

UNIFORM COMMERCIAL CODE

CHAPTER 409

HOUSE BILL NO. 1042
(Legislative Council)
(Interim Judiciary Committee)

LOST, STOLEN, OR DESTROYED CHECKS

AN ACT to create and enact a new section to chapter 41-03 of the North Dakota Century Code as created by chapter 448 of the 1991 Session Laws of North Dakota, relating to cashier's checks, teller's checks, and certified checks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 41-03 of the North Dakota Century Code as created by chapter 448 of the 1991 Session Laws of North Dakota is created and enacted as follows:

(3-312) Lost, destroyed, or stolen cashier's check, teller's check, or certified check.

1. In this section:

- a. "Check" means a cashier's check, teller's check, or certified check.
- b. "Claimant" means a person who claims the right to receive the amount of a check that was lost, destroyed, or stolen.
- c. "Declaration of loss" means a written statement, made under penalty of perjury, to the effect that:
 - (1) The declarer lost possession of a check;
 - (2) The declarer is the drawer or payee of the check in the case of a certified check, or the remitter or payee of the check in the case of a cashier's check or teller's check;
 - (3) The loss of possession was not the result of a transfer by the declarer or a lawful seizure; and
 - (4) The declarer cannot reasonably obtain possession of the check because the check was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.
- d. "Obligated bank" means the issuer of a cashier's check or teller's check or the acceptor of a certified check.

2. A claimant may assert a claim to the amount of a check by a communication to the obligated bank describing the check with reasonable certainty and requesting payment of the amount of the check, if the claimant is the drawer or payee of a certified check or the remitter or payee of a

cashier's check or teller's check, the communication contains or is accompanied by a declaration of loss of the claimant with respect to the check, the communication is received at a time and in a manner affording the bank a reasonable time to act on it before the check is paid, and the claimant provides reasonable identification if requested by the obligated bank. Delivery of a declaration of loss is a warranty of the truth of the statements made in the declaration. If a claim is asserted in compliance with this subsection, the following rules apply:

- a. The claim becomes enforceable at the later of the time the claim is asserted, the ninetieth day following the date of the check in the case of a cashier's check or teller's check, or the ninetieth day following the date of the acceptance in the case of a certified check.
 - b. Until the claim becomes enforceable, it has no legal effect and the obligated bank may pay the check or, in the case of a teller's check, may permit the drawee to pay the check. Payment to a person entitled to enforce the check discharges all liability of the obligated bank with respect to the check.
 - c. If the claim becomes enforceable before the check is presented for payment, the obligated bank is not obliged to pay the check.
 - d. When the claim becomes enforceable, the obligated bank becomes obliged to pay the amount of the check to the claimant if payment of the check has not been made to a person entitled to enforce the check. Subject to subdivision a of subsection 1 of section 41-04-30, payment to the claimant discharges all liability of the obligated bank with respect to the check.
3. If the obligated bank pays the amount of a check to a claimant under subdivision d of subsection 2 and the check is presented for payment by a person having rights of a holder in due course, the claimant is obliged to refund the payment to the obligated bank if the check is paid, or to pay the amount of the check to the person having rights of a holder in due course if the check is dishonored.
 4. If a claimant has the right to assert a claim under subsection 2 and is also a person entitled to enforce a check that is lost, destroyed, or stolen, the claimant may assert rights with respect to the check either under this section or section 41-03-35.

Approved March 19, 1993
Filed March 19, 1993

CHAPTER 410

HOUSE BILL NO. 1041
(Legislative Council)
(Interim Judiciary Committee)

BULK TRANSFER LAW REPEAL

AN ACT to repeal chapter 41-06 of the North Dakota Century Code, relating to the Uniform Commercial Code - Bulk Transfers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Chapter 41-06 of the North Dakota Century Code is repealed.

Approved March 19, 1993
Filed March 19, 1993

CHAPTER 411

HOUSE BILL NO. 1212

(Finance and Taxation Committee)

(At the request of the Office of Management and Budget)

CENTRAL FILING SYSTEM FEES

AN ACT to create and enact a new section to chapter 41-09 of the North Dakota Century Code, relating to fees for filing documents in the Uniform Commercial Code central filing system; to amend and reenact subsections 5, 9, and 10 of section 41-09-42 of the North Dakota Century Code, relating to fees for obtaining information from the Uniform Commercial Code central filing system; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 41-09 of the North Dakota Century Code is created and enacted as follows:

Surcharge on filing fees. In addition to the fees provided elsewhere for filing documents in the central filing data base system, each register of deeds and the secretary of state shall charge an additional two dollar and fifty cent fee for each original filing, amendment, continuation, assignment, release, or partial release filed. All the fees collected under this section must be deposited into the general fund.

