the North Dakota Century Code is hereby created and enacted to read as follows:

Fraudulent misrepresentations - Receipt of security deposit. A lease or rental agreement for real property or a dwelling unit which is entered into upon partial or total reliance of fraudulent misrepresentations may be terminated by the party fraudulently induced into the lease or rental agreement and that party shall receive any security deposit made pursuant to the lease or rental agreement together with any accrued interest on the deposit.

SECTION 4. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved April 14, 1983

CHAPTER 507

SENATE BILL NO. 2302
(Barth)

DEEDS RECORDED AFTER ACKNOWLEDGMENT

AN ACT to amend and reenact section 47-19-07 of the North Dakota Century Code, relating to deeds recorded more than six months after acknowledgment.

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

SECTION 1. AMENDMENT. Section 47-19-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-19-07. Place for recording instruments - Fee endorsed - Notification of state tax commissioner. An instrument entitled to be recorded must be recorded by the register of deeds of the county in which the real property affected thereby is situated. The register of deeds in each case must endorse the amount of his fee for the recording on the instrument recorded.

If any deed, except a deed issued through a judicial, probate, or tax sale proceeding, is recorded more than six months after the date of its acknowledgment, the register of deeds, on such forms as the state tax commissioner may prescribe, shall notify the state tax commissioner of the recording of such deed before the end of the month following the month in which such deed was filed for record.

Approved March 23, 1983

CHAPTER 508

HOUSE BILL NO. 1409
(Unhjem)

UNIFORM TRADE SECRETS ACT

AN ACT to adopt the Uniform Trade Secrets Act, relating to the protection of trade secrets from misappropriation.

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

SECTION 1. Definitions. As used in this Act, unless the context requires otherwise:

1. "Improper means" includes theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage through electronic or other means.
2. "Misappropriation" means:
 - a. Acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or
 - b. Disclosure or use of a trade secret of another without express or implied consent by a person who:
 - (1) Used improper means to acquire knowledge of the trade secret;
 - (2) At the time of disclosure or use, knew or had reason to know that his knowledge of the trade secret was:
 - (a) Derived from or through a person who had utilized improper means to acquire it;
 - (b) Acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or

- (c) Derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or
 - (3) Before a material change of his position, knew or had reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake.
3. "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.
 4. "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:
 - a. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
 - b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

SECTION 2. Injunctive relief.

1. Actual or threatened misappropriation may be enjoined. Upon application to the court, an injunction shall be terminated when the trade secret has ceased to exist, but the injunction may be continued for an additional reasonable period of time to eliminate commercial advantage that otherwise would be derived from the misappropriation.
2. If the court determines that it would be unreasonable to prohibit future use, an injunction may condition future use upon payment of a reasonable royalty for no longer than the period of time the use could have been prohibited.
3. In appropriate circumstances, affirmative acts to protect a trade secret may be compelled by court order.

SECTION 3. Damages.

1. In addition to or in lieu of injunctive relief, a complainant may recover damages for the actual loss caused by misappropriation. A complainant also may recover for the unjust enrichment caused by misappropriation that is not taken into account in computing damages for actual loss.

2. If willful and malicious misappropriation exists, the court may award exemplary damages in an amount not exceeding twice any award made under subsection 1.

SECTION 4. Attorney's fees. If a claim of misappropriation is made in bad faith, a motion to terminate an injunction is made or resisted in bad faith, or willful and malicious misappropriation exists, the court may award reasonable attorney's fees to the prevailing party.

SECTION 5. Preservation of secrecy. In an action under this Act, a court shall preserve the secrecy of an alleged trade secret by reasonable means, which may include granting protective orders in connection with discovery proceedings, holding in-camera hearings, sealing the records of the action, and ordering any person involved in the litigation not to disclose an alleged trade secret without prior court approval.

SECTION 6. Statute of limitations. An action for misappropriation must be brought within three years after the misappropriation is discovered or by the exercise of reasonable diligence should have been discovered. For the purposes of this section, a continuing misappropriation constitutes a single claim.

SECTION 7. Effect on other law.

1. This Act displaces conflicting tort, restitutionary, and other law of this state pertaining to civil liability for misappropriation of a trade secret.
2. This Act does not affect:
 - a. Contractual or other civil liability or relief that is not based upon misappropriation of a trade secret; or
 - b. Criminal liability for misappropriation of a trade secret.

SECTION 8. Short title. This Act may be cited as the Uniform Trade Secrets Act.

SECTION 9. Time of taking effect. This Act takes effect on July 1, 1983, and does not apply to misappropriation occurring prior to the effective date.

Approved March 4, 1983