

PROPERTY

CHAPTER 421

SENATE BILL NO. 2306
(Homuth, Solberg)

ADDRESSES ON DEEDS

AN ACT to amend and reenact sections 47-10-07 and 47-19-05 of the North Dakota Century Code, relating to the content of deeds granting interests in real property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 47-10-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-10-07. DEED - EXECUTION - POST-OFFICE AND STREET ADDRESS OF GRANTEE A PREREQUISITE.) Each deed executed in which real estate is described shall contain the post-office address, and any known or existing street address if within the corporate boundaries of a city, of each grantee named in such deed.

SECTION 2. AMENDMENT.) Section 47-19-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-19-05. RECORDING OF DEED - POST-OFFICE AND STREET ADDRESS OF GRANTEE MUST BE SHOWN.) No deed in which real estate is described shall be received for record by any register of deeds in this state if the post-office address, and any known or existing street address if within the corporate boundaries of a city, of each grantee named in such deed is not shown. Failure to have included any address on a recorded deed shall not defeat the doctrine of constructive notice.

Approved April 8, 1975

CHAPTER 422

SENATE BILL NO. 2058
(L. Christensen)
(From Legislative Council Study)

DEFINITION OF MINERALS

AN ACT to create and enact section 47-10-25 of the North Dakota Century Code, relating to the meaning of the terms "minerals" or "all other minerals" in a deed, grant, or conveyance of the title to real property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) Section 47-10-25 of the North Dakota Century Code is hereby created and enacted to read as follows:

47-10-25. MEANING OF MINERALS IN DEED, GRANT, OR CONVEYANCE OF TITLE TO REAL PROPERTY.) In any deed, grant, or conveyance of the title to the surface of real property executed after the effective date of this Act, in which all or any portion of the minerals are reserved or excepted and thereby effectively precluded from being transferred with the surface, the use of the word "minerals" or the phrase "all other minerals" or similar words or phrases of an all-inclusive nature shall be interpreted to mean only those minerals specifically named in the deed, grant, or conveyance and their compounds and byproducts.

Approved March 19, 1975

CHAPTER 423

SENATE BILL NO. 2472
(Longmire)

PLANE COORDINATES

AN ACT to provide for the adoption by the state of North Dakota of the system of plane coordinates established by the United States coast and geodetic survey, and providing an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. PURPOSE OF ACT.) It is the purpose of this Act to recognize and adopt for the state of North Dakota the system of plane coordinates which has been established by the United States coast and geodetic survey. It is not the purpose of this Act to affect existing surveys, but this Act shall not preclude the use of the plane coordinate system in updating existing surveys. For the purpose of the use of this system, the state is divided into a north zone and a south zone:

1. The area now included in the following counties shall constitute the north zone: Divide, Williams, McKenzie, Mountrail, Burke, Renville, Ward, McLean, Bottineau, McHenry, Sheridan, Pierce, Rolette, Towner, Benson, Wells, Foster, Eddy, Ramsey, Cavalier, Pembina, Walsh, Nelson, Grand Forks, Griggs, Steele, Traill.
2. The area now included in the following counties shall constitute the south zone: Dunn, Golden Valley, Slope, Bowman, Adams, Hettinger, Stark, Mercer, Oliver, Morton, Grant, Sioux, Emmons, Burleigh, Kidder, Logan, McIntosh, Stutsman, Barnes, LaMoure, Dickey, Cass, Ransom, Sargent, Richland.

SECTION 2. ZONE DESIGNATION IN COORDINATE SYSTEM.) As established for use in the north zone, the North Dakota coordinate system shall be named, and in any land description in which it is used it shall be designated the "North Dakota coordinate system, north zone". As established for use in the south zone, the North Dakota coordinate system shall be named, and in any land description in which it is used it shall be designated the "North Dakota coordinate system, south zone".

SECTION 3. PLANE COORDINATES DEFINED.) The plane coordinates of a point on the earth's surface, to be used in expressing the

position or location of such point in the appropriate zone of this system, shall consist of two distances, expressed in feet and decimals of a foot. One of these distances, to be known as the X-coordinate, shall give the position in an east-and-west direction; the other, to be known as the Y-coordinate, shall give the position in a north-and-south direction. These coordinates shall be made to depend upon and conform to the coordinates, on the North Dakota coordinate system, of the triangulation and traverse stations of the United States coast and geodetic survey within the state of North Dakota, as those coordinates have been determined by the said survey.

