

# PROPERTY

## CHAPTER 449

### RULE AGAINST PERPETUITIES

SENATE BILL NO. 2044  
(Legislative Council)  
(Interim Judiciary Committee)

AN ACT to amend and reenact subsection 5 of section 47-02-27.1 of the North Dakota Century Code, relating to the invalidity of certain contingent property interests, general powers of appointment, special powers of appointment, and general testamentary powers of appointment under the uniform statutory rule against perpetuities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 5 of section 47-02-27.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5. If, in measuring a period from the creation of a trust or other property arrangement, language in a governing instrument seeks to ~~postpone~~ disallow the vesting or termination of any interest or trust ~~until beyond~~, ~~disallow~~ seeks to postpone the vesting or termination of any interest or trust ~~beyond until~~, ~~require all interests or trusts to vest or terminate no later than~~, or seeks to operate in effect in any similar fashion upon, the later of (a) the expiration of a period of time not exceeding twenty-one years after the death of the survivor of specified lives in being at the creation of the trust or other property arrangement or (b) the expiration of a period of time that exceeds or might exceed twenty-one years after the death of the survivor of lives in being at the creation of the trust or other property arrangement, ~~then the portion of the that language described in (b) is inoperative if and to the extent it produces a period of time that exceeds twenty-one years after the death of the survivor of the specified lives specified in the portion of the language described in (a).~~

Approved March 4, 1993  
Filed March 5, 1993

## CHAPTER 450

HOUSE BILL NO. 1337  
(Representatives Rydell, Bernstein, Kroeber)  
(Senators Graba, Schoenwald, B. Stenehjem)

### CONSUMER RENTAL PURCHASE AGREEMENTS

AN ACT relating to the rental and acquisition of ownership of personal property through consumer rental purchase agreements; to provide a penalty; and to provide an effective date.

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

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

1. "Advertisement" means a commercial message in any medium that aids, promotes, or assists a consumer rental purchase agreement.
2. "Cash price" means the price at which the lessor would have sold the property to the consumer for cash on the date of the consumer rental purchase agreement for the property.
3. "Consumer" means an individual who rents property under a consumer rental purchase agreement.
4. "Consumer rental purchase agreement" includes an agreement for the use of property by a consumer primarily for personal, family, or household purposes for an initial period of four months or less, regardless of whether there is any obligation beyond the initial period; which is automatically renewable with each payment after the initial period but does not obligate or require the consumer to continue renting or using the property beyond the initial period, and which permits the consumer to become the owner of the property under the terms of the consumer rental purchase agreement. The term does not include:
  - a. A rental purchase agreement primarily for business, commercial, or agricultural purposes, or an agreement with a governmental agency or instrumentality or organizations.
  - b. A lease or agreement that constitutes an installment sale or installment contract as defined in section 51-13-01.
  - c. A lease of a safe deposit box.
  - d. A lease or a bailment of personal property incidental to the lease of real property and which contains no provision for the consumer to have an option to purchase the leased property.
  - e. A lease of a motor vehicle.
  - f. A hiring defined under chapter 47-15.

- g. A security interest under chapter 41-09.
- 5. "Consummation" means the time at which a consumer becomes contractually obligated on a consumer rental purchase agreement.
- 6. "Lessor" includes a person who regularly provides the use of property through consumer rental purchase agreements and to whom rental payments are initially payable on the face of a consumer rental purchase agreement.

**SECTION 2. Inapplicability of other laws.** Consumer rental purchase agreements under this Act are not governed by the laws relating to a retail installment contract or a retail installment sale as defined in section 51-13-01 or security interest as defined in section 41-01-11.

