

JUDICIAL PROCEDURE, PROBATE

CHAPTER 260

H. B. No. 558
(Muggli)

AUTHORITY OF ADMINISTRATORS, EXECUTORS AND GUARDIANS

AN ACT

To provide that administrators, executors or guardians may obtain loans from the federal government or institutions guaranteed by the federal government, without court approval, upon harvested cereal crops which are a part of the estate being managed by the executor, administrator or guardian.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Authority to Obtain Loan on Crops.) An administrator, executor or guardian shall have the authority to negotiate for and obtain loans from the federal government or any of its agencies or from any private institution when such loan is guaranteed by the federal government or any of its agencies upon harvested cereal crops which are a part of the estate being managed by the executor, administrator or guardian. It shall not be necessary for such persons to obtain the approval of any court before obtaining such loans.

Approved March 4, 1959.

CHAPTER 261

S. B. No. 270
(Holand and Erickstad)

PERSONS NOT COMPETENT TO SERVE AS EXECUTOR, ADMINISTRATOR OR GUARDIAN

AN ACT

To amend and reenact section 30-1101 of the North Dakota Revised Code of 1943 relating to persons not competent to serve as executor, administrator, or guardian.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 30-1101 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

30-1101. Executor, Administrator, and Guardian; Persons Not Competent.) A person is not competent to serve as an executor or administrator nor as a guardian, if he:

1. Is under twenty-one years of age;
2. Is incapable by law of making a contract;
3. Has been convicted of a felony;
4. Is found by the court to be unfit to discharge the duties of his trust by reason of drunkenness, improvidence, mental or physical infirmity, or lack of integrity.

The husband of the widow of a decedent is not competent to serve as the guardian of such decedent's children if such decedent left minor children living.

Approved March 10, 1959.

CHAPTER 262

H. B. No. 716

(Stockman and Wheeler)

DESCENT AND DISTRIBUTION OF HOMESTEAD ESTATE

AN ACT

To amend and reenact section 30-1604 of the North Dakota Revised Code of 1943 relating to the descent and distribution of real property subject to homestead estate, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 30-1604 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

30-1604. Descent and Distribution of Real Property Subject to Homestead Estate.) The real property subjected to the homestead estate shall descend, subject to the full satisfaction of such estate, exempt from decedent's debts except claims in favor of the county for poor relief and also for claims of the state of North Dakota for repayment of old age assistance and aid to the permanently and totally disabled and as otherwise provided in section 47-1804, and shall be distributed in the manner in which real property not subjected to a homestead estate is distributed or as directed in the decedent's will, but in no case shall the real property constituting the homestead of a decedent, or any part thereof descend or be distributed to any person other than the surviving husband or wife and decedent's heirs in the direct descending line as prescribed in the title Succession and Wills until all the decedent's debts are fully paid.

§ 2. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 12, 1959.

CHAPTER 263

S. B. No. 87
(Longmire)

BIDS FOR REAL PROPERTY OF AN ESTATE

AN ACT

To amend and reenact section 30-1915 of the North Dakota Revised Code of 1943, relating to written bids of estate realty.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 30-1915 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

30-1915. Written Bids: When and How Received.) The bids for real property of an estate offered for sale as is provided in section 30-1914 must be in writing and, unless the court directs otherwise in the order of sale, shall be filed in the office of the county court to which the return of sale must be made, at any time after the first publication of the notice and before the making of the sale. Any person making the appraisal as provided herein, shall not bid upon the property.

Approved March 4, 1959.

CHAPTER 264

H. B. No. 844
(Thompson of McLean)
(By request)

UNDERTAKING ON APPEAL FROM COUNTY COURT

AN ACT

To amend and reenact section 30-2610 of the North Dakota Revised Code of 1943, relating to undertaking on appeal from a county court.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 30-2610 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

30-2610. Undertaking on Appeal: Contents; Stay; From Whom Undertaking Not Required Unless Ordered by Court.) An undertaking on appeal must be:

1. Executed in favor of the appellees by the appellant, or his agent or attorney, in his name;
2. Executed by sufficient sureties approved by the judge;
3. Given in such sum as the county court shall prescribe; and
4. To the effect that the subscribers will pay to the parties entitled thereto all costs of the appeal that shall be awarded against the appellant by direction of the district court, not exceeding the sum therein stated.

But the execution or enforcement of the decree or order appealed from shall not be stayed unless the instrument contains a further undertaking to the effect that the subscribers also will pay all damages which the appellees or any of them shall sustain by reason of the appeal, or a separate undertaking to that effect is executed and filed in like manner. However, when the state, or any state officer, or state board, in a purely official capacity, or any municipal corporation within the state shall take an appeal, the appeal shall be perfected and the execution or enforcement of the decree or order appealed from stayed as provided in this chapter, and no undertaking need be given, but the district court on motion may require sureties to be given in such form and manner as it shall prescribe as a condition of the further prosecution of the appeal.

Approved March 14, 1959.