

HOUSE BILL NO. 1042

Introduced by

Legislative Council

(Judiciary Committee)

1 A BILL for an Act to amend and reenact sections 11-17-04, 11-26-04, 26.1-02-19, 28-20.1-05,
2 30.1-21-08, subsection 9 of section 30.1-28-12, sections 30.1-32-02, 35-18-04, 35-21-05,
3 43-01-19, and 57-22-32 of the North Dakota Century Code, relating to filing fees charged by the
4 clerk of district court; to provide an effective date; and to declare an emergency.

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

6 **SECTION 1. AMENDMENT.** Section 11-17-04 of the 1997 Supplement to the North
7 Dakota Century Code is amended and reenacted as follows:

8 **11-17-04. (Effective through March 31, 1999) Fees to be charged by the clerk of**
9 **the district court.**

10 1. The clerk of the district court shall charge and collect the following fees in civil
11 cases:

12 a. For filing a case for decision that is not a small claims action, eighty dollars.

13 (1) Fifteen dollars of this fee must be paid by the clerk of court to the state
14 treasurer for deposit in the civil legal services fund. Any fees collected
15 under this paragraph which exceed four hundred thousand dollars in
16 any biennium must be paid by the clerk of court to the state treasurer
17 for deposit in the state general fund.

18 (2) For the filing of a petition for dissolution of marriage, annulment, or
19 separation from bed and board, fifty dollars of this fee must be paid by
20 the clerk of court to the state treasurer for deposit in the displaced
21 homemaker account created by section 14-06.1-14.

22 (3) For all other filings, forty-five dollars of this fee must be paid by the clerk
23 of court to the state treasurer for deposit in the state general fund.

- 1 b. For filing an answer to a case that is not a small claims action, fifty dollars.
2 The clerk shall deposit this fee with the state treasurer for deposit in the
3 general fund in the state treasury.
- 4 c. For filing a small claims action in district court, ten dollars.
- 5 d. For filing any matter authorized to be filed in the office of the clerk of court
6 other than under subdivision a, b, or c, ten dollars.
- 7 e. For preparing, certifying, issuing, or transmitting any document, ten dollars; or
8 a lesser fee as may be set by the state court administrator.
- 9 f. For filing a motion or an answer to a motion to modify an order for alimony,
10 property division, child support, or child custody, thirty dollars. The clerk shall
11 deposit this fee with the state treasurer for deposit in the general fund of the
12 state treasury.
- 13 2. Section 27-01-07 applies to fees charged under this section. The clerk of court
14 may not charge or collect any fee, prescribed by this or any other section, from the
15 state or an agency thereof or from a political subdivision or agency thereof.

16 **(Effective April 1, 1999) Fees to be charged by the clerk of the district court.**

- 17 1. The clerk of the district court shall charge and collect the following fees in civil
18 cases:
- 19 a. For filing a case for decision that is not a small claims action, eighty dollars.
- 20 (1) Fifteen dollars of this fee must be paid by the clerk of court to the state
21 treasurer for deposit in the civil legal services fund. Any fees collected
22 under this paragraph which exceed four hundred thousand dollars in
23 any biennium must be paid by the clerk of court to the state treasurer
24 for deposit in the state general fund.
- 25 (2) For the filing of a petition for dissolution of marriage, annulment, or
26 separation from bed and board, fifty dollars of this fee must be paid by
27 the clerk of court to the state treasurer for deposit in the displaced
28 homemaker account created by section 14-06.1-14 and fifteen dollars
29 of this fee must be paid by the clerk of court to the state treasurer for
30 deposit in the state general fund.

- 1 (3) For all other filings, sixty-five dollars of this fee must be paid by the
2 clerk of court to the state treasurer for deposit in the state general fund.
- 3 b. For filing an answer to a case that is not a small claims action, fifty dollars.
4 The clerk shall deposit this fee with the state treasurer for deposit in the
5 general fund in the state treasury.
- 6 c. For filing a small claims action in district court, ten dollars.
- 7 d. ~~For filing any matter authorized to be filed in the office of the clerk of court~~
8 ~~other than under subdivision a, b, or c, ten dollars.~~
- 9 e. ~~For preparing, certifying, issuing, or transmitting any document, ten dollars; or~~
10 ~~a lesser fee as may be set by the state court administrator.~~
- 11 f. For filing a motion or an answer to a motion to modify an order for alimony,
12 property division, child support, or child custody, thirty dollars. The clerk shall
13 deposit this fee with the state treasurer for deposit in the general fund of the
14 state treasury.
- 15 e. For filing a foreign decree or foreign judgment, eighty dollars.
- 16 f. For filing a petition of subsequent administration, eighty dollars.
- 17 g. For filing a statement or a petition under section 30.1-32-02, eighty dollars.
- 18 h. For filing any other matter authorized to be filed in the office of the clerk of
19 court, ten dollars.
- 20 i. For preparing, certifying, issuing, or transmitting any document, ten dollars; or
21 a lesser fee as may be set by the state court administrator.
- 22 2. Section 27-01-07 applies to fees charged under this section. The clerk of court
23 may not charge or collect any fee, prescribed by this or any other section, from the
24 state or an agency thereof or from a political subdivision or agency thereof.

