

JUDICIAL REMEDIES

CHAPTER 350

HOUSE BILL NO. 1064
(Legislative Council)
(Interim Judiciary "C" Committee)

GARNISHMENT

AN ACT to create and enact chapter 32-09.1 of the North Dakota Century Code, relating to proceeding by garnishment in state courts; and to repeal chapters 32-09 and 33-05 of the North Dakota Century Code, relating to proceeding by garnishment in state courts and proceeding by garnishment in county justice courts.

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

SECTION 1. Chapter 32-09.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

32-09.1-01. DEFINITIONS. In this chapter, unless the context or subject matter otherwise requires:

1. "Defendant" means every judgment debtor.
2. "Disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by other law to be withheld.
3. "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.
4. "Person" includes an individual, an individual's personal representative or other fiduciary, any two or more persons having a joint or common interest, a partnership, an association, a corporation, and any other legal or commercial entity.
5. "Plaintiff" means every judgment creditor.

32-09.1-02. CREDITORS MAY PROCEED BY GARNISHMENT. Any creditor is entitled to proceed by garnishment in any court having

jurisdiction of the subject of the action, against any person, any public corporation, the state of North Dakota, or any institution, department, or agency of the state, indebted to or having any property in possession or under control, belonging to the creditor's debtor after securing a judgment against the debtor in a court of competent jurisdiction, in the cases, upon the conditions, and in the manner prescribed in this chapter.

32-09.1-03. RESTRICTION ON GARNISHMENT OF EARNINGS.

1. The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment may not exceed the lesser of:
 - a. Twenty-five percent of disposable earnings for that week.
 - b. The amount by which disposable earnings for that week exceed forty times the federal minimum hourly wage prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended [Pub. L. 95-151; 91 Stat. 1245; 29 U.S.C. 206] or any equivalent multiple thereof prescribed by regulation by the secretary of labor in case of earnings for any pay period other than a week, in effect at the time the earnings are payable.
2. The restrictions of subsection 1 do not apply in the case of:
 - a. Any order of any court for the support of any person.
 - b. Any order of any court of bankruptcy under chapter XIII of the Bankruptcy Act.
 - c. Any debt due for any state or federal tax.
3. The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed:
 - a. Where such individual is supporting a spouse or dependent child other than a spouse or child with respect to whose support such order is used, fifty percent of the individual's disposable earnings for that week; and
 - b. Where such individual is not supporting a spouse or dependent child other than a spouse or child with respect to whose support such order is used, sixty percent of the individual's disposable earnings for that week;

32-09.1-07. FORM OF SUMMONS AND NOTICE. The garnishee summons must state that the garnishee must serve upon the plaintiff or plaintiff's attorney within twenty days after service of the garnishee summons, a written disclosure, under oath, of indebtedness to the defendant and answers to all written interrogatories which are served with the garnishee summons. The plaintiff may not require disclosure of an indebtedness or property of defendant in the garnishee's possession or under the garnishee's control in excess of one hundred ten percent of the amount of the judgment which remains unpaid. The garnishee summons must include the full name of the defendant and place of residence and the amount of the judgment which remains unpaid. The garnishee summons must also state that the garnishee must retain property or money in the garnishee's possession pursuant to this chapter until the plaintiff causes a writ of execution to be served upon the garnishee or until the defendant authorizes release to the plaintiff, and must state that after the expiration of the period of time specified in section 32-09.1-20, from the date of service of the garnishee summons, the garnishee must release all retained property and money to the defendant and is discharged and relieved of all liability thereon. The garnishee summons must state that no employer may discharge any employee because the employee's earnings have been subject to garnishment. The garnishee summons must state that any assignment of wages made by the defendant or indebtedness to the garnishee incurred within ten days prior to the receipt of notice of the first garnishment on the underlying debt is void. The garnishee summons must state the date of the entry of judgment against the defendant.

