

# COUNTIES

## CHAPTER 86

### SENATE BILL NO. 2326

(Senator Laffen)

AN ACT to amend and reenact sections 11-09.1-05 and 40-05.1-06 of the North Dakota Century Code, relating to the authority of home rule counties and cities to levy certain taxes.

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

**SECTION 1. AMENDMENT.** Section 11-09.1-05 of the North Dakota Century Code is amended and reenacted as follows:

##### **11-09.1-05. Powers.**

After the filing with the secretary of state of a charter approved in reasonable conformity with this chapter, the county and its citizens may, if included in the charter and implemented through ordinances:

1. Acquire, hold, operate, and dispose of property within or without the county limits, and, subject to chapter 32-15, exercise the right of eminent domain for those purposes.
2. Control its finances and fiscal affairs; appropriate money for its purposes, and make payments of its debts and expenses; ~~subject to the limitations of this section levy and collect property taxes, sales and use taxes, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, motor vehicle fuels and special fuels taxes, motor vehicle registration fees, and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements; contract debts, borrow money, issue bonds, warrants, and other evidences of indebtedness; establish charges for any county or other services to the extent authorized by state law; and establish debt and mill levy limitations.~~
3. To levy and collect property taxes and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements, and establish mill levy limitations. Notwithstanding any authority granted under this chapter, all property must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments and all taxable property must be taxed by the county at the same rate unless otherwise provided by law. A charter or ordinance or act of a governing body of a home rule county may not supersede any state law that determines what property or acts are subject to, or exempt from, ad valorem taxes. A charter or ordinance or act of the governing body of a home rule county may not supersede section 11-11-55.1 relating to the sixty percent petition requirement for improvements and of

section 40-22-18 relating to the barring proceeding for improvement projects. After December 31, 2005,

4. To levy and collect sales and use taxes, farm machinery gross receipts taxes, and alcoholic beverage gross receipts taxes, a county lodging tax, and a county restaurant tax. Sales and use taxes and gross receipts taxes levied under this chapter:
- a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of ~~fuel used to power motor vehicles, aircraft, locomotives, or watercraft, or to electricity, piped natural or artificial gas, or other fuels delivered by the seller or the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.~~
  - b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.
  - c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax, except for farm machinery gross receipts tax purposes.
  - d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1, with the exception of a county lodging or county restaurant tax, and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.

After December 31, 2005, any portion of a charter or any portion of an ordinance or act of a governing body of a home rule county passed pursuant to a charter which does not conform to the requirements of this subsection is invalid to the extent that it does not conform. The invalidity of a portion of a charter or ordinance or act of a governing body of a home rule county because it does not conform to this subsection does not affect the validity of any other portion of the charter or ordinance or act of a governing body of a home rule county or the eligibility for a refund under section 57-01-02.1. Any taxes imposed under this chapter on farm machinery, farm irrigation equipment, and farm machinery repair parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect on December 31, 2005, become gross receipts taxes after December 31, 2005. Ordinances enacted after August 1, 2017, may not allow for the collection and levy of any tax not otherwise specified under this section.

- 3-5. Provide for county elected and appointed officers and employees, their selection, powers, duties, qualifications, and compensation, and the terms of county appointed officers and employees. However, after adoption of a home rule charter, a county elected office may not be eliminated or combined with another office except upon approval of a majority of the electors of the county voting upon the question at a primary or general election or pursuant to the county officer combination, separation, or redesignation procedures of chapter

11-10.2. A home rule charter may not diminish the term of office for which a current county officer was elected, redesignate that elected office during that term as appointed, or reduce the salary of the office for that term. This subsection does not authorize a county to redesignate the elected offices of sheriff and state's attorney as appointed, except as provided in section 11-10-02.3.

- 4-6. Provide for all matters pertaining to county elections, except as to qualifications of electors.
- 5-7. Provide for the adoption, amendment, repeal, initiative, referral, enforcement, and civil and criminal penalties for violation of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare. However, this subsection does not confer any authority to regulate any industry or activity which is regulated by state law or by rules adopted by a state agency.
- 6-8. Lay out or vacate public grounds, and provide through its governing body for the construction, use, operation, designation, and regulation of a county road system.
- 7-9. Provide for zoning, planning, and subdivision of public or private property within the county limits but outside the zoning authority of any city or organized township.
- 8-10. Exercise in the conduct of its affairs all powers usually exercised by a corporation.
- 9-11. Contract with and receive grants from any other governmental entity or agency, with respect to any local, state, or federal program, project, or works.

The people of all counties coming within this chapter have the full right of self-government in all matters within the powers enumerated in this chapter. The statutes of this state, so far as applicable, continue to apply to counties, except as superseded by the charters of the counties or by ordinances passed pursuant to the charters.