25 **SECTION 2. AMENDMENT.** Section 11-26-04 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **11-26-04. Meetings of board, when held - Fees.** Whenever a debtor or creditor calls
28 for assistance upon the debt adjustment board of the county within which the debtor resides
29 and pays to the clerk of the district court a filing fee as prescribed in ~~subdivision d of~~
30 ~~subsection 1 of~~ section 11-17-04, ~~such~~ the clerk shall call a meeting of the debtor and the
31 debtor's creditors with the board at the earliest possible date. The clerk shall notify the

1 members of the board and the debtor and creditors of the time and place of such meeting. If a
2 debtor requesting a meeting makes and files an affidavit stating that the debtor is financially
3 unable to pay the fee provided for in this section, the payment ~~thereof shall~~ of the fee must be
4 waived.

5 **SECTION 3. AMENDMENT.** Section 26.1-02-19 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **26.1-02-19. Fees.** Any person filing a foreign decree shall pay a filing fee as prescribed
8 in ~~subdivision d of subsection 1 of section 11-17-04~~ to the clerk of court. Fees for docketing,
9 transcriptions, or other enforcement proceedings are as provided for decrees of the district
10 court.

11 **SECTION 4. AMENDMENT.** Section 28-20.1-05 of the 1997 Supplement to the North
12 Dakota Century Code is amended and reenacted as follows:

13 **28-20.1-05. Fees.** Any person filing a foreign judgment shall pay to the clerk of court a
14 filing fee as prescribed in ~~subdivision d of subsection 1 of section 11-17-04~~. Fees for docketing,
15 transcription, or other enforcement proceedings must be as provided for judgments of the
16 district court of any county of this state.

17 **SECTION 5. AMENDMENT.** Section 30.1-21-08 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **30.1-21-08. (3-1008) Subsequent administration - Fee.** If other property of the estate
20 is discovered after an estate has been settled and the personal representative discharged or
21 after one year after a closing statement has been filed, the court, upon petition of any interested
22 person and upon notice as it directs, may appoint the same or a successor personal
23 representative to administer the subsequently discovered estate. Any person filing a petition
24 under this section shall pay to the clerk of district court a filing fee as prescribed in section
25 11-17-04. If a new appointment is made, unless the court orders otherwise, the provisions of
26 this title apply as appropriate, but no claim previously barred may be asserted in the
27 subsequent administration.

28 **SECTION 6. AMENDMENT.** Subsection 9 of section 30.1-28-12 of the North Dakota
29 Century Code is amended and reenacted as follows:

30 9. Copies of the guardian's annual report to the court and of any other reports
31 required by the court must be mailed to the ward. The ward's copy must be

1 accompanied by a statement, printed with not less than double-spaced
2 twelve-point type, of the ward's right to seek alteration, limitation, or termination of
3 the guardianship at any time. Any person filing an annual report with the court
4 under this section shall pay to the clerk of district court a filing fee as prescribed in
5 section 11-17-04.

6 **SECTION 7. AMENDMENT.** Section 30.1-32-02 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **30.1-32-02. (7-102) Registration procedures - Fee.** Registration ~~shall~~ must be
9 accomplished by filing a statement indicating the name and address of the trustee in which it
10 acknowledges the trusteeship. Any person filing a statement under this section or a petition for
11 allowance of trustee's annual report or other remedies shall pay to the clerk of district court a
12 filing fee as prescribed in section 11-17-04. The statement ~~shall~~ must indicate whether the trust
13 has been registered elsewhere. The statement ~~shall~~ must identify the trust:

- 14 1. In the case of a testamentary trust, by the name of the testator and the date and
15 place of domiciliary probate.
- 16 2. In the case of a written inter vivos trust, by the name of each settlor and the original
17 trustee and the date of the trust instrument.
- 18 3. In the case of an oral trust, by information identifying the settlor or other source of
19 funds and describing the time and manner of the trust's creation and the terms of
20 the trust, including the subject matter, beneficiaries, and time of performance.

21 If a trust has been registered elsewhere, registration in this state is ineffective until the earlier
22 registration is released by order of the court where prior registration occurred, or an instrument
23 executed by the trustee and all beneficiaries, filed with the registration in this state.

24 **SECTION 8. AMENDMENT.** Section 35-18-04 of the 1997 Supplement to the North
25 Dakota Century Code is amended and reenacted as follows:

26 **35-18-04. Clerk of court - Filing - Record - Fee.** The clerk of the district court with
27 whom the lien statement and proof of service are filed shall endorse on those filings the date
28 and hour of filing and shall keep a record of all lien statements filed in the county, and of any
29 orders, or responses relating to any orders, by the district court. The clerk shall establish and
30 maintain a system for indexing, filing, or recording which is sufficient to enable users of the

1 records to obtain adequate information. The clerk shall collect a fee as prescribed in
2 ~~subdivision d of subsection 1 of~~ section 11-17-04 for filing and indexing each lien.

3 **SECTION 9. AMENDMENT.** Section 35-21-05 of the 1997 Supplement to the North
4 Dakota Century Code is amended and reenacted as follows:

5 **35-21-05. Fee - Recordation - Certified copies as evidence.** If the presiding officer is
6 the clerk of the district court, the clerk may charge a fee as prescribed in ~~subdivision d of~~
7 ~~subsection 1 of~~ section 11-17-04 to be paid in advance by the applicant. If the officer is the
8 clerk of the district court, the clerk shall record the notice, affidavit, and undertaking in a
9 recording system provided for that purpose. If the officer is the register of deeds, the officer
10 shall record the ~~same~~ notice, affidavit, and undertaking in the book of miscellaneous records.
11 The register of deeds may charge a fee as provided by section 11-18-05. Certified copies of
12 the documents are prima facie evidence, in the courts of this state, of the matters therein
13 contained.

14 **SECTION 10. AMENDMENT.** Section 43-01-19 of the 1997 Supplement to the North
15 Dakota Century Code is amended and reenacted as follows:

16 **43-01-19. County officers may certify abstracts.** ~~The provisions of this~~ This chapter
17 ~~de~~ does not prevent the register of deeds, county treasurer, or clerk of court from certifying to
18 abstracts of title to lands from the records of their respective offices. Each ~~such~~ officer,
19 however, is liable on ~~his~~ the officer's official bond for the faithful performance of all acts
20 performed by ~~him~~ the officer as ~~such~~ the abstracter. If the officer certifying the abstract is the
21 clerk of court, the clerk shall charge and collect a fee as prescribed in ~~subdivision e of~~
22 ~~subsection 1 of~~ section 11-17-04.

23 **SECTION 11. AMENDMENT.** Section 57-22-32 of the 1997 Supplement to the North
24 Dakota Century Code is amended and reenacted as follows:

25 **57-22-32. Collection from tax debtor who moves to another county - Duty of**
26 **county auditor.** Upon the removal of a delinquent tax debtor from the county, collection must
27 be made from the debtor in the manner following:

28 1. In case of the removal of any delinquent tax debtor from the county in which the
29 debtor's personal property was taxed to any other county in this state, ~~it is the duty~~
30 ~~of~~ the assessor immediately ~~to~~ shall make a proper effort to ascertain the place of
31 the debtor's destination and to report the ~~same~~ place to the county auditor.

1 ~~Thereupon, the~~ The county auditor shall ~~make out~~ prepare and forward to the clerk
2 of the district court of the county to which the tax debtor has removed a statement
3 of the amount of ~~such~~ the delinquent taxes, including penalties and costs that may
4 have attached, specifying the value of property on which ~~said~~ the taxes were
5 levied.

6 2. On receipt of ~~any such~~ the statement, the clerk of the district court receiving the
7 ~~same~~ statement shall issue a warrant to the sheriff of the county, and ~~such~~ the
8 sheriff shall proceed immediately to collect the ~~same~~ taxes in the manner in which
9 the sheriff collects delinquent taxes in the county. The sheriff shall collect from the
10 tax debtor an additional sum as prescribed in subdivision e h of subsection 1 of
11 section 11-17-04 for each warrant. ~~Such~~ The sum must be paid to ~~such~~ the clerk
12 as the fee for issuing ~~said~~ the warrant, and all taxes ~~thus~~ collected must be
13 remitted by the sheriff to the treasurer of the county to which the taxes belong,
14 together with the original statement of account, and if any taxes remain unpaid a
15 statement must be made of the reason ~~therefor~~, and proper entries must be made
16 on the tax lists of the county where the tax was levied.

17 **SECTION 12. EFFECTIVE DATE.** This Act becomes effective on April 1, 1999.

18 **SECTION 13. EMERGENCY.** This Act is declared to be an emergency measure.