**SECTION 3. Disclosure of information.**

- 1. A lessor shall include in a consumer rental purchase agreement:
  - a. The total number, total amount, and timing of all payments necessary to acquire ownership of the property.
  - b. A statement that the consumer does not own the property until the consumer has made the total payments necessary to acquire ownership.
  - c. A statement that the consumer is responsible for the fair market value of the property at the time it is lost, stolen, damaged, or destroyed, if that is the intent of the lessor.
  - d. A description of the leased property sufficient to identify the property to the consumer and the lessor, including any identification numbers, if applicable, in a statement indicating whether the property is new or used. A statement indicating that the property is used when in fact it is new is not a violation of this Act.
  - e. A statement of the cash price of the property. If the agreement includes a lease of two or more items as a set, in one agreement, a statement of the aggregate cash price of all the items is sufficient.
  - f. The total of initial payments paid or required to be paid at or before consummation of the agreement or delivery of the property, whichever is later.
  - g. A statement that the total amount of a payment does not include other charges such as late payment penalties; default, pick-up, or reinstatement fees; and other fees which must be separately disclosed in the contract.
  - h. A statement clearly summarizing the terms of the consumer's option to purchase, including a statement that the consumer has the right to exercise any early purchase options and the price or formula or method for determining the price at which the property may be purchased at any given time.
  - i. A statement identifying the party responsible for maintaining or servicing the property while the property is being leased, together with a description of that responsibility, and a statement that if any

- part of the manufacturer's express warranty covers the leased property at the time the consumer acquires ownership of the property, the warranty is transferred to the consumer, if allowed by the terms of the warranty.
- j. The date of the transaction, the identification of the lessor and consumer, and the address where the property will be primarily located during the possession of the consumer under the commercial rental purchase agreement.
  - k. A statement that the consumer may terminate the agreement at any time without penalty by voluntarily surrendering or returning the property in good repair, ordinary wear and tear excepted, along with any payment of any past due rent.
  - l. Notice of the right to reinstate an agreement as provided in this Act.
  - m. A statement that the lessor is required by law to provide the consumer a written receipt, upon request by the consumer at the lessor's place of business, for each payment made by cash or money order.
2. A consumer rental purchase agreement must contain, immediately above or adjacent to the place for the signature of the consumer, a clear, conspicuous, printed or typewritten notice, in boldface, ten-point type, substantially the following language:

NOTICE TO CONSUMER - READ  
BEFORE SIGNING

- a. DO NOT SIGN THIS BEFORE YOU READ THE ENTIRE AGREEMENT, INCLUDING ANY WRITING ON THE REVERSE SIDE, EVEN IF TOLD YOU DO NOT NEED TO.
  - b. DO NOT SIGN THIS IF IT CONTAINS ANY BLANK SPACES.
  - c. YOU ARE ENTITLED TO AN EXACT COPY OF ANY AGREEMENT YOU SIGN.
3. In a transaction involving more than one lessor, only one lessor is required to make the disclosures, but all lessors are bound by the disclosures. The disclosures must be made before the consumer rental purchase agreement is executed. The disclosures must be made clearly and conspicuously in writing in at least eight-point type and a copy of the disclosures and the consumer rental purchase agreement must be provided to the consumer. If a disclosure becomes inaccurate as a result of any act or occurrence caused by the consumer or by an agreement or consent entered into after delivery of the required disclosures, the resulting inaccuracy is not a violation of this Act.
4. Compliance with the Federal Consumer Leasing Act of 1976 [Pub. L. 94-240; 90 Stat. 257; 15 U.S.C. 1601, 1640, 1667-1667e] regarding disclosures in consumer rental purchase agreements satisfies the requirements of this section.

**SECTION 4. Prohibited provisions and agreements.** A consumer rental purchase agreement may not contain the following provisions, and, such included provision is not enforceable:

1. A confession of judgment.
2. A negotiable instrument.
3. A security interest or any other claim of a property interest in any goods except those goods delivered by the lessor pursuant to the consumer rental purchase agreement.
4. A wage assignment.
5. A waiver by the consumer of claims or defenses.
6. A provision authorizing the lessor or a person acting on the lessor's behalf to enter upon the consumer's premises or to commit any breach of the peace in the repossession of the goods.

