

JUDICIAL PROCEDURE, CIVIL

CHAPTER 268

HOUSE BILL NO. 1071

(Judiciary Committee)

(At the request of the Commission on Uniform State Laws)

UNIFORM FOREIGN MONEY-JUDGMENTS RECOGNITION ACT

AN ACT to provide for the adoption of the Uniform Foreign Money-Judgments Recognition Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions. As used in this Act:

1. "Foreign judgment" means any judgment of a foreign state granting or denying recovery of a sum of money, other than a judgment for taxes, a fine or other penalty, or a judgment for support in matrimonial or family matters.
2. "Foreign state" means any governmental unit other than the the United States or any state, district, commonwealth, territory, or insular possession of the United States.

SECTION 2. Applicability. This Act applies to any foreign judgment that is final and conclusive and enforceable where rendered even though an appeal is pending or the judgment is subject to appeal.

SECTION 3. Recognition and enforcement. Except as provided in section 4 of this Act, a foreign judgment meeting the requirements of section 2 of this Act is conclusive between the parties to the extent that the judgment grants or denies recovery of a sum of money. The foreign judgment is enforceable in the same manner as the judgment of a sister state which is entitled to full faith and credit.

SECTION 4. Grounds for nonrecognition.

1. A foreign judgment is not conclusive if:
 - a. The judgment was rendered under a system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law;
 - b. The foreign court did not have personal jurisdiction over the defendant; or
 - c. The foreign court did not have jurisdiction over the subject matter.
2. A foreign judgment need not be recognized if:

- a. The defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable the defendant to defend;
- b. The judgment was obtained by fraud.
- c. The claim for relief on which the judgment is based is repugnant to the public policy of this state;
- d. The judgment conflicts with another final and conclusive judgment;
- e. The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court; or
- f. In the case of jurisdiction based only on personal service the foreign court was a seriously inconvenient forum for the trial of this action.

SECTION 5. Personal jurisdiction.

1. The foreign judgment may not be refused recognition for lack of personal jurisdiction if:
 - a. The defendant was served personally in the foreign state;
 - b. The defendant voluntarily appeared in the proceedings, other than for the purpose of protecting property seized or threatened with seizure in the proceedings or of contesting the jurisdiction of the court over the defendant;
 - c. Before commencement of the proceedings, the defendant had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;
 - d. The defendant was domiciled in the foreign state when the proceedings were instituted, or, being a body corporate had its principal place of business, was incorporated, or had otherwise acquired corporate status, in the foreign state;
 - e. The defendant had a business office in the foreign state and the proceedings in the foreign court involved a claim for relief arising out of business done by the defendant through that office in the foreign state; or
 - f. The defendant operated a motor vehicle or airplane in the foreign state and the proceedings involved a claim for relief arising out of the operation.
2. The courts of this state may recognize other bases of jurisdiction.

SECTION 6. Stay in case of appeal. If the defendant satisfies the court either that an appeal is pending or that the defendant is entitled and intends to appeal from the foreign judgment, the court may stay the proceedings until the appeal has been determined or until the expiration of a period of time sufficient to enable the defendant to prosecute the appeal.

Approved March 25, 2003

Filed March 25, 2003

CHAPTER 269**HOUSE BILL NO. 1214**

(Representatives Gulleson, Amerman, DeKrey, Kroeber, Warnke)
(Senator Nelson)

MOTOR VEHICLE EXEMPTION FOR DISABLED

AN ACT to amend and reenact subsection 2 of section 28-22-03.1 of the North Dakota Century Code, relating to motor vehicles as property exempt from process.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 28-22-03.1 of the North Dakota Century Code is amended and reenacted as follows:

2. A motor vehicle exemption not to exceed one thousand two hundred dollars, or a motor vehicle exemption not to exceed thirty-two thousand dollars for a motor vehicle that has been modified at a cost of not less than one thousand five hundred dollars to accommodate an individual with a permanent physical disability who is the owner of that motor vehicle.

Approved March 25, 2003
Filed March 25, 2003

CHAPTER 270**HOUSE BILL NO. 1330**

(Representatives DeKrey, Nicholas, Schmidt)

CONFISCATORY PRICE DEFENSE REPEAL

AN ACT to repeal sections 28-29-04, 28-29-05, and 28-29-06 of the North Dakota Century Code, relating to powers of courts when agricultural prices are confiscatory.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Sections 28-29-04, 28-29-05, and 28-29-06 of the North Dakota Century Code are repealed.

Approved April 7, 2003

Filed April 7, 2003

CHAPTER 271

HOUSE BILL NO. 1212

(Representatives Dosch, Ekstrom, Keiser, Price)
(Senators Espegard, Mutch)

ADMINISTRATIVE RULE IMPACT ON SMALL ENTITIES

AN ACT to create and enact a new section to chapter 28-32 of the North Dakota Century Code, relating to requirement of consideration of the effect of proposed administrative rules on small businesses, organizations, and political subdivisions; to provide for a legislative council study; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 28-32 of the North Dakota Century Code is created and enacted as follows:

Rules affecting small entities - Analysis - Economic impact statements - Judicial review.

1. As used in this section:
 - a. "Small business" means a business entity, including its affiliates, which:
 - (1) Is independently owned and operated; and
 - (2) Employs fewer than twenty-five full-time employees or has gross annual sales of less than two million five hundred thousand dollars;
 - b. "Small entity" includes small business, small organization, and small political subdivision.
 - c. "Small organization" means any not-for-profit enterprise that is independently owned and operated and is not dominant in its field; and
 - d. "Small political subdivision" means a political subdivision with a population of less than five thousand.
2. Before adoption of any proposed rule, the adopting agency shall prepare a regulatory analysis in which, consistent with public health, safety, and welfare, the agency considers utilizing regulatory methods that will accomplish the objectives of applicable statutes while minimizing adverse impact on small entities. The agency shall consider each of the following methods of reducing impact of the proposed rule on small entities:

- a. Establishment of less stringent compliance or reporting requirements for small entities;
 - b. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities;
 - c. Consolidation or simplification of compliance or reporting requirements for small entities;
 - d. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule; and
 - e. Exemption of small entities from all or any part of the requirements contained in the proposed rule.
3. Before adoption of any proposed rule that may have an adverse impact on small entities, the adopting agency shall prepare an economic impact statement that includes consideration of:
- a. The small entities subject to the proposed rule;
 - b. The administrative and other costs required for compliance with the proposed rule;
 - c. The probable cost and benefit to private persons and consumers who are affected by the proposed rule;
 - d. The probable effect of the proposed rule on state revenues; and
 - e. Any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.
4. For any rule subject to this section, a small entity that is adversely affected or aggrieved by final agency action is entitled to judicial review of agency compliance with the requirements of this section. A small entity seeking judicial review under this section must file a petition for judicial review within one year from the date of final agency action.
5. This section does not apply to any agency that is an occupational or professional licensing authority, nor does this section apply to the following agencies:
- a. Council on the arts.
 - b. Beef commission.
 - c. Dairy promotion commission.
 - d. Dry bean council.
 - e. Highway patrolmen's retirement board.
 - f. Indian affairs commission.
 - g. Board for Indian scholarships.

- h. State personnel board.
 - i. Potato council.
 - j. Board of public school education.
 - k. Real estate trust account committee.
 - l. Seed commission.
 - m. Soil conservation committee.
 - n. Oilseed council.
 - o. Wheat commission.
 - p. State seed arbitration board.
6. This section does not apply to rules mandated by federal law.
7. The adopting agency shall provide the administrative rules committee copies of any regulatory analysis or economic impact statement, or both, prepared under this section when the committee is considering the associated rules.

SECTION 2. LEGISLATIVE COUNCIL STUDY. The legislative council shall consider studying, during the 2003-04 interim, the effects and operation of requiring agency consideration of the effect of proposed administrative rules on small businesses, organizations, and political subdivisions. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the fifty-ninth legislative assembly.

SECTION 3. EFFECTIVE DATE. This Act is effective for administrative rules adopted after July 31, 2003.

Approved April 16, 2003
Filed April 16, 2003

CHAPTER 272

HOUSE BILL NO. 1178

(Representative Koppelman)

ADMINISTRATIVE RULEMAKING NOTICES

AN ACT to amend and reenact subsection 1 of section 28-32-10 of the North Dakota Century Code, relating to the contents of a notice of administrative rulemaking; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 28-32-10 of the North Dakota Century Code is amended and reenacted as follows:

1. An agency shall prepare a full notice and an abbreviated notice of rulemaking.
 - a. The agency's full notice of the proposed adoption, amendment, or repeal of a rule must include a short, specific explanation of the proposed rule and the purpose of the proposed rule, a determination of whether the proposed rulemaking is expected to have an impact on the regulated community in excess of fifty thousand dollars, identify at least one location where interested persons may review the text of the proposed rule, provide the address to which written ~~data, views, or arguments~~ comments concerning the proposed rule may be sent, provide the deadline for submission of written comments, provide a telephone number at which a copy of the rules and regulatory analysis may be requested, and, in the case of a substantive rule, provide the time and place set for each oral hearing. The agency's full notice must be filed with the office of the legislative council, and the agency shall request publication of an abbreviated newspaper publication notice at least once in each official county newspaper published in this state. The notice filed with the office of the legislative council must be accompanied by a copy of the proposed rules.
 - b. The abbreviated newspaper publication of notice must be in a display-type format with a minimum width of one column of approximately two inches [5.08 centimeters] and a depth of from three inches [7.62 centimeters] to four inches [10.16 centimeters] with a headline describing the general topic of the proposed rules. The notice must also include the ~~address and~~ address to use to obtain a copy of the proposed rules ~~or, the address to use and the deadline to submit written comments,~~ and the location, date, and time of the public hearing on the rules.

SECTION 2. EFFECTIVE DATE. This Act is effective for rulemaking notices filed with the legislative council after July 31, 2003.

Approved March 19, 2003
Filed March 19, 2003