

# JUDICIAL REMEDIES

## CHAPTER 252

### SENATE BILL NO. 2140

(Senators Hogue, Lyson, Wardner)  
(Representatives Klemin, Steiner, Vigesaa)

AN ACT to amend and reenact section 32-09.1-08 of the North Dakota Century Code, relating to the service of the summons and notice of garnishment of earnings; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 32-09.1-08 of the North Dakota Century Code is amended and reenacted as follows:

##### **32-09.1-08. Service.**

1. 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~~
2. Service of a garnishee summons and disclosure statement upon a bank or credit union must be made by delivery of the summons and disclosure statement to a specifically named president or vice president of the bank or credit union or to the registered agent for service of process of the bank or credit union. Delivery of the summons and disclosure statement to the specifically named individual may be in hand as established by the sworn affidavit of the individual who delivered the summons and disclosure statement or by any form of mail or third-party commercial delivery service, if delivery is restricted to the named individual or registered agent and the sender receives a receipt signed by that individual or registered agent.
3. A 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 in accordance with the North Dakota Rules of Civil Procedure for personal service or served by first-class mail not later than ten 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.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 11, 2013  
Filed April 11, 2013

## CHAPTER 253

### HOUSE BILL NO. 1069

(Judiciary Committee)

(At the request of the Office of Management and Budget)

AN ACT to amend and reenact sections 32-12.2-15 and 32-12.2-16 of the North Dakota Century Code, relating to authorization of agencies to limit the liability of certain contracting parties to the state.

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

**SECTION 1. AMENDMENT.** Section 32-12.2-15 of the North Dakota Century Code is amended and reenacted as follows:

**32-12.2-15. Contracts limiting liability to the state ~~—Assumption of certain excess liability by the risk management fund.~~**

Notwithstanding any provision in this chapter to the contrary, ~~if the attorney general and the director of the office of management and budget determine it is in the best interest of the state,~~ an agency may agree to limit the liability of a contractor to the state. ~~The liability limitation must be approved by the attorney general and director of the office of management and budget in writing and may only be approved for if the agency determines such services or products cannot be effectively obtained without such limitation and the limitation does not pose any significant risk of loss to the state and is in the best interests of the state. The agency, in consultation with the office of management and budget and the attorney general's office, shall prepare a written documentation before agreeing to any liability limitation. An agency's authority to agree to a limitation of liability is limited to contracts for the purchase or lease of, or services related to, software, communication, or electronic equipment and economic forecasting and may only limit the agency's ability to recover indirect consequential damages. For any uninsured losses, the director of the office of management and budget may approve the risk management fund to assume all or part of the contractor's liability to the state in excess of the limitation. Contracts for economic forecasting for the office of management and budget may contain a provision limiting the state's ability to seek and recover indirect consequential damages if the director of the office of management and budget and the attorney general determine that such services cannot be effectively obtained without such limitation and that the limitation does not pose any significant risk of loss to the state and is in the best interests of the state.~~ A contract under this section may not limit any direct loss to the state or loss resulting from property damage or personal injury.

**SECTION 2. AMENDMENT.** Section 32-12.2-16 of the North Dakota Century Code is amended and reenacted as follows:

**32-12.2-16. Ratifying contracts limiting liability to the state.**

Any employee or official of an agency who ~~entered into~~enters a contract ~~prior to March 17, 2005,~~ requiring the agency to limit the liability of the contracting party without first consulting with the office of management and budget and the attorney general's office will be deemed to be acting within the scope of the employee's or official's employment provided the contract is approved or ratified by the attorney

general and the director of the office of management and budget and otherwise meets the conditions contained in section 32-12.2-15.

Approved March 26, 2013

Filed March 27, 2013