SECTION 4. REFERENCE TO TRACTS EXTENDING INTO OTHER CO-ORDINATE ZONES.) When any tract of land to be defined by a single description extends from one into the other of the coordinate zones, the positions of all points on its boundaries may be referred to either of the two zones, the zone which is used being specifically named in the description.

SECTION 5. "NORTH DAKOTA COORDINATE SYSTEM" DEFINED.)

1. For purposes of more precisely defining the "North Dakota coordinate system" the following definition by the United States coast and geodetic survey is adopted:
 - a. The North Dakota coordinate system, north zone is a Lambert conformal projection of the Clarke spheroid of 1866, having standard parallels at north latitudes, forty-seven degrees twenty-six minutes and at forty-eight degrees forty-four minutes along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian one hundred degrees thirty minutes west of Greenwich and the parallel forty-seven degrees zero minutes north latitude. This origin is given the coordinates: $x=2,000,000$ feet, and $y=0$ feet.
 - b. The North Dakota coordinate system, south zone, is a Lambert conformal projection of the Clarke spheroid of 1866, having standard parallels at north latitudes forty-six degrees eleven minutes and at forty-seven degrees twenty-nine minutes along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian one hundred degrees thirty minutes west of Greenwich and the parallel forty-five degrees forty minutes north latitude. This origin is given the coordinates: $x=2,000,000$ feet, and $y=0$ feet.
2. The position of the North Dakota coordinate system shall be as marked on the ground by triangulation or traverse stations established in conformity with standards adopted by the United States coast and geodetic survey for first-order and second-order work, whose geodetic positions have been rigidly adjusted on the North American datum of

1927, and whose coordinates have been computed on the system herein defined. Any such station may be used for establishing a survey connection with the North Dakota coordinate system.

SECTION 6. COORDINATES TO BE ESTABLISHED IN CONFORMITY WITH STANDARDS.)

1. No coordinates based on the North Dakota coordinate system, purporting to define the position of a point on a land boundary, shall be presented to be recorded in any public records or deed records unless such point is connected to a triangulation or traverse station established in conformity with the standards prescribed in section 5 of this Act. The connecting traverse or triangulation shall conform to the standards set forth in section 5, and a copy of the calculations of the connection shall be included in the description.
2. Stations used in land descriptions under this section may be set by any duly authorized public agency, registered professional engineer, or registered land surveyor, if said stations conform to the standards of section 5, and if the descriptions and calculations thereof are of public record.

SECTION 7. USE OF THE TERM NORTH DAKOTA COORDINATE SYSTEM - LIMITATION.) Use of the term North Dakota coordinate system on any map, report, or survey, or other document, shall be limited to coordinates based on the North Dakota coordinate system as defined in this Act.

SECTION 8. FEDERAL AND STATE COORDINATES DESCRIBING SAME TRACTS - FEDERAL PRECEDENCE.) Wherever coordinates based on the North Dakota coordinate system are used to describe any tract of land which in the same document is also described by reference to any subdivision, line, or corner of the United States public land surveys, the description by coordinates shall be construed as supplemental to the basic description of such subdivision, line, or corner contained in the official plats and field notes of record, and in the event of any conflict the description by reference to the subdivision, line, or corner of the United States public land surveys shall prevail over the description by coordinates unless said coordinates are upheld by adjudication, at which time the coordinate description shall prevail.

SECTION 9. RELIANCE ON DESCRIPTION OF NORTH DAKOTA COORDINATE SYSTEM.) Nothing contained in this Act shall require any purchaser or mortgagee to rely on a description, any part of which depends exclusively upon the North Dakota coordinate system, unless such description has been adjudicated as provided in section 8 of this Act.

SECTION 10. EFFECTIVE DATE.) The provisions of this Act shall become effective on January 1, 1976.