**SECTION 2. AMENDMENT.** Section 40-05.1-06 of the North Dakota Century Code is amended and reenacted as follows:

**40-05.1-06. Powers.**

From and after the filing with the secretary of state of a charter framed and approved in reasonable conformity with the provisions of this chapter, such city, and the citizens thereof, shall, if included in the charter and implemented through ordinances, have the following powers set out in this chapter:

1. To acquire, hold, operate, and dispose of property within or without the corporate limits, and, subject to chapter 32-15, exercise the right of eminent domain for such purposes.
2. To control its finances and fiscal affairs; to appropriate money for its purposes, and make payment of its debts and expenses; ~~to levy and collect taxes, excises, fees, charges, and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements;~~ to contract debts, borrow money, issue bonds, warrants, and

other evidences of indebtedness; to establish charges for any city or other services; and to establish debt and mill levy limitations.

3. To levy and collect property taxes and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings, and improvements, and establish mill levy limitations. Notwithstanding any authority granted under this chapter, all property must be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments and all taxable property must be taxed by the city at the same rate unless otherwise provided by law. ~~The authority to levy taxes under this subsection does not include authority to impose income taxes.~~
- 3.4. To levy and collect excises, fees, charges, franchise and license taxes, sales and use taxes, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, a city lodging tax, and a city restaurant tax. For purposes of this section, any taxes imposed under this section on farm machinery, farm irrigation equipment, and farm machinery repair parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect on December 31, 2005, become gross receipts taxes after December 31, 2005. After December 31, 2005, any portion of a charter or any portion of an ordinance passed pursuant to a charter which does not conform to the requirements of this section is invalid to the extent it does not conform. The invalidity of a portion of a charter or ordinance because it does not conform with this subsection does not affect the validity of any other portion of the charter or ordinance of the eligibility for a refund under section 57-01-02.1. Ordinances enacted after August 1, 2017, may not allow for the collection and levy of any tax not otherwise specified under this section. Sales and use taxes and gross receipts taxes levied under this section:
  - a. Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of manufactured homes or mobile homes.
  - b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.
  - c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax purposes, except for farm machinery gross receipts tax.
  - d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1, with the exception of a city lodging or city restaurant tax, and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.
5. To fix the fees, number, terms, conditions, duration, and manner of issuing and revoking licenses in the exercise of its governmental police powers.

- ~~4-6.~~ To provide for city officers, agencies, and employees, their selection, terms, powers, duties, qualifications, and compensation. To provide for change, selection, or creation of its form and structure of government, including its governing body, executive officer, and city officers.
- ~~5-7.~~ To provide for city courts, their jurisdiction and powers over ordinance violations, duties, administration, and the selection, qualifications, and compensation of their officers; however, the right of appeal from judgment of such courts shall not be in any way affected.
- ~~6-8.~~ To provide for all matters pertaining to city elections, except as to qualifications of electors.
- ~~7-9.~~ To provide for the adoption, amendment, and repeal of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare, and penalties for a violation thereof.
- ~~8-10.~~ To lay out or vacate streets, alleys, and public grounds, and to provide for the use, operation, and regulation thereof.
- ~~9-11.~~ To define offenses against private persons and property and the public health, safety, morals, and welfare, and provide penalties for violations thereof.
- ~~10-12.~~ To engage in any utility, business, or enterprise permitted by the constitution or not prohibited by statute or to grant and regulate franchises therefor to a private person, firm, corporation, or limited liability company.
- ~~11-13.~~ To provide for zoning, planning, and subdivision of public or private property within the city limits. To provide for such zoning, planning, and subdivision of public or private property outside the city limits as may be permitted by state law.
- ~~12.~~ To levy and collect franchise and license taxes for revenue purposes.
- ~~13-14.~~ To exercise in the conduct of its affairs all powers usually exercised by a corporation.
- ~~14-15.~~ To fix the boundary limits of said city and the annexation and deannexation of territory adjacent to said city except that such power shall be subject to, and shall conform with the state law made and provided.
- ~~15-16.~~ To contract with and receive grants from any other governmental entity or agency, with respect to any local, state, or federal program, project, or works.
- ~~16.~~ To impose registration fees on motor vehicles, farm machinery gross receipts taxes, alcoholic beverage gross receipts taxes, or sales and use taxes in addition to any other taxes imposed by law. After December 31, 2005, sales and use taxes and gross receipts taxes levied under this chapter:
  - ~~a.~~ Must conform in all respects with regard to the taxable or exempt status of items under chapters 57-39.2, 57-39.5, 57-39.6, and 57-40.2 and may not be imposed at multiple rates with the exception of sales of fuel used to power motor vehicles, aircraft, locomotives, or watercraft, or to electricity, piped natural or artificial gas, or other fuels delivered by the seller or the