**SECTION 5. Reinstatement of agreement - Repossession.**

1. A consumer who fails to make a timely rental payment may reinstate the agreement without losing any right or option that exists under the agreement by the payment of:
  - a. All past-due rental charges;
  - b. The reasonable costs of repossession and redelivery if the property has been repossessed; and
  - c. Any applicable late fee within five days of the renewal date if the consumer pays monthly, or within two days of the renewal date if the consumer pays more frequently than monthly. A late fee may not be more than three dollars or five percent of the delinquent lease payment, whichever is greater.
2. If a consumer has paid less than two-thirds of the total amount of payments necessary to acquire ownership and the consumer has returned or voluntarily surrendered the property other than through judicial process during the applicable reinstatement period set forth in this section, the consumer may reinstate the agreement during a period of not less than thirty-one days after the date of the return of the property.
3. If a consumer has paid two-thirds or more of the total amount of payments necessary to acquire ownership and the consumer has returned or voluntarily surrendered the property other than through judicial process during the applicable period set forth in this section, the consumer may reinstate the agreement during a period of not less than forty-five days after the date of the return of the property.
4. This section does not prevent a lessor from attempting to repossess property during the reinstatement period. A repossession does not affect the consumer's right to reinstatement. Upon reinstatement, the lessor shall provide the consumer with the same property or substitute property of comparable quality and condition.

**SECTION 6. Renegotiation for new agreement - Extensions.**

1. A renegotiation of an agreement occurs when an existing consumer rental purchase agreement is satisfied and replaced by a new agreement undertaken by the same lessor and consumer. A renegotiation is considered a new agreement requiring new disclosures. The following events may not be treated as a renegotiation:
  - a. The addition or return of property in a multiple-item agreement or in the substitution of leased property if the average payment allocation to a payment is not changed by more than twenty-five percent.
  - b. A deferral of extension of one or more periodic payments or portions of a periodic payment.
  - c. A reduction in charges in the lease or agreement.
  - d. A lease or agreement that has become the basis for a legal action.
2. No disclosure is required for any extension of a consumer rental purchase agreement under the same terms as the original agreement except for the extension.

**SECTION 7. Advertisement of consumer rental purchase agreement.**

1. If an advertisement for a consumer rental purchase agreement refers to or states the dollar amount of any payment and the right to acquire ownership of any one specific item, the advertisement must also clearly and conspicuously state the following items, as applicable:
  - a. That the transaction advertised is a consumer rental purchase agreement;
  - b. The total amount of payments necessary to acquire ownership; and
  - c. That the consumer acquires no ownership rights if the total amount necessary to acquire ownership is not paid.
2. Any owner or personnel of a medium in which an advertisement appears or through which an advertisement is disseminated is not liable for a violation of this section.
3. This section does not apply to any advertisement that does not refer to or state the amount of any payment or which is published on radio, in the yellow pages of a telephone directory, or in any similar directory of business.

**SECTION 8. Penalties - Remedies - Lessor to preserve evidence.**

1. A lessor who fails to comply with this Act is liable to the consumer for:
  - a. The greater of the actual damages sustained by the consumer as a result of the violation or, in the case of an individual action, twenty-five percent of the total payments necessary to acquire ownership, but not less than one hundred dollars nor more than one thousand dollars; and
  - b. The costs of the action and reasonable attorney's fees.

2. A lessor who violates section 7 of this Act is liable to the consumer for actual damages suffered from the violation, the costs of the action, and reasonable attorney's fees.
3. If there is more than one lessor, liability may be imposed only on the lessor who made the disclosures. When no disclosures have been made, liability must be imposed jointly and severally on all lessors.
4. When there is more than one consumer, there may be only one recovery of damages under subsection 1.
5. Multiple violations in connection with a single consumer rental purchase agreement entitle a consumer to only one recovery under this section.
6. A consumer may not take any action to offset any amount for which a lessor is potentially liable under subsection 1 against any amount owed by the consumer unless the amount of the lessor's liability has been determined by judgment of a court of competent jurisdiction in an action to which the lessor was a party. This subsection does not bar a consumer then in default on the obligation from asserting a violation of this Act as an original action or as a defense or counterclaim to an action brought by the lessor to collect an amount owed by the consumer.
7. In connection with any transaction under this Act, the lessor shall preserve evidence of compliance with this Act for not less than two years from the date of consummation of the agreement.

**SECTION 9. EFFECTIVE DATE.** This Act becomes effective on January 1, 1994.

Approved April 9, 1993  
Filed April 9, 1993

## CHAPTER 451

SENATE BILL NO. 2281  
(Senators Freborg, Krauter)  
(Representatives Porter, St. Aubyn, Wald)

### **RENT CONTROLS PROHIBITED**

AN ACT to prohibit political subdivisions from establishing rent controls.

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

**SECTION 1. Rent controls - Prohibited.** A political subdivision may not enact, maintain, or enforce an ordinance or resolution that would have the effect of controlling the amount of rent charged for leasing private residential or commercial property. This section does not impair the right of a political subdivision to manage and control residential property in which the political subdivision has a fee title interest.

Approved March 10, 1993  
Filed March 11, 1993

## CHAPTER 452

HOUSE BILL NO. 1507  
(Representative Christopherson)

### TRADEMARK REGISTRATION CHANGES

AN ACT to create and enact section 47-22-06.1 of the North Dakota Century Code, relating to the change of name of a trademark owner; and to amend and reenact sections 47-22-03 and 47-22-08 of the North Dakota Century Code, relating to trademark requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 47-22-03 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

<sup>1</sup> **47-22-03. Application for registration.** Subject to the limitations set forth in this chapter, any person who adopts and uses a trademark in this state may file in the office of the secretary of state, on a form to be furnished by the secretary of state, an application for registration of that trademark setting forth, but not limited to, the following information:

1. The name and business address of the person applying for such registration; ~~and~~, if a corporation, the state or country of incorporation and address of the principal place of business; and if a limited partnership, the state or country of the organization and address of the principal place of business;
2. The goods in connection with which the mark is used and the mode or manner in which the mark is used in connection with such goods and the class, or classes, in which such goods fall;
3. The date when the trademark was first used anywhere and the date when it was first used in this state by the applicant or his predecessor in business; and
4. A statement that the applicant is the owner of the trademark and that no other person has the right to use such trademark in this state either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive or to be mistaken therefor.

The application must be signed by the applicant or by a member of the firm or an officer of the corporation or association applying.

The application must be accompanied by a specimen or facsimile of such trademark in duplicate.

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<sup>1</sup> NOTE: Section 47-22-03 was also amended by section 106 of Senate Bill No. 2223, chapter 54.

The application for registration must be accompanied by a filing fee of thirty dollars for one class of goods and twenty dollars for each additional class, payable to the secretary of state.

**SECTION 2.** Section 47-22-06.1 of the North Dakota Century Code is created and enacted as follows:

47-22-06.1. Change of name or address of registrant. Any registrant that effects a name change must record that name change with the secretary of state. The secretary of state must record the name change upon the payment of a fee of thirty dollars and filing of the following:

1. A notarized statement reciting the name change if the registrant is an individual.
2. A certificate of fact reciting the name change duly authenticated by the proper officer of the state or country if the registrant is a corporation or limited partnership incorporated or organized in another state or country and does not have a certificate of authority to transact business in North Dakota.
3. An amendment or application for amended certificate of authority for a registrant that is a corporation or limited partnership registered with the secretary of state.

The secretary of state shall issue a certificate in the new name of the registrant for the remainder of the term of the registration or of the last renewal thereof.

A registrant must notify the secretary of state in writing when effecting a change of address. A corporate annual report or limited partnership renewal filed by the secretary of state that reflects a change of address of the principal place of business of a registrant may serve as such notice.