Approved March 13, 1975

CHAPTER 424

HOUSE BILL NO. 1112
(Murphy)

COST OF PARTITION FENCES

AN ACT to amend and reenact section 47-26-05 of the North Dakota Century Code, to require that a landowner who shall require a partition fence better than a legal fence shall bear the entire cost of erecting and maintaining the same.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 47-26-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-26-05. PARTITION FENCES - MAINTAINED BY OCCUPANTS AND OWNERS OF LAND - PARTITION FENCE EXCEEDING LEGAL FENCE.) The occupants and the coterminous owners of lands enclosed with fences are mutually and equally bound to maintain the partition fences between their own and the next adjoining enclosures unless one of such owners chooses to let his land lie open. If one of such occupants or owners shall require a partition fence which shall exceed the requirements for a legal fence, the occupant or owner who shall require such a fence shall bear the entire cost of erecting and maintaining such a fence unless both such occupants or owners shall otherwise agree.

Approved March 9, 1975

CHAPTER 425

SENATE BILL NO. 2079
(Rait)

ABANDONED AND UNCLAIMED PROPERTY

AN ACT relating to and defining abandoned personal property, providing methods for the same to be taken into custody of the state; for its recovery by the rightful owner; for an administrator; for a penalty; and to repeal sections 6-08-24.1, 12-45-07, 25-01-15, 54-01-02.1, 54-01-02.2, and 54-01-02.3 of the North Dakota Century Code, relating to unclaimed funds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. DEFINITIONS AND USE OF TERMS.) In this Act, unless the context or subject matter otherwise requires:

1. "Administrator" means the state collector of abandoned and unclaimed property.
2. "Business association" means any corporation, joint stock company, business trust, partnership, or any association of two or more individuals for business purposes.
3. "Financial institution" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, savings and loan association, building and loan association, credit union, cooperative bank, or investment company.
4. "Holder" means any person in possession of property subject to this Act belonging to another, or who is trustee in case of a trust, or indebted to another on an obligation subject to this Act.
5. "Insurance corporation" means any association or corporation transacting the business of insurance on the lives of persons or insurance appertaining thereto, including, but not limited to, endowments and annuities; disability, accident, and health insurance; property, casualty, and surety insurance; as all said terms are defined in title 26.
6. "Owner" means a depositor, or a person entitled to receive the funds as reflected on the records of the financial institution, in case of a deposit, a creditor,

claimant, or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to this Act, or his legal representative.

7. "Person" means any individual, business association, government, or political subdivision, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.
8. "Utility" means any person who owns or operates for public use, any plant, equipment, property, franchise, or license for the transmission of communications, for the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas, or for the transportation of persons or property.

SECTION 2. PROPERTY HELD BY FINANCIAL INSTITUTIONS OR BUSINESS ASSOCIATIONS.) The following property held or owing by a financial institution or business association is presumed abandoned:

1. Any demand, savings, or mature time deposit made by a resident of this state or which is held by a financial institution in this state, together with any interest or dividend thereon, excluding any charges that may lawfully be withheld, unless the owner has, within twenty years:
 - a. Increased or decreased the amount of the deposit, or presented the passbook or other evidence of the deposit for the crediting of interest or dividends;
 - b. Corresponded in writing with the financial institution concerning the deposit; or
 - c. Otherwise indicated an interest in the deposit as evidenced by a memorandum on file with the financial institution.
2. Any funds paid in this state or by a resident of this state toward the purchase of shares or other interest in a financial institution, or any deposit made therewith in this state or by a resident of this state, and any interest or dividends thereon, excluding any charges that may be lawfully withheld, unless the owner has within six years:
 - a. Increased or decreased the amount of the funds or deposit, or presented an appropriate record for the crediting of interest or dividends;
 - b. Corresponded in writing with the financial organization concerning the funds or deposit; or

- c. Otherwise indicated an interest in the funds or deposit as evidenced by a memorandum on file with the financial institution.
3. Any sum payable on checks certified in this state or on written instruments issued in this state on which a financial institution or business association is directly liable, including, by way of illustration but not of limitation, certificates of deposit, drafts, money orders, and traveler's checks, that, with the exception of traveler's checks, have been outstanding for more than ten years from the date they were payable, or from the date of their issuance if payable on demand, or in the case of traveler's checks, that have been outstanding for more than fifteen years from the date of their issuance, unless the owner has within ten years, or within fifteen years in the case of traveler's checks, corresponded in writing with the financial institution or business association concerning them, or otherwise indicated an interest as evidenced by a memorandum on file with the financial institution or business association.
4. Any funds or other personal property, tangible or intangible, removed from a safe deposit box or other safekeeping depository or agency or collateral deposit box, on which the lease or rental period has expired due to nonpayment of rental charges or other reason, or any surplus amounts arising from the sale thereof pursuant to law, that have been unclaimed by the owner for more than twenty years from the date on which the lease or rental period expired.

SECTION 3. UNCLAIMED FUNDS HELD BY INSURANCE CORPORATIONS.)

1. Life insurance:

- a. Unclaimed funds, as defined in subdivision b of this subsection, held and owing by a life insurance corporation shall be presumed abandoned if the last known address, according to the records of the corporation, of the person entitled to the funds is within the state. If a person other than the insured or annuitant is entitled to the funds and no address of such person is known to the corporation or if it is not definite and certain from the records of the corporation what person is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the corporation.
- b. Unclaimed funds, as used in this subsection, means all moneys held and owing by any life insurance corporation unclaimed and unpaid for more than six years after the moneys

become due and payable as established from the records of the corporation under any life or endowment insurance policy or annuity contract which has matured or terminated. A life insurance policy not matured by actual proof of death of the insured is deemed to be matured and the proceeds thereof are deemed to be due and payable if such policy were in force when the insured attained the limiting age under the mortality table on which the reserve is based, unless the person appearing entitled thereto has within the preceeding six years:

- (1) Assigned, readjusted, or paid premiums on the policy, or subjected the policy to loan; or
- (2) Corresponded in writing with the life insurance corporation concerning the policy.

2. Insurance other than life insurance:

a. Unclaimed funds, as defined in subdivision b of this subsection, held and owing by a fire, casualty, or surety insurance corporation shall be presumed abandoned if the last known address according to the records of the corporation of the person entitled to the funds is within this state. If a person other than the insured, the principal, or the claimant is entitled to the funds and no address of such person is known to the corporation or, if it is not definite and certain from the records of the corporation what person is entitled to the funds, it is presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured, the principal, or the claimant according to the records of the corporation.

b. Unclaimed funds, as used in this subsection, also means all moneys held and owing by any fire, casualty, or surety insurance corporation unclaimed and unpaid for more than six years after the moneys became due and established from the records of the corporation either to an insured, a principal, or a claimant under any fire, casualty, or surety insurance policy or contract.

3. Moneys otherwise payable according to the records of the corporation are deemed due and payable although the policy or contract has not been surrendered as may be required.

SECTION 4. DEPOSITS AND REFUNDS HELD BY UTILITIES.) The

following funds held or owing by any utility are presumed abandoned:

1. Any deposit made by a subscriber with a utility to secure payment for, or any sum paid in advance for, utility services to be furnished a resident of this state, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than six years after the termination of the services for which the deposit or advance payment was made.
2. Any sum which a utility has been ordered to refund and which was received for utility services rendered to a resident of this state, together with any interest thereon, less any lawful deductions, that have remained unclaimed by the person appearing on the records of the utility entitled thereto for more than ten years after the date it became payable in accordance with the final determination or order providing for the refund.
3. Any sum paid to a utility for a service, which service has not, within six years of payment, been rendered.

SECTION 5. UNDISTRIBUTED DIVIDENDS AND DISTRIBUTIONS OF BUSINESS ASSOCIATIONS.) Any stock or other certificate of ownership, or any dividend, profit distribution, interest, payment on principal, royalty from the production of minerals, or other sum held or owing by a business association for or to a shareholder, certificate holder, member, bondholder, royalty holder, or other security holder, or a participating patron of a cooperative, who has not claimed it, or corresponded in writing with the business association concerning it, within six years after the date prescribed for payment or delivery, is presumed abandoned if:

1. It is held or owing by a business association organized under the laws of or created in this state; or
2. It is held or owing by a business association doing business in this state, but not organized under the laws of or created in this state, and the records of the business association indicate that the last known address of the person entitled thereto is in this state.