The garnishee summons and notice to defendant shall be substantially in the following form:

State of North Dakota)		In ----- Court
) ss.		
County of -----)		-----

Plaintiff		
against		Garnishee Summons and
-----		Notice to Defendant
Defendant		
and		

Garnishee		

The State of North Dakota to the above-named Garnishee:

.You are hereby summoned and required to serve upon the plaintiff or the plaintiff's attorney, within twenty days after service of this summons upon you, written disclosure, under oath, setting forth the amount of any debt you may owe to the defendant, ----- (Give full name and residence of defendant) and a description of any property, money, or effects owned by the defendant which are in your possession. Your disclosure need not exceed \$-----.

(Enter 110 percent of the plaintiff's judgment which remains unpaid.) The amount of the judgment which remains unpaid is \$-----. You are required to retain in your possession the defendant's property, money, and effects in an amount not exceeding the amount required to be disclosed by you, or so much thereof as is not exempt.

Failure to disclose and withhold may make you liable to the plaintiff for the sum of \$----- (Enter the lesser of the plaintiff's judgment against the defendant or 110 percent of the amount which remains unpaid.)

You shall retain the defendant's nonexempt property, money, and effects in your possession until a writ of execution is served upon you, until the defendant authorizes release to the plaintiff, or until the expiration of 180 days from the date of service of this summons upon you. If no writ of execution has been served upon you, or no agreement has been made for payment, within 180 days, the garnishment shall end and any property or funds held by you shall be returned to the defendant if the defendant is otherwise entitled to their possession.

Any assignment of wages by the defendant, or indebtedness to you incurred by the defendant, within ten days before the receipt of the first garnishment on a debt is void and should be disregarded.

You may not discharge the defendant because the defendant's earnings have been subjected to garnishment.

Dated this ---- day of -----, 19----.
By: -----

NOTICE TO DEFENDANT

To:-----

The garnishee summons, garnishment disclosure form, and written interrogatories (strike out if not applicable), which are served upon you, were also served upon -----, the garnishee.

(Attorneys for Plaintiff)

(Address)

(Telephone)

32-09.1-08. SERVICE. The garnishee summons and notice to defendant shall be served upon the garnishee in the same manner as other summons in that court of record except that service must be personal. The plaintiff shall serve with the garnishee summons a

disclosure form, substantially as set out in this chapter. The plaintiff may also serve interrogatories with the garnishee summons. A copy of the garnishee summons and copies of all other papers served on the garnishee must be served personally upon the defendant not later than five days after service is made upon the garnishee. A single garnishee summons may be addressed to two or more garnishees but must state whether each is summoned separately or jointly.

32-09.1-09. DISCLOSURE. Within the time as limited, the garnishee shall serve upon the plaintiff or the plaintiff's attorney written answers, under oath, to the questions in the garnishment disclosure form and to any written interrogatories which are served upon the garnishee. The amount of the garnishee's disclosure need not exceed one hundred ten percent of the amount of the plaintiff's judgment which remains unpaid, after subtracting the total of setoffs, defenses, exemptions, ownerships, or other interests. The written answers may be served personally or by mail. If disclosure is by a corporation, it must be verified by some officer or agent having knowledge of the facts. Disclosure must state:

1. The amount of disposable earnings earned or to be earned within the defendant's pay periods which may be subject to garnishment and all of the garnishee's indebtedness to the defendant.
2. Whether the garnishee held, at the time, the title or possession of or any interest in any personal property or any instruments or papers relating to any property belonging to the defendant or in which the defendant is interested. If the garnishee admits any interest or any doubt respecting the interest, the garnishee shall set forth a description of the property and the facts concerning the property and the title, interest, or claim of the defendant in or to the property.
3. If the garnishee claims any setoff or defense or claim or lien to disposable earnings, indebtedness, or property, the garnishee shall disclose the amount and the facts.
4. Whether the defendant claims any exemption from execution, or any other objection, known to the garnishee or the defendant, against the right of the plaintiff to apply upon demand the debt or property disclosed.
5. If other persons make claims to any disposable earnings, debt, or property of the defendant, the garnishee shall disclose the names and addresses of the other claimants and, so far as known, the nature of their claims.