~~retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes:~~

- ~~b. May not be newly imposed or changed except to be effective on the first day of a calendar quarterly period after a minimum of ninety days' notice to the tax commissioner or, for purchases from printed catalogs, on the first day of a calendar quarter after a minimum of one hundred twenty days' notice to the seller.~~
- ~~c. May not be limited to apply to less than the full value of the transaction or item as determined for state sales and use tax purposes, except for farm machinery gross receipts tax.~~
- ~~d. Must be subject to collection by the tax commissioner under an agreement under section 57-01-02.1 and must be administered by the tax commissioner in accordance with the relevant provisions of chapter 57-39.2, including reporting and paying requirements, correction of errors, payment of refunds, and application of penalty and interest.~~

It is the intention of this chapter to grant and confirm to the people of all cities coming within its provisions the full right of self-government in both local and city matters within the powers enumerated herein. The statutes of the state of North Dakota, so far as applicable, shall continue to apply to home rule cities, except insofar as superseded by the charters of such cities or by ordinance passed pursuant to such charters.

~~After December 31, 2005, any portion of a charter or any portion of an ordinance passed pursuant to a charter which does not conform to the requirements of subsection 16 is invalid to the extent that it does not conform. The invalidity of a portion of a charter or ordinance because it does not conform to subsection 16 does not affect the validity of any other portion of the charter or ordinance or the eligibility for a refund under section 57-01-02.1. Any taxes imposed under this chapter on farm machinery, farm irrigation equipment, and farm machinery repair parts used exclusively for agricultural purposes, or on alcoholic beverages, which were in effect on December 31, 2005, become gross receipts taxes after December 31, 2005.~~

Approved March 29, 2017

Filed March 30, 2017

## CHAPTER 87

### SENATE BILL NO. 2193

(Senators Kreun, Luick, Sorvaag)  
(Representatives Blum, Boschee, Mock)

AN ACT to amend and reenact section 11-15-33, subsection 2 of section 15-10-17, and section 40-20-05 of the North Dakota Century Code, relating to jurisdiction of law enforcement officers; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 11-15-33 of the North Dakota Century Code is amended and reenacted as follows:

##### **11-15-33. County law enforcement officer - Jurisdiction - Fresh pursuit.**

1. A county law enforcement officer employed by a county has jurisdiction within that county and up to one thousand five hundred feet [457.2 meters] outside the county.
2. A county law enforcement officer in fresh pursuit may enter another county and may continue within that county in fresh pursuit to make an arrest, in compliance with a warrant or without a warrant under the conditions of section 29-06-15, if obtaining the aid of law enforcement officers having jurisdiction in that county would cause a delay permitting escape. As used in this section, "fresh pursuit" means fresh pursuit as defined in section 29-06-07.
3. The jurisdiction limits in subsection 1 do not apply to a county law enforcement officer acting pursuant to a joint powers agreement with another jurisdiction.

**SECTION 2. AMENDMENT.** Subsection 2 of section 15-10-17 of the North Dakota Century Code is amended and reenacted as follows:

2. ~~Authorize the employment of law enforcement officers having concurrent jurisdiction with other law enforcement officers on property owned or leased by the state board of higher education to enforce laws and regulations at its institutions, or as otherwise provided in this subsection.~~
  - a. A law enforcement officer employed by North Dakota state university has jurisdiction on all property owned or leased by the state board of higher education and property on and within the boundaries of the intersection of nineteenth avenue north and Dakota drive south to eighth avenue north, eighth avenue north east to tenth street north, tenth street north north to nineteenth avenue north, nineteenth avenue north west to Dakota drive.
  - b. A law enforcement officer employed by the university of North Dakota has jurisdiction on all property owned or leased by the state board of higher education and property on and within the boundaries of the intersection of demers avenue and north fifty-fifth street, north fifty-fifth street north to university avenue, university avenue east to north forty-second street.

north forty-second street north to gateway drive, gateway drive east to north columbia road, north columbia road south to tenth avenue north, tenth avenue north east to north twenty-fifth street, north twenty-fifth street south to sixth avenue north, sixth avenue north east to north twentieth street, north twentieth street south to fifth avenue north, fifth avenue north west to north twenty-third street, north twenty-third street south to university avenue, university avenue east to north twenty-first street, north twenty-first street south to dyke avenue, dyke avenue east to north washington street, north washington street south to demers avenue, and demers avenue west to north fifty-fifth street. Jurisdiction under this subdivision includes Grand Forks international airport.