SECTION 6. PROPERTY OF FINANCIAL INSTITUTIONS OR BUSINESS ASSOCIATIONS HELD IN COURSE OF DISSOLUTION.) All intangible personal property distributable in the course of a voluntary dissolution of a financial institution or business association organized under the laws of or created in this state or owing money to residents of this state, that is unclaimed by the owner within two years after the date for final distribution is presumed abandoned.

SECTION 7. PROPERTY HELD BY FIDUCIARIES.) All intangible personal property and any income or increment thereon held in a fiduciary capacity for the benefit of another person, unless the owner has within ten years after it becomes payable or distributable, increased or decreased the principal, accepted payment of principal or income, corresponded in writing concerning the property, or otherwise indicated an interest as evidenced by a memorandum on file with the fiduciary, is presumed abandoned if:

1. It is held by a financial institution or business association organized under the laws of or created in this state;
2. It is held by a financial institution or business association doing business in this state, but not organized under the laws of or created in this state, and the records of the financial institution or business association indicate that the last known address of the person entitled thereto is in this state; or
3. It is held in this state by any other person or if it is owing to a resident of this state according to the records of the holder or any other competent record that indicates that this state has better claim to the property than any other claimant state.

SECTION 8. PROPERTY HELD FOR ANOTHER PERSON.) All intangible personal property, including any income or increment thereon and deducting any lawful charges, that is held or owing in this state and has remained unclaimed by the owner for more than ten years after it became payable or distributable is presumed abandoned.

SECTION 9. PROPERTY HELD BY COURTS, PUBLIC OFFICERS, AND AGENCIES OF ANY GOVERNMENT.) All intangible personal property held for the owner by any court, public corporation, public authority, public officer, or public agency, that has remained unclaimed for more than ten years is presumed abandoned if:

1. The property is held in this state; or
2. The record indicates that the owner's last known address was within this state.

SECTION 10. RECIPROCITY FOR PROPERTY PRESUMED ABANDONED OR ESCHEATED UNDER THE LAWS OF ANOTHER STATE.) If specific property which is subject to the provisions of this Act is held for or owed or distributable to an owner whose last known address is in another state by a holder who is subject to the jurisdiction of this state, the property is not presumed abandoned in this state and subject to this Act if:

1. It may be claimed as abandoned or escheated under the laws of such other state; and
2. The laws of such other state make reciprocal provisions that similar specific property is not pre-

sumed abandoned or escheatable by such other state when held for or owed or distributable to an owner whose last known address is within this state by a holder who is subject to the jurisdiction of that state.

SECTION 11. REPORT OF PROPERTY PRESUMED ABANDONED.)

1. Every person holding funds or other property, tangible or intangible, presumed abandoned under this Act shall report to the administrator with respect to the property as hereinafter provided.
2. The report shall be verified and shall include:
 - a. Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of one hundred dollars or more presumed abandoned under this Act;
 - b. In case of unclaimed funds of insurance corporations, the full name of the insured or annuitant and his last known address according to the insurance corporation's records;
 - c. The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under one hundred dollars each may be reported in aggregate;
 - d. The date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and
 - e. Other information which the administrator prescribes by rule as necessary for the administration of this Act.
3. If the person holding property presumed abandoned under this Act is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.
4. The administrator shall establish annual reporting dates for holders and may class holders and require different dates for reporting for each class. The administrator may postpone reports upon the written request of any person required to file a report.
5. If the holder of property presumed abandoned under this Act knows the whereabouts of the owner and if

the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner.

6. Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

SECTION 12. NOTICE AND PUBLICATION OF LISTS OF PROPERTY PRESUMED ABANDONED.)

1. Within one hundred twenty days from the filing of the report required by section 11, the administrator shall cause notice to be published at least once every week for two consecutive weeks in a newspaper of general circulation in the county of this state in which is located the last known address of any person to be named in the notice. If no address is listed or if the address is outside this state, the notice shall be published in the county in which the holder of the abandoned property has his principal place of business within this state.
2. The published notice shall be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned Property", and shall contain:
 - a. The names in alphabetical order and last known addresses, if any, of persons listed in the report and entitled to notice within the county as hereinbefore specified.
 - b. A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing an interest in the property by addressing an inquiry to the administrator.
 - c. A statement that if satisfactory proof of claim is not presented by the owner to the holder within ninety days from the date of the second published notice, the abandoned property will be placed not later than one hundred twenty days after such publication date in the custody of the administrator to whom all further claims must thereafter be directed.
3. The administrator is not required to publish in such notice any item of less than the value of one hundred dollars unless he deems such publication to be in the public interest.

4. Within one hundred twenty days from the receipt of the report required by section 11, the administrator shall mail a notice to each person having an address listed therein who appears to be entitled to property that is presumed abandoned under this Act.
5. The mail notice shall contain:
 - a. A statement that, according to a report filed with the administrator, property is being held to which the addressee appears entitled.
 - b. The name and address of the person holding the property and any necessary information regarding changes of name and address of the holder.
 - c. A statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the administrator to whom all further claims must be directed.
6. This section is not applicable to sums payable on traveler's checks and money orders presumed abandoned under section 2.

SECTION 13. PAYMENT OR DELIVERY.) Every person who has filed a report under section 11, within twenty days after the time specified in section 12 for claiming the property from the holder, or in the case of sums payable on traveler's checks or money orders presumed abandoned under section 2 within twenty days after the filing of the report, shall pay or deliver to the administrator all abandoned property specified in the report, except that, if the owner establishes his right to receive the abandoned property to the satisfaction of the holder within the time specified in section 12, or if it appears that for some other reason the presumption of abandonment is erroneous, the holder need not pay or deliver the property, which will no longer be presumed abandoned, to the administrator, but in lieu thereof shall file a verified written explanation of the proof of claim or of the error in the presumption of abandonment.

SECTION 14. RELIEF FROM LIABILITY BY PAYMENT OR DELIVERY.) Upon the payment or delivery of property presumed abandoned under this Act to the administrator, the state shall assume custody and shall be responsible for the safekeeping thereof and for payment of any claim successfully brought against any holder on account of any abandoned property paid or delivered to the administrator. Any person who pays or delivers such property to the administrator is relieved of all liability to the extent of the value of the property so paid or delivered for any claim which then exists or which thereafter may arise or be made in respect to the property by any claimant, including any state. The state shall indemnify and hold harmless such person upon any such claim and any loss and damage related thereto, provided that such person shall notify the administrator of any legal proceedings against such person in relation to any such claim within ten days after service of process upon such person to afford the state an op-

portunity to defend such person in any such proceeding. Any holder who has paid moneys to the administrator pursuant to this Act may make payment to any person appearing to such holder to be entitled thereto, and upon proof of such payment and proof that the payee was entitled thereto, the administrator shall forthwith reimburse the holder for the payment.

SECTION 15. PERIOD OF LIMITATION NOT A BAR - EXCEPTION.)
The expiration of any period of time specified by statute or court order, during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property, shall not prevent the money or property from being presumed abandoned property, nor affect any duty to file a report required by this Act or to pay or deliver abandoned property to the administrator, except that holders shall not be required to report or to pay or deliver abandoned property for which the period of the statute of limitations applicable to the enforcement of any claim to such property shall have expired prior to the effective date of this Act.

SECTION 16. SALE.)

1. All abandoned property other than money delivered to the administrator may be sold by him. Such sale shall be to the highest bidder at public sale in whatever place in the state affords in the administrator's judgment the most favorable market for the property involved. The administrator may decline the highest bid and reoffer the property for sale if the administrator considers the price bid insufficient. The administrator need not offer any property for sale if, in the opinion of the administrator, the probable cost of sale exceeds the value of the property.
2. Any sale held under this section shall be preceded by a single publication of notice thereof, at least three weeks in advance of sale in a newspaper of general circulation in the county where the property is sold, and any other notice the administrator may deem to be in the public interest.
3. The purchaser at any sale conducted by the administrator pursuant to this Act shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The administrator shall execute all documents necessary to complete the transfer of the title.

SECTION 17. DEPOSIT OF FUNDS.)

1. All funds received under this Act, including the proceeds from the sale of abandoned property under section 16, shall forthwith be deposited by the administrator in the state treasury to the credit of the common schools trust fund. The administra-

tor shall make prompt payment of claims duly allowed as hereinafter provided. Before making the deposit, the administrator shall record a description of the abandoned property, the amount of proceeds received, the name and last known address of each person appearing from the holder's reports to be entitled to the abandoned property, and of the name and last known address of each insured person or annuitant, and, with respect to each policy or contract listed in the report of an insurance corporation, its number, the name of the corporation, and the amount due. The record shall be available for public inspection at all reasonable business hours.

2. Before making any deposit to the credit of the common schools trust fund, the administrator may deduct:
 - a. Any costs in connection with the sale of abandoned property.
 - b. Any costs of mailing and publishing notices regarding any abandoned property.
 - c. Any costs incurred in collection of abandoned property and discovery of holders of abandoned property.

SECTION 18. CLAIM FOR PROPERTY PAID OR DELIVERED.)

Any person claiming at any time an interest in any property delivered to the state under this Act may file a claim thereto or to the proceeds from the sale thereof on the form prescribed by the administrator.

SECTION 19. DETERMINATION OF CLAIMS.)

1. The administrator shall consider any claim filed under this Act and may hold a hearing and receive evidence concerning it. If a hearing is held, the administrator shall prepare a finding and a decision in writing on each claim filed, stating the substance of any evidence heard and the reasons for the decision. The decision shall be a public record.
2. If the claim is allowed, the administrator shall make payment forthwith by warrant drawn on the account of the common schools trust fund. Claims shall be paid without deduction for costs of notices or sale or for service charges.

SECTION 20. JUDICIAL ACTION UPON DETERMINATION.) Any person aggrieved by a decision of the administrator or any person upon whose claim the administrator has failed to act within ninety days after the filing of the claim, may commence an action in the district court of Burleigh County to establish

the claim. The proceeding shall be brought within ninety days after the decision of the administrator, or within one hundred eighty days after the filing of the claim if the administrator fails to act. The action will be tried de novo without a jury, unless the same is specifically requested by the claimant.

SECTION 21. ELECTION TO TAKE PAYMENT OR DELIVERY.) The administrator, after receiving reports of property presumed abandoned under this Act, may decline to receive such property reported which the administrator deems to have a value less than the cost of giving notice and holding sale, or the administrator may, if the administrator deems it desirable because of the small sum involved, postpone taking possession until a sufficient sum accumulates.

SECTION 22. EXAMINATION OF RECORDS.) The administrator may, at reasonable times and upon reasonable notice, examine the records of any person if the administrator has reason to believe that such person has failed to report property that should have been reported pursuant to this Act.

SECTION 23. PROCEEDING TO COMPEL REPORT OR DELIVERY.) If any person refuses to report or deliver property to the administrator as required under this Act, the administrator may bring an action in a court of appropriate jurisdiction to enforce such reporting or delivery.

SECTION 24. ADMINISTRATION.) There is hereby created a division of the state land commissioner's office, to be known as the abandoned property office, for the purpose of enforcement and administration of the provisions of this Act. The state land commissioner shall employ the administrator and such other personnel as are necessary for the proper administration of this Act and shall set their salaries, within limits of legislative appropriations. All public officers shall assist the administrator in carrying out the administration of this Act. The legislative assembly shall make biennial appropriations to the state land commissioner's office allocated to the office of abandoned property and shall biennially review the needs of the office.

SECTION 25. PENALTIES.)

1. Any person who, without proper cause, fails to render any report or perform other duties required under this Act shall be guilty of a class B misdemeanor.
2. Any person who, without proper cause, refuses to pay or deliver property to the administrator as required under this Act shall be guilty of a class B misdemeanor.

SECTION 26. RULES AND REGULATIONS.) The administrator is hereby authorized to make necessary rules and regulations pursuant to chapter 28-32 to carry out the provisions of this Act.

SECTION 27. EFFECT OF LAWS OF OTHER STATES.) This Act shall not apply to any property that has been presumed abandoned, escheated, or subject to custody and control of another jurisdiction under the laws of such other jurisdiction prior to the effective date of this Act.

SECTION 28. SHORT TITLE.) This Act may be cited as the North Dakota Disposition of Abandoned and Unclaimed Property Act.

SECTION 29. REPEAL.) Sections 25-01-15, 54-01-02.1, 54-01-02.2, 54-01-02.3 of the North Dakota Century Code, and sections 6-08-24.1 and 12-45-07 of the 1973 Supplement to the North Dakota Century Code are hereby repealed.

Approved April 8, 1975