¹ **SECTION 2. AMENDMENT.** Subsections 5, 9, and 10 of section 41-09-42 of the 1991 Supplement to the North Dakota Century Code are amended and reenacted as follows:

5. The fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing for an original financing statement or for a continuation statement or to obtain information from the system is as follows:
 - a. For filing and indexing any statement under the Uniform Commercial Code, five dollars, and when a nonstandard statement is presented for filing, an additional fee of five dollars plus one dollar per page must be made. No additional fee may be charged if the form is filed also to gain protection under the central notice system.
 - b. For making certified copies of any recorded instrument, ~~five~~ seven dollars.

¹ NOTE: Subsections 5, 9, and 10 of section 41-09-42 were also amended by section 17 of House No. 1005, chapter 5.

- c. For completing a certificate requesting information, ~~five~~ seven dollars for the first five entries and ~~one-dollar~~ two dollars for each additional five entries or fraction thereof.
 - d. For completing a certificate requesting copies, ~~five~~ seven dollars for the first three copies or fraction thereof, and ~~one-dollar~~ two dollars for each additional copy.
 - e. For furnishing copies only of any filed instrument, one dollar.
9. The fee for furnishing information on a verbal request pursuant to subsection 5 of section 41-09-46 is ~~five~~ seven dollars.
 10. The fee for furnishing a certificate pursuant to subsection 5 of section 41-09-46 is ~~five~~ seven dollars.

SECTION 3. EXPIRATION DATE. Section 1 of this Act is effective through June 30, 1995, and after that date is ineffective.

Approved April 30, 1993
Filed May 3, 1993

CHAPTER 412

SENATE BILL NO. 2438
(Senators Nelson, Mathern)

SECURITY DOCUMENT REILING

AN ACT to amend and reenact section 41-09-28.1 of the North Dakota Century Code, relating to reiling of security documents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 41-09-28.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

41-09-28.1. Transition provision to computerized central notice system. Any security document filed by secured parties or lienholders before January 1, 1992, lapses on June 30, 1992, unless after January 1, 1992, but before June 30, 1992, there is filed in either the office of the secretary of state or the register of deeds a copy of the security document, along with the additional information to be filed pursuant to section 35-17-04, 35-30-02, 35-31-02, or 41-09-40, and all related documents on file. A refiled document must be filed in the office in which the original document was first filed. The order of perfection is governed by the date and the time of filing of the original financing statement or statement of lien. Refiling a lien pursuant to this section does not affect the priority of that lien. No filing fees may be charged or collected for the reiling of any security document pursuant to this section. At the time of the reiling of any security document pursuant to this section, the fee for filing and indexing a termination statement pursuant to subsection 3 of section 41-09-43 must be paid, unless that fee was paid with the original filing of the security document.

Approved March 22, 1993
Filed March 23, 1993

CHAPTER 413

SENATE BILL NO. 2425
(Senators Keller, Andrist, Redlin, Robinson)
(Representatives Jacobs, Nelson)

FINANCING STATEMENT REQUIREMENTS

AN ACT to create and enact a new subsection to section 41-09-42 of the North Dakota Century Code, relating to including the social security number or the internal revenue service taxpayer identification number of the debtor in a continuation or amendment of a financing statement under the Uniform Commercial Code central filing system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 41-09-42 of the 1991 Supplement to the North Dakota Century Code is created and enacted as follows:

The continuation statement must contain the social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the debtor for all security documents filed or refiled under the transition provisions of section 41-09-28.1 or for any other security document filed or refiled without such debtor identification numbers being included in the security document. The signature of the debtor may not be required and no filing fees may be charged or collected for the filing of any amendment that is limited to including debtor identification numbers to any transition security documents or other security documents filed without the debtor identification numbers as provided herein, if the filing is made within six months of the effective date of this Act.

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 414

SENATE BILL NO. 2375
(Senators Kelsh, Tallackson)
(Representatives Austin, Wentz)

COMPUTER EQUIPMENT TRANSFER

AN ACT to provide for transfer of computer equipment to the county register of deeds; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Transfer of Uniform Commercial Code central indexing system equipment. Title to the computer equipment, facsimile machines, printers, and other equipment purchased by the secretary of state during the 1991-93 biennium for the implementation and operation of the Uniform Commercial Code central indexing system which is installed in county registers of deeds' offices is hereby transferred to the county where it is installed. The transfer of title to the equipment is effective on July 1, 1993. The secretary of state shall inventory all equipment transferred and provide a list of the equipment, the serial number of the equipment, and the initial cost of the equipment transferred to each county register of deeds. Each county shall maintain and upgrade the equipment necessary to continue the operation of the Uniform Commercial Code central indexing system.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 7, 1993
Filed April 8, 1993