**SECTION 3. AMENDMENT.** Section 47-22-08 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**47-22-08. Cancellation.** The secretary of state shall cancel from the register:

1. Any registration concerning which the secretary of state shall receive a voluntary written and signed request for cancellation thereof from the registrant or the assignee of record.
2. All registrations granted under this chapter and not renewed in accordance with the provisions hereof.
3. Any registration concerning which a state district court shall find any of the following:
  - a. That the registered trademark has been abandoned.
  - b. That the registrant is not the owner of the trademark.
  - c. That the registration was granted improperly.

- d. That the registration was obtained fraudulently.
  - e. That the registration trademark is so similar, as to be likely to cause confusion or mistake or to deceive, to a trademark registered by another person in the United States Patent Office, prior to the date of the filing of the application for registration by the registrant hereunder, and not abandoned; provided, however, that should the registrant prove that he is the owner of a concurrent registration of his trademark in the United States Patent Office covering an area including this state, the registration hereunder shall not be canceled.
4. When a district court shall order cancellation of a registration on any ground.
  5. Any trademark whose registered owner is a corporation or limited partnership that has ceased to exist for six months.

Approved April 8, 1993  
Filed April 9, 1993

## CHAPTER 453

HOUSE BILL NO. 1043  
(Legislative Council)  
(Interim Judiciary Committee)

### UNIFORM TRANSFERS TO MINORS ACT ACCOUNTS

AN ACT to amend and reenact subdivision b of subsection 1 of section 47-24.1-09 of the North Dakota Century Code, relating to the manner of creating custodial property and effecting transfers under the Uniform Transfers to Minors Act.

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

**SECTION 1. AMENDMENT.** Subdivision b of subsection 1 of section 47-24.1-09 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- b. Money is paid or delivered, or a security held in the name of a broker, financial institution, or its nominee is transferred, to a broker or financial institution for credit to an account in the name of the transferor, an adult other than the transferor, or a trust company, followed in substance by the words: "as custodian for \_\_\_\_\_ (name of minor) under the North Dakota Uniform Transfers to Minors Act";

Approved March 16, 1993  
Filed March 16, 1993

## CHAPTER 454

HOUSE BILL NO. 1472  
(Representative C. Carlson)

### TRADE NAMES

AN ACT to create and enact section 47-25-06.1 of the North Dakota Century Code, relating to the change of name or address of a trade name registrant; and to amend and reenact sections 47-25-02, 47-25-04, and 47-25-07 of the North Dakota Century Code, relating to trade name requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 47-25-02 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**47-25-02. Trade name - Registration - Statement - Contents.** Any person who engages in business in this state under a trade name may register with the secretary of state for purposes of registering a trade name, a statement executed by ~~each~~ the owner upon blanks furnished forms prescribed by the secretary of state, setting forth: (1) the trade name to be registered, (2) ~~the name or names and addresses~~ address of each and every the owner of the business, and if a corporation, the state or country of incorporation and address of the principal place of business, and (3) the nature of the business in detail.

**SECTION 2. AMENDMENT.** Section 47-25-04 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**47-25-04. Trade names - Registration - Fees - Renewal - Notice.** For the registration of a trade name under this chapter, the registrant shall pay to the secretary of state a fee of twenty-five dollars for an original registration, a fee of twenty-five dollars for an assignment, and a fee of ten dollars for a consent to use of a similar name or any other change in the original registration under this chapter. A registration remains in force for a period of five years from the date of the original registration and may be renewed within thirty days before its expiration date by reregistering in the same manner as an original registration. The secretary of state shall notify the registrant by mail at least ninety days before the expiration of the registration.

The secretary of state may destroy all registrations or renewals one year after expiration.

**SECTION 3.** Section 47-25-06.1 of the North Dakota Century Code is created and enacted as follows:

**47-25-06.1. Change of name or address of registrant.** Any registrant that effects a name change must record that name change with the secretary of state. The secretary of state must record the name change upon the payment of a fee of twenty-five dollars and filing of the following:

1. A notarized statement reciting the name change if the registrant is an individual;
2. A certificate of fact reciting the name change duly authenticated by the proper officer of the state or country if the registrant is a corporation or limited partnership incorporated or organized in another state or country and does not have a certificate of authority to transact business in North Dakota; or
3. An amendment or application for amended certificate of authority for a registrant that is a corporation or limited partnership registered with the secretary of state.

The secretary of state shall issue a certificate in the new name of the registrant for the remainder of the term of the registration or of the last renewal thereof.

A registrant must notify the secretary of state in writing when effecting a change of address. A corporate annual report filed by the secretary of state that reflects a change of address of the principal place of business of a registrant may serve as such notice.

**SECTION 4. AMENDMENT.** Section 47-25-07 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**47-25-07. Cancellation.** The secretary of state shall cancel from the register:

1. Any registration concerning which the secretary of state receives a voluntary written and signed request for cancellation from the registrant or the assignee of record.
2. Any registration concerning which a state district court finds any of the following:
  - a. That the registered trade name has been abandoned.
  - b. That the registrant is not the owner of the trade name.
  - c. That the registration was granted improperly.
  - d. That the registration was obtained fraudulently.
  - e. That the trade name registered is so similar to a trade name registered by another person as to be likely to cause confusion or mistake or to deceive.
3. Any registration a district court orders canceled on any grounds.
4. Any trade name when the registrant is a corporation that has ceased to exist for six months.

Approved April 8, 1993  
Filed April 9, 1993

## CHAPTER 455

SENATE BILL NO. 2104  
(Industry, Business and Labor Committee)  
(At the request of the Board of University and School Lands)

### ABANDONED PROPERTY ADMINISTRATION

AN ACT to amend and reenact sections 47-30.1-03.1, 47-30.1-10, and subsection 1 of section 47-30.1-19 of the North Dakota Century Code, relating to abandoned property; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 47-30.1-03.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**47-30.1-03.1.** Property originated or issued by this state, any political subdivision of this state, or any entity incorporated, organized, ~~or~~ created, or otherwise located in this state.

1. All intangible property, including any interest, dividend, or other earnings thereon, less any lawful charges, held by a business association, federal, state, or local government or governmental subdivision, agency, or entity, or any other person or entity, regardless of where the holder may be found, if the owner has not claimed or corresponded in writing concerning the property within three years after the date prescribed for payment or delivery, is presumed abandoned and subject to the custody of this state as unclaimed property if:
  - a. The address of the owner is unknown; and
  - b. The person or entity originating or issuing the intangible property is this state or any political subdivision of this state, or is incorporated, organized, ~~or~~ created, or otherwise located in this state.
2. The provisions of subsection 1 do not apply to property that is or may be presumed abandoned and subject to the custody of this state pursuant to any other provision of law containing a dormancy period different from that prescribed in subsection 1.
3. The provisions of subsection 1 apply to all property held on July 1, 1991, or at any time thereafter, regardless of when such property became or becomes presumptively abandoned.

**SECTION 2. AMENDMENT.** Section 47-30.1-10 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**47-30.1-10. Stock and other intangible interests in business associations.**

1. Except as provided in subsections 2 and 5, stock or other intangible ownership interest in a business association, the existence of which is

evidenced by records available to the association, is presumed abandoned and, with respect to the interest, the association is the holder, if a dividend, distribution, or other sum payable as a result of the interest has remained unclaimed by the owner for ~~seven~~ five years and the owner within ~~seven~~ five years has not:

- a. Communicated in writing with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest; or
  - b. Otherwise communicated with the association regarding the interest or a dividend, distribution, or other sum payable as a result of the interest, as evidenced by a memorandum or other record on file with the association prepared by an employee of the association.
2. At the expiration of a ~~seven-year~~ five-year period following the failure of the owner to claim a dividend, distribution, or other sum payable to the owner as a result of the interest, the interest is not presumed abandoned unless there have been at least ~~seven~~ five dividends, distributions, or other sums paid during the period, none of which have been claimed by the owner. If ~~seven~~ five dividends, distributions, or other sums are paid during the ~~seven-year~~ five-year period, the period leading to a presumption of abandonment commences on the date payment of the first unclaimed dividend, distribution, or other sum became due and payable. If ~~seven~~ five dividends, distributions, or other sums are not paid during the presumptive period, the period continues to run until there have been ~~seven~~ five dividends, distributions, or other sums that have not been claimed by the owner.
  3. The running of the ~~seven-year~~ five-year period of abandonment ceases immediately upon the occurrence of a communication referred to in subsection 1. If any future dividend, distribution, or other sum payable to the owner as a result of the interest is subsequently not claimed by the owner, a new period of abandonment commences and relates back to the time a subsequent dividend, distribution, or other sum became due and payable.
  4. At the time an interest is presumed abandoned under this section, any dividend, distribution, or other sum then held for or owing to the owner as a result of the interest, and not previously presumed abandoned, is presumed abandoned.
  5. This chapter does not apply to any stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest unless the records available to the administrator of the plan show, with respect to any intangible ownership interest not enrolled in the reinvestment plan, that the owner has not within ~~seven~~ five years communicated in any manner described in subsection 1.

**SECTION 3. AMENDMENT.** Subsection 1 of section 47-30.1-19 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Except as otherwise provided in subsections 2 and 3, a person who is required to file a report under section 47-30.1-17, ~~within six months~~

after no sooner than March first and no later than May first following the final date for filing the report as required by section 47-30.1-17, shall pay or deliver to the administrator all abandoned property required to be reported.

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.

Approved February 26, 1993  
Filed February 26, 1993

## CHAPTER 456

SENATE BILL NO. 2101  
(Government and Veterans Affairs Committee)  
(At the request of the Board of University and School Lands)

### ABANDONED PROPERTY AUDIT RECORDS

AN ACT to create and enact a new section to chapter 47-30.1 of the North Dakota Century Code, relating to making confidential the audit records under the uniform abandoned property act; and to provide a penalty.

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

**SECTION 1.** A new section to chapter 47-30.1 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

##### **Confidentiality of audit records - Civil penalty.**

1. Documentation and working papers obtained or compiled by the administrator, or the administrator's agents, employees, or designated representatives, in the course of conducting an audit for unclaimed property under chapter 47-30.1 are confidential and are not public records under section 44-04-18 and section 5 of article XI of the Constitution of North Dakota, except in the following circumstances:
  - a. When used by the administrator to bring an action to collect unclaimed property, to collect any unpaid interest due on unclaimed property, or to otherwise enforce chapter 47-30.1;
  - b. When used in joint audits conducted with or pursuant to agreements with other states, the federal government, or other governmental entities;
  - c. Pursuant to subpoena or court order; or
  - d. By written consent of the person, institution, business, or entity that was audited.
2. The administrator's final, completed audit reports are records open to the public. The final reports may not contain confidential documentation or working papers unless one of the exceptions provided under subsection 1 applies.
3.
  - a. The administrator or any state employee conducting an audit on the administrator's behalf may not disclose confidential information when auditing financial institutions, except as required to perform duties required under this chapter. Any other person or entity performing an audit for unclaimed property may not disclose confidential information concerning a financial institution or other holder to any person or other entity except the administrator.

- b. Any person or entity, other than the administrator or any state employee conducting an audit on the administrator's behalf, who intentionally discloses information in violation of this section is liable to the person or entity that was audited in an amount equal to the greater of one thousand dollars or the actual damages caused by the disclosure of the information. Any person who discloses information in good faith reliance on this section is not liable for that disclosure.
4. The administrator and any state employee conducting an audit on the administrator's behalf are exempt from chapter 6-08.1.

Approved April 19, 1993

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