A garnishment disclosure form must be served upon the garnishee. The disclosure must be substantially in the following form:

c. Enter on the line below the difference obtained (never less than zero) when line b is subtracted from line a.

d. Enter on the line below 25 percent of line a.

e. Enter on the line below the lesser of line c and line d.

2. Money. Enter on the line below any amounts due and owing defendant, except earnings, from the garnishee.

3. Property. Describe on the line below any personal property, instruments, or papers belonging to the defendant and in the possession of the garnishee.

4. Setoff. Enter on the line below the amount of any setoff, defense, lien, or claim which the garnishee claims against the amount set forth on lines (1)(e), 2, and 3. Allege the facts by which the setoff, defense, lien, or claim is claimed. (Any indebtedness to a garnishee-employer incurred by the judgment debtor within ten days prior to the receipt of the first garnishment on a debt is void and should be disregarded.)

5. Adverse Interest. Enter on the line below any amounts claimed by other persons by reason of ownership or interest in the defendant's property. State the names and addresses of the persons and the nature of their claim, if known. (Any assignment of wages made by the defendant within ten days prior to the receipt of the first garnishment on a debt is void and should be disregarded.)

6. Enter on the line below the total of lines 4 and 5.

7. Enter on the line below the difference obtained (never less than zero) when line 6 is subtracted from the sum of line 1(e), 2, and 3.

8. Enter on the line below 110 percent of the amount of the judgment creditor's judgment which remains unpaid.

9. Enter on the line below the lesser of line 7 and line 8. As garnishee, you are hereby instructed to retain this amount only if it is \$10.00 or more.

Signature-----
 Authorized Representative
 of Garnishee

 Title

Subscribed and sworn to before me this ----- day
 of -----, 19----.

 Notary Public

32-09.1-10. DISCLOSURE FEES. In all garnishment proceedings, the plaintiff, when the garnishee summons is served upon the garnishee, shall tender to the garnishee the sum of ten dollars as the fee for making an affidavit of disclosure.

32-09.1-11. EFFECT OF DISCLOSURE. Subject to the provisions of sections 32-09.1-12 and 32-09.1-13, the disclosure is conclusive as to all property of defendant. If the garnishee denies having any indebtedness to the defendant or having any property of the defendant in possession, the filing in court of a copy of the disclosure operates as a full discharge of the garnishee at the end of twenty days from date of service of the disclosure, in the absence of further proceedings as provided for in sections 32-09.1-12 and 32-09.1-13. The filing of objections to the disclosure or the filing of any motion or other proceedings operates as a stay of the discharge. The court may, upon proper showing, relieve the plaintiff from the operation of the discharge after the expiration of twenty days. The garnishee may be discharged where the value of the property of defendant held or indebtedness owing to defendant is less than ten dollars, and the garnishee may apply to the court to be discharged as to any property or indebtedness in excess of the amount which may be required to satisfy plaintiff's judgment.

32-09.1-12. ORAL DISCLOSURE - SUPPLEMENTAL COMPLAINT. Either before or after written disclosure, any party to the garnishment

proceedings may obtain an ex parte order requiring oral disclosure. The order may be obtained upon affidavit showing, upon information and belief, facts justifying the order, and the court shall require the garnishee to appear for oral examination before the court. If the garnishee holds the garnished property by a title that is void as to the defendant's creditors, the garnishee may be charged for the property although the defendant could not have maintained an action against the garnishee for it; but in this, and in all other cases where the garnishee denies liability, the plaintiff may move the court at any time before the garnishee is discharged, on notice to both the defendant and the garnishee, for leave to file a supplemental complaint making the garnishee a party to the action, and setting forth the facts upon which the plaintiff claims to charge the garnishee. If probable cause is shown, the motion shall be granted. The supplemental complaint must be served upon both defendant and garnishee, either or both of whom may answer, and the plaintiff may reply. The issues must be brought to trial and tried as in other actions.

