

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

HOUSE BILL NO. 1355
(Representatives Beadle, Boehning, Klemin)
(Senators Sitte, Sorvaag)

AN ACT to create and enact section 54-09-02.1 of the North Dakota Century Code, relating to certificates and certified copies issued by the secretary of state; and to amend and reenact sections 10-34-09, 43-07-13, 54-09-04, and 54-09-07 of the North Dakota Century Code, relating to the fees collected by the secretary of state from real estate investment trusts, fees collected by the secretary of state for certified copies, fees charged and collected by the secretary of state, and service of process on the secretary of state.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 10-34-09 of the North Dakota Century Code is amended and reenacted as follows:

10-34-09. Fees.

The secretary of state shall charge and collect the following fees with respect to real estate investment trusts:

1. Filing a registration of a real estate investment trust, one hundred ten dollars.
2. Filing any amendment changing the registered agent or registered office, the fee provided in section 10-01.1-03.
3. Filing a renewal or amendment of registration of a real estate investment trust, forty dollars.
4. Issuing a certificate of good standing, ~~twenty-five~~fifteen dollars.
5. Furnishing a certified copy of any record, instrument, or paper relating to a real estate investment trust, the fee provided in section 54-09-04 for copying a record and fifteen dollars for the certificate and affixing the seal thereto.

SECTION 2. AMENDMENT. Section 43-07-13 of the North Dakota Century Code is amended and reenacted as follows:

43-07-13. Records and certified copies thereof.

The registrar shall maintain in the registrar's office, open to public inspection during office hours, a complete indexed record of all applications, licenses, certificates of renewal, revocations, and other information maintained on contractors. The registrar may dispose of an inactive contractor file after two years if no attempts have been made to apply for a new license or renew the license. Disposal of the license will proceed according to the provisions of chapter 54-46. Before disposal and upon request, the registrar shall furnish a certified copy of any information maintained upon receipt of the ~~sum of ten dollars~~fees prescribed in section 54-09-04. Such certified copy must be received in all courts and elsewhere as prima facie evidence of the facts stated therein. Any certificate or certified copy issued by the secretary of state under this section has the same force and effect as provided in section 54-09-02.1.

SECTION 3. Section 54-09-02.1 of the North Dakota Century Code is created and enacted as follows:

54-09-02.1. Secretary of state - Certificates and certified copies to be received in evidence.

1. All certificates issued by the secretary of state and all copies of records filed in accordance with this chapter or any other chapter, when certified by the secretary of state, may be taken and received in all courts, public offices, and official bodies as evidence of the facts stated.
2. A certificate by the secretary of state under the great seal of this state, as to the existence or nonexistence of the facts relating to records filed by the secretary in accordance with this chapter or any other chapter which would not appear from a certified copy of any of the foregoing records or certificates, may be taken and received in all courts, public offices, and official bodies as evidence of the existence or nonexistence of the facts stated.
3. Any certificate or certified copy issued by the secretary of state under this section may be created and disseminated as an electronic record with the same force and effect as if produced in a paper form.

SECTION 4. AMENDMENT. Section 54-09-04 of the North Dakota Century Code is amended and reenacted as follows:

54-09-04. Fees.

The secretary of state, ~~unless otherwise provided by law,~~ shall charge and collect the following fees:

1. For a copy of any law, resolution, record, or other document or paper on file in the secretary of state's office, fifty cents per page.
2. ~~For~~Unless otherwise provided by law, for affixing the signature of the secretary of state, certificate, or seal, or combination thereof to any document, ten dollars.
3. For filing a certificate of appointment of attorney, five dollars.
4. For searching records and archives of the state, five dollars. For the purposes of this section, a search of records conducted by the secretary of state for which a fee must be collected includes the following:
 - a. A search of a filed document that is active or archived, an archived index, or an index of business name changes to identify specific information to satisfy a request;
 - b. A search of any record for which written verification of the facts of the search is required; and
 - c. For every search of records when the request for the search is contained in a list compiled by the requester.

The secretary of state may provide, at no charge, information from publications or reference materials published or maintained by the secretary of state and verbal confirmation of any element of information maintained in a computer data base.

5. For filing any paper not otherwise provided for, ten dollars.
6. ~~For filing utility property transfers, five dollars, and issuing a certificate of filing, five dollars.~~
7. For filing any process, notice, or demand for service, the fee provided in section 10-01.1-03.
- ~~8-7.~~ For preparing any listing or compilation of any information recorded or filed in the office of the secretary of state, thirty-five dollars plus the actual cost for assembling and providing the information on the medium requested.

An individual required to file an oath of office with the secretary of state may not be charged for filing the oath of office, nor may a state or county officer be charged for filing any document with the secretary of state when acting in the officer's official capacity. All fees when collected must be paid by the secretary of state into the state treasury at the end of each month and placed to the credit of the state. Unless otherwise provided by law, the secretary of state shall retain a handling charge from filing fees tendered when a document submitted to the secretary of state under any law is rejected and not perfected. The handling charge is five dollars or fifty percent of the filing fee, whichever is greater, but may not exceed one hundred dollars.

If, upon due presentment, any check, draft, money order, or other form of lawful payment provisionally accepted in payment of any filing fee authorized to be charged and collected by the secretary of state, is not honored or paid, or if no lawful form of payment accompanies the filing, any record of credit or payment must be canceled or reversed as though no credit had been given or payment attempted and the filing or action is void. The secretary of state may return to the last-known address of the filer any record or document that was attempted to be filed or may retain as unfiled the record or document for a reasonable time to permit proper payment and filing.

This section does not apply to fees submitted for filing in, or information obtained from, the computerized central notice system, to the computerized Uniform Commercial Code central filing data base, or to the computerized statutory liens data base.

SECTION 5. AMENDMENT. Section 54-09-07 of the North Dakota Century Code is amended and reenacted as follows:

54-09-07. Service of process on secretary of state if agent not found or if secretary of state appointed as agent for individual.

If an agent other than the secretary of state has been appointed for receipt of service, but the affidavit of a sheriff or of an adult who is not a party to a proceeding establishes that diligent inquiry has been made and that personal service cannot be accomplished upon any registered agent, officer, or superintending, managing, or general agent of an entity, then the secretary of state may be deemed the agent of the entity for receiving service of process. Service on the secretary of state must be made as provided in section 10-01.1-13. Except as otherwise provided by law, if the secretary of state is appointed as agent for service of process for any individual under any provision of this code, then service on the secretary of state and the responsibilities of the secretary of state with respect to the service shall be made or executed in the manner provided in section 10-01.1-13, to the extent practicable.

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 Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1355.

House Vote: Yeas 92 Nays 0 Absent 2

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,

at _____ o'clock _____ M.

Secretary of State