

Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine

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

AN ACT to amend and reenact sections 11-17-04, 11-26-04, 26.1-02-19, 28-20.1-05, 30.1-21-08, 30.1-32-02, 35-18-04, 35-21-05, 43-01-19, and 57-22-32 of the North Dakota Century Code, relating to filing fees charged by the clerk of district court; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. The clerk of the district court shall charge and collect the following fees in civil cases:
 - a. For filing a case for decision that is not a small claims action, eighty dollars.
 - (1) Fifteen dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the civil legal services fund. Any fees collected under this paragraph which exceed four hundred thousand dollars in any biennium must be paid by the clerk of court to the state treasurer for deposit in the state general fund.
 - (2) For the filing of a petition for dissolution of marriage, annulment, or separation from bed and board, fifty dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the displaced homemaker account created by section 14-06.1-14.
 - (3) For all other filings, forty-five dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the state general fund.
 - b. For filing an answer to a case that is not a small claims action, fifty dollars. The clerk shall deposit this fee with the state treasurer for deposit in the general fund in the state treasury.
 - c. For filing a small claims action in district court, ten dollars.
 - d. For filing any matter authorized to be filed in the office of the clerk of court other than under subdivision a, b, or c, ten dollars.
 - e. For preparing, certifying, issuing, or transmitting any document, ten dollars; or a lesser fee as may be set by the state court administrator.
 - f. For filing a motion or an answer to a motion to modify an order for alimony, property division, child support, or child custody, thirty dollars. The clerk shall deposit this fee with the state treasurer for deposit in the general fund of the state treasury.
2. Section 27-01-07 applies to fees charged under this section. The clerk of court may not charge or collect any fee, prescribed by this or any other section, from the state or an agency thereof or from a political subdivision or agency thereof.

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

1. The clerk of the district court shall charge and collect the following fees in civil cases:
 - a. For filing a case for decision that is not a small claims action, eighty dollars.
 - (1) Fifteen dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the civil legal services fund. Any fees collected under this paragraph which exceed four hundred thousand dollars in any biennium must be paid by the clerk of court to the state treasurer for deposit in the state general fund.
 - (2) For the filing of a petition for dissolution of marriage, annulment, or separation from bed and board, fifty dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the displaced homemaker account created by section 14-06.1-14 and fifteen dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the state general fund.
 - (3) For all other filings, sixty-five dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the state general fund.
 - b. For filing an answer to a case that is not a small claims action, fifty dollars. The clerk shall deposit this fee with the state treasurer for deposit in the general fund in the state treasury.
 - c. For filing a small claims action in district court, ten dollars.
 - d. ~~For filing any matter authorized to be filed in the office of the clerk of court other than under subdivision a, b, or c, ten dollars.~~
 - e. ~~For preparing, certifying, issuing, or transmitting any document, ten dollars; or a lesser fee as may be set by the state court administrator.~~
 - f. For filing a motion or an answer to a motion to modify an order for alimony, property division, child support, or child custody, thirty dollars. The clerk shall deposit this fee with the state treasurer for deposit in the general fund of the state treasury.
 - e. For filing a foreign decree or foreign judgment, eighty dollars.
 - f. For filing a petition of subsequent administration, eighty dollars.
 - g. For filing a statement or a petition under section 30.1-32-02, eighty dollars.
 - h. For filing any other matter authorized to be filed in the office of the clerk of court, ten dollars.
 - i. For preparing, certifying, issuing, or transmitting any document, ten dollars; or a lesser fee as may be set by the state court administrator.
2. Section 27-01-07 applies to fees charged under this section. The clerk of court may not charge or collect any fee, prescribed by this or any other section, from the state or an agency thereof or from a political subdivision or agency thereof.

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

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

stating that the debtor is financially unable to pay the fee provided for in this section, the payment ~~thereof shall~~ of the fee must be waived.

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

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

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

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

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

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

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

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

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

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

SECTION 7. AMENDMENT. Section 35-18-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

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

SECTION 8. AMENDMENT. Section 35-21-05 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 9. AMENDMENT. Section 43-01-19 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 10. AMENDMENT. Section 57-22-32 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

1. In case of the removal of any delinquent tax debtor from the county in which the debtor's personal property was taxed to any other county in this state, ~~it is the duty of~~ the assessor immediately ~~to~~ shall make a proper effort to ascertain the place of the debtor's destination and to report the ~~same~~ place to the county auditor. ~~Thereupon, the~~ The county auditor shall ~~make out~~ prepare and forward to the clerk of the district court of the county to which the tax debtor has removed a statement of the amount of ~~such~~ the delinquent taxes, including penalties and costs that may have attached, specifying the value of property on which ~~said~~ the taxes were levied.
2. On receipt of ~~any such~~ the statement, the clerk of the district court receiving the ~~same~~ statement shall issue a warrant to the sheriff of the county, and ~~such~~ the sheriff shall proceed immediately to collect the ~~same~~ taxes in the manner in which the sheriff collects delinquent taxes in the county. The sheriff shall collect from the tax debtor an additional sum as prescribed in subdivision e h of subsection 1 of section 11-17-04 for each warrant. ~~Such~~ The sum must be paid to ~~such~~ the clerk as the fee for issuing ~~said~~ the warrant, and all taxes ~~thus~~ collected must be remitted by the sheriff to the treasurer of the county to which the taxes belong, together with the original statement of account, and if any taxes remain unpaid a statement must be made of the reason ~~therefor~~, and proper entries must be made on the tax lists of the county where the tax was levied.

SECTION 11. EFFECTIVE DATE. This Act becomes effective on April 1, 1999.

SECTION 12. EMERGENCY. This Act is declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1042 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 95 Nays 0 Absent 3

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 33 Nays 15 Absent 1

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,

at _____ o'clock _____ M.

Secretary of State