32-09.1-13. THIRD PARTY MAY INTERVENE. If it appears that any person not a party to the action has or claims an interest in any of the garnished property antedating the garnishment, the court may permit that person to appear and maintain that person's rights. If the person does not appear, the court may direct that the person be notified to appear or be barred of the claim. The notice may be served in a manner as the court directs, and the person appearing or notified shall be joined as a party and is bound by judgment against the garnishee.

32-09.1-14. DEFAULT. If any garnishee who is duly summoned fails to serve disclosure as required in this chapter, the court may, upon proof by affidavit, render judgment against the garnishee for an amount not exceeding the plaintiff's judgment against the defendant or one hundred ten percent of the amount which remains unpaid, whichever is the smaller, but the court upon good cause shown may remove the default and permit the garnishee to disclose on terms as may be just.

32-09.1-15. JUDGMENT AGAINST GARNISHEE. Judgment against a garnishee shall be rendered, if at all, for the amount due the defendant, or so much thereof as may be necessary to satisfy the plaintiff's judgment against the defendant, with costs taxed and allowed in the proceeding against the garnishee but not to exceed one hundred ten percent of the amount which remains unpaid. The judgment shall discharge the garnishee from all claims of all the parties named in the process to the property or money paid, delivered, or accounted for by the garnishee by force of the judgment. When any person is charged as garnishee by reason of any property in possession other than an indebtedness payable in money, that person shall deliver the property, or so much thereof as may be necessary, to the officer holding execution, and the property shall be sold and the proceeds accounted for in the same manner as if it had been taken on execution against the defendant. The garnishee shall not be compelled to deliver any specific articles at any time

or place other than as stipulated in the contract with the defendant.

32-09.1-16. MINIMUM JUDGMENT. No judgment may be rendered against a garnishee where the judgment against the defendant is less than twenty-five dollars, exclusive of costs, rather, the garnishee shall be discharged.

32-09.1-17. DISCHARGE NOT A BAR. If any person summoned as a garnishee is discharged, the judgment is no bar to an action brought by the defendant or other claimants against the garnishee for the same demand.

32-09.1-18. DISCHARGE FROM EMPLOYMENT FOR GARNISHMENT OR EXECUTION PROHIBITED. No employer may discharge any employee by reason of the fact that earnings have been subjected to garnishment or execution. If an employer discharges an employee in violation of this section, the employee may within ninety days of discharge bring a civil action for recovery of twice the wages lost as a result of the violation and for an order requiring reinstatement.

32-09.1-19. GARNISHMENTS - MINIMAL AMOUNT - DISCLOSURE. If the amount required to be retained by the garnishee is less than ten dollars, the garnishee shall not retain the sum but shall make the disclosures otherwise required.

32-09.1-20. TERMINATION OF GARNISHMENT. A garnishee summons lapses and the garnishee is discharged of any liability upon the expiration of one hundred eighty days after the service of the summons, or a longer period of time either agreed to in writing by the plaintiff and the defendant or ordered by the court. Immediately upon the lapse of the garnishee summons, all earnings, money, property, and effects which the garnishee has been retaining pursuant to the garnishment shall be returned to the defendant if the defendant is otherwise legally entitled to receipt of them.

32-09.1-21. CONTINUING LIEN ON WAGES. A plaintiff may obtain a sixty-day continuing lien on wages by garnishment. If a lien is to be obtained, the plaintiff shall mark on the caption of the garnishee summons "continuing lien" and all disclosure forms must include the following:

Garnishee will continue to hold the nonexempt portion of the defendant's earnings as they accrue through the last payroll period ending on or before sixty days from the effective date of the garnishee summons, or until the sum held equals the amount stated in the garnishee summons, or until the employment relationship terminates, whichever first occurs.