- c. A law enforcement officer employed by the North Dakota state college of science has jurisdiction on all property owned or leased by the state board of higher education and property on and within the boundaries of the intersection of seventh avenue north and eleventh street north, eleventh street north to sixteenth avenue north, sixteenth avenue north west to fourth street north, and fourth street north south to seventh avenue north.
- d. A law enforcement officer employed by an institution under the control of the state board of higher education who is in "hot pursuit" may continue beyond the jurisdictional boundaries of each institution to make an arrest, in compliance with a warrant or without a warrant under the conditions of section 29-06-15, if obtaining the aid of peace officers having jurisdiction beyond that limit would cause a delay permitting escape. As used in this subdivision, "hot pursuit" means the immediate pursuit of a person who is endeavoring to avoid arrest.
- e. The state board of higher education may enter a joint powers agreement with a political subdivision to enable law enforcement from the political subdivision and law enforcement from the institution to provide secondary response to each other outside the jurisdictional boundaries provided in this subsection.
- f. Notwithstanding any other provision of law or joint powers agreement, any misdemeanor or felony violation of law occurring in or on property owned or leased by the state board of higher education or within the extraterritorial jurisdiction must be filed in district court unless the primary law enforcement officer involved is not employed by the state board of higher education. An infraction or noncriminal offense occurring in or on property owned or leased by the state board of higher education or within the extraterritorial jurisdiction may be filed in municipal court.

**SECTION 3. AMENDMENT.** Section 40-20-05 of the North Dakota Century Code is amended and reenacted as follows:

**40-20-05. Chief of police and police officers - Powers and duties - Hot pursuit.**

1. ~~The chief of police shall perform such duties as shall be prescribed by the governing body for the preservation of the peace. The chief of police shall have the authority to may administer oaths to police officers under the chief's supervision. Within the city limits, and for a distance of one and one-half miles [2.41 kilometers] in all directions outside the city limits, the police officers and watchmen of the city shall perform the duties and exercise the powers of peace officers as defined and prescribed by the laws of this state.~~

2. A police officer in "hot pursuit" may continue beyond the one and one-half mile [2.41 kilometerkilometers] limit to make an arrest, in obedience to a warrant or without a warrant under the conditions of section 29-06-15, whenever if obtaining the aid of peace officers having jurisdiction beyond that limit would cause a delay permitting escape. As used in this subsection, "hot pursuit" means the immediate pursuit of ~~a person who is an individual~~ endeavoring to avoid arrest. The jurisdiction limits in subsection 1 do not apply to a police officer acting pursuant to a joint powers agreement with another jurisdiction.
3. Police officers shall serve and execute any warrant, writ, process, order, or notice issued ~~to them~~ by a municipal judge within the city in any civil or criminal action or proceeding for or on account of a violation of any city ordinance or in any action or proceeding in which the city is a party or is interested beneficially. The police, within the limits prescribed in this section, may serve and execute all writs and process issued by justices in civil actions. In addition to the duties set out in this section, the police shall perform such other duties as may be prescribed by ordinance or statute.

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 5, 2017

Filed April 5, 2017

## CHAPTER 88

### SENATE BILL NO. 2160

(Senators Bekkedahl, Armstrong, Kannianen, G. Lee)  
(Representatives Hatlestad, Longmuir)

AN ACT to amend and reenact sections 11-18-01 and 57-28-04 of the North Dakota Century Code, relating to the duties of a recorder and providing notice of foreclosure of tax liens; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 11-18-01 of the North Dakota Century Code is amended and reenacted as follows:

##### **11-18-01. Recorder's duties - Recording and filing instruments - Abstracts**

The recorder shall:

1. Keep a full and true record, in proper books or other storage media provided for that purpose, of each patent, deed, mortgage, bill of sale, security agreement, judgment, decree, lien, certificate of sale, and other instrument required to be filed or admitted to record, if the person offering the instrument for filing or recording pays to the recorder the fees provided by law for the filing or recording.
2. Endorse upon each instrument filed with the recorder for record or otherwise the date and the hour and minute of the day of the filing or recording.
3. When the instrument is recorded or filed, endorse on the instrument the book and page or document number, the date, and the hour and minute of the date when it was recorded or filed with the recorder.
4. ~~Prepare a security agreement abstract whenever any person requests the agreement and pays the required fee.~~

**SECTION 2. AMENDMENT.** Section 57-28-04 of the North Dakota Century Code is amended and reenacted as follows:

##### **57-28-04. Service of notice of foreclosure of lien.**

1. If the current assessment records show that a residential building is located on the property, the county auditor shall deliver the notice of foreