

**HOUSE BILL NO. 1177**

Introduced by

Representative Maragos

Senator Casper

1 A BILL for an Act to amend and reenact sections 30.1-23-01 and 30.1-23-02 of the North  
2 Dakota Century Code, relating to the collection of property by affidavit and the effect of the  
3 affidavit.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 30.1-23-01 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **30.1-23-01. (3-1201) Collection of ~~personal~~ property by affidavit.**

- 8 1. Thirty days after the death of a decedent, ~~anya~~ person indebted to the decedent or  
9 having possession of tangible personal property, real property, or an instrument  
10 evidencing a debt, obligation, stock, or chose in action belonging to the decedent shall  
11 make payment of the indebtedness or deliver the tangible personal property, real  
12 property, or an instrument evidencing a debt, obligation, stock, or chose in action to a  
13 person claiming to be the successor of the decedent upon being presented an affidavit  
14 made by or on behalf of the successor stating ~~that~~:
- 15 a. The value of the entire estate subject to distribution or succession under chapters  
16 30.1-01 through 30.1-23, wherever located, less liens and encumbrances, does  
17 not exceed fifty thousand dollars.
  - 18 b. Thirty days have elapsed since the death of the decedent.
  - 19 c. An application or petition for the appointment of a personal representative is not  
20 pending or has not been granted in any jurisdiction.
  - 21 d. The claiming successor is entitled to payment or delivery of the property.
  - 22 e. A description sufficient to identify each tract of real property owned by the  
23 decedent at the time of the decedent's death.

1           2.    A transfer agent of any security shall change the registered ownership on the books of  
2                    a corporation or limited liability company from the decedent to the successor upon the  
3                    presentation of an affidavit as provided in subsection 1.

4           **SECTION 2. AMENDMENT.** Section 30.1-23-02 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6           **30.1-23-02. (3-1202) Effect of affidavit.**

7           The person paying, delivering, transferring, or issuing personal property, real property, or  
8 the evidence thereof pursuant to affidavit is discharged and released to the same extent as if  
9 the person dealt with a personal representative of the decedent. The person is not required to  
10 see to the application of the personal property, real property, or evidence thereof or to inquire  
11 into the truth of ~~anya~~ any statement in the affidavit. If ~~anya~~ any person to whom an affidavit is delivered  
12 refuses to pay, deliver, transfer, or issue ~~any~~ any personal property, real property, or evidence  
13 thereof, it may be recovered or its payment, delivery, transfer, or issuance compelled upon proof  
14 of their right in a proceeding brought for the purpose by or on behalf of the persons entitled  
15 thereto. ~~Any~~ A person to whom payment, delivery, transfer, or issuance is made is answerable  
16 and accountable therefor to any personal representative of the estate or to any other person  
17 having a superior right.