At the time of the expected termination of the lien, the plaintiff shall mail to garnishee an additional copy of the disclosure form upon which the garnishee within ten days shall make further disclosure.

32-09.1-22. CLAIM OF EXEMPTIONS - HOW MADE. When the defendant claims that the indebtedness or property, or a part thereof, is exempt from garnishment or from execution, the defendant, at or before twenty days after the service of the garnishee summons, shall file a schedule of all personal property subscribed and sworn to as provided in section 28-22-07.

32-09.1-23. CLAIM OF EXEMPTIONS - WHEN HEARD. In all cases when the defendant claims the debt or property garnished to be exempt, the claim of exemptions may be heard and determined by the court at any time after the claim is made, on three days' notice to the plaintiff.

* SECTION 2. REPEAL. Chapters 32-09 and 33-05 of the North Dakota Century Code are hereby repealed.

Approved March 31, 1981

* NOTE: Chapter 33-05 was also repealed by section 51 of House Bill No. 1060, chapter 319, and section 33-05-01 was amended by section 20 of House Bill No. 1069, chapter 91.

CHAPTER 351

HOUSE BILL NO. 1063
 (Legislative Council)
 (Interim Judiciary "B" Committee)

POLITICAL SUBDIVISION
 EMPLOYEE LIABILITY ACTION

AN ACT to amend and reenact section 32-12.1-04 of the North Dakota Century Code, relating to political subdivisions defending actions brought against employees and to the personal liability and indemnification of employees, and providing that an action for injuries proximately caused by the alleged negligence, wrongful act, or omission of an employee within the scope of employment or office shall be brought against a political subdivision.

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

SECTION 1. AMENDMENT. Section 32-12.1-04 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-12.1-04. POLITICAL SUBDIVISION TO DEFEND CLAIM AGAINST
 EMPLOYEE BE NAMED IN ACTION - PERSONAL LIABILITY OF EMPLOYEES -
 INDEMNIFICATION OF CLAIMS AND FINAL JUDGMENTS.

1. ~~The governing body of any political subdivision shall defend any claim against an employee thereof where the political subdivision could otherwise be held liable pursuant to subsection 1 of section 32-12.1-03. A claim against an employee shall be brought in the same manner as a claim against a political subdivision and shall be subject to the same limitations. In any~~ An action against an employee of a political subdivision for an for injuries proximately caused by the alleged negligence, wrongful act, or omission of an employee of a political subdivision occurring within the scope of the employee's employment or office, shall be brought against the political subdivision shall be joined as a party to the action, and if. If there is any question concerning whether the alleged negligence, wrongful act, or omission occurred within the scope of employment or office of the employee, the employee may be named as a party to the action and the issue may be tried separately. A political subdivision

- must defend the employee until the court determines the employee was acting outside the scope of the employee's employment or office.
2. An employee shall not be personally liable for money damages for injuries when the injuries are proximately caused by the negligence, wrongful act, or omission of the employee acting within the scope of the employee's employment or office.
 3. An employee may be personally liable for money damages for injuries when the injuries are proximately caused by the negligence, wrongful act, or omission of the employee acting outside the scope of the employee's employment or office. Employees and political subdivisions may be jointly or severally liable for punitive or exemplary damages. The extent to which an employee may be personally liable pursuant to this section and whether the employee was acting within the scope of employment or office shall be specifically stated in a final judgment.
 - 3- 4. A political subdivision shall indemnify and save harmless an employee for any claim, whether groundless or not, and final judgment for any act or omission occurring within the scope of employment or office of the employee. The indemnification shall be made in the manner provided by this chapter and shall be subject to the limitations herein.

Approved January 30, 1981

CHAPTER 352

HOUSE BILL NO. 1505
(Goetz)

**POLITICAL SUBDIVISION INSURANCE
RESERVE FUND CLAIM DEFENSE COSTS**

AN ACT to amend and reenact subsection 2 of section 32-12.1-08 of the North Dakota Century Code, relating to the political subdivision insurance reserve fund, and allowing the fund to be used for paying costs incurred in the defense of claims.

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

SECTION 1. AMENDMENT. Subsection 2 of section 32-12.1-08 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The fund established pursuant to this section shall be kept separate and apart from all other funds and shall be used only for the payment of claims against the political subdivision which have been settled or compromised ~~or~~ judgments rendered against the political subdivision for injuries arising out of risks established by this chapter, or costs incurred in the defense of claims.

Approved March 11, 1981

CHAPTER 353

SENATE BILL NO. 2068
(Legislative Council)
(Interim Judiciary "B" Committee)

EMINENT DOMAIN REQUIREMENTS

AN ACT to create and enact two new sections to chapter 32-15 and a new section to chapter 54-12 of the North Dakota Century Code, relating to eminent domain appraisals and offers to purchase, disclosures, and the attorney general preparing eminent domain pamphlets; and to amend and reenact section 32-15-01 of the North Dakota Century Code, relating to the definition of eminent domain.

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

SECTION 1. A new section to chapter 32-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

DUTY TO NEGOTIATE - JUST COMPENSATION - APPRAISALS.

1. A condemnor shall make every reasonable and diligent effort to acquire property by negotiation.
2. Before initiating negotiations for the purchase of property, the condemnor shall establish an amount which it believes to be just compensation therefor and promptly shall submit to the owner an offer to acquire the property for the full amount so established. The amount shall not be less than the condemnor's approved appraisal or written statement and summary of just compensation for the property.
3. In establishing the amount believed to be just compensation, the condemnor shall disregard any decrease or increase in the fair market value of the property caused by the project for which the property is to be acquired or by the reasonable likelihood that the property will be acquired for that project, other than a decrease due to physical deterioration within the reasonable control of the owner.

4. The condemnor shall provide the owner of the property with a written appraisal, if one has been prepared, or if one has not been prepared, with a written statement and summary, showing the basis for the amount it established as just compensation for the property. If appropriate, the compensation for the property to be acquired and for the damages to remaining property shall be separately stated.

SECTION 2. A new section to chapter 32-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

DISCLOSURES. The condemnor, upon request, shall provide the property owner or the owner's representative with the names of at least ten neighboring property owners to whom offers are being made, or a list of all offerees if fewer than ten owners are affected. A current and relevant map showing all neighboring property affected by a project shall also be provided to the property owner. Upon request by an owner or the owner's representative, the condemnor shall provide the names of any other property owners within that county and adjacent counties whose property may be taken for the project. The owner or the owner's representative shall have the right, upon request, to examine any maps in the possession of the condemnor showing property affected by the project. The owner or the owner's representative may obtain copies of such maps by tendering to the condemnor the reasonable and necessary costs of preparing copies.

SECTION 3. AMENDMENT. Section 32-15-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-15-01. "EMINENT DOMAIN" DEFINED - HOW EXERCISED - "CONDEMNOR" DEFINED.

1. Eminent domain is the right to take private property for public use. Private property shall not be taken or damaged for public use without just compensation first having been made to or paid into court for the owner. In case such property is so taken by a person, firm, or private corporation, no benefit to accrue from the proposed improvement shall be allowed in ascertaining the compensation to be made therefor. Such compensation in all cases shall be ascertained by a jury, unless a jury is waived. The right of eminent domain may be exercised in the manner provided in this chapter.
2. For the purpose of this chapter "condemnor" means a person empowered to take property under the power of eminent domain.

SECTION 4. A new section to chapter 54-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

ATTORNEY GENERAL TO PREPARE EMINENT DOMAIN PAMPHLETS - COPY TO LANDOWNER. The attorney general, with the cooperation of appropriate state agencies, shall prepare pamphlets in readable format describing the eminent domain laws of this state. The pamphlets shall include the reasons for condemnation, the procedures followed by condemnors as defined by section 32-15-01, how citizens may influence the condemnation process, and the rights of property owners and citizens affected by condemnation. The attorney general shall make copies of the pamphlets available to all condemnors who shall be charged a price for the pamphlets sufficient to recover the costs of production. A condemnor shall present a copy of the pamphlet to a property owner prior to making an offer to purchase and initiating a condemnation action.

Approved March 31, 1981

CHAPTER 354

SENATE BILL NO. 2076
(Legislative Council)
(Interim Judiciary "C" Committee)

EMINENT DOMAIN PLAINTIFF'S JURY COST PAYMENT

AN ACT to repeal section 32-15-14 of the North Dakota Century Code, relating to the payment by nongovernmental plaintiffs exercising the power of eminent domain of the costs of jury fees and mileage and the cost of selecting and summoning jury panels for a trial of the issues.

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

SECTION 1. REPEAL. Section 32-15-14 of the North Dakota Century Code is hereby repealed.

Approved March 11, 1981

CHAPTER 355

HOUSE BILL NO. 1356
(Unhjem)

POWER OF ATTORNEY IN FORECLOSURE

AN ACT to repeal section 32-19-02 of the North Dakota Century Code, relating to a power of attorney in foreclosure.

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

SECTION 1. REPEAL. Section 32-19-02 of the North Dakota Century Code is hereby repealed.

Approved March 3, 1981

CHAPTER 356

HOUSE BILL NO. 1355
(Unhjem)

REDEMPTION PERIOD FOR INADEQUATE NOTICE

AN ACT to amend and reenact section 32-19.1-05 of the North Dakota Century Code, relating to the notice before foreclosure containing a statement as to the time of redemption.

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

SECTION 1. AMENDMENT. Section 32-19.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-19.1-05. NOTICE BEFORE FORECLOSURE TO STATE TIME FOR REDEMPTION. When the notice before foreclosure required by section 32-19-20 is served upon the title owner of record of the real estate described in the mortgage, such notice shall, where foreclosure is authorized under this chapter, contain a statement as to the time for redemption after the sheriff's sale. Failure to include such a statement in the notice shall not invalidate the notice ~~for any purpose before foreclosure~~, but the redemption period shall be one year.

Approved March 3, 1981

CHAPTER 357

SENATE BILL NO. 2388
(Wenstrom)

SHORT-TERM MORTGAGE REDEMPTION PERIOD

AN ACT to create and enact section 32-19.1-08 of the North Dakota Century Code, relating to the redemption period under the Short-Term Mortgage Redemption Act.

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

* SECTION 1. Section 32-19.1-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

REDEMPTION PERIOD TO COMMENCE UPON FILING OF SUMMONS AND COMPLAINT. In the event of foreclosure under this chapter, the period of redemption will commence to run at the time of the filing of the summons and complaint in the office of the clerk of the district court, unless it is determined by the district court that the mortgagee is not entitled to judgment, and in no event will the final date for redemption be earlier than sixty days after the sheriff's sale.

Approved March 11, 1981

* NOTE: This section is codified as section 32-19.1-04.1.

CHAPTER 358

HOUSE BILL NO. 1412
(Representative Kretschmar)
(Senator Stenehjem)

**MEDICAL MALPRACTICE CLAIM ARBITRATION
PROVISIONS REPEALED**

AN ACT to repeal chapter 32-29.1 of the North Dakota Century Code, relating to the arbitration of medical malpractice claims; and to declare an emergency.

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

SECTION 1. REPEAL. Chapter 32-29.1 of the 1979 Supplement to the North Dakota Century Code is hereby repealed.

SECTION 2. EMERGENCY. This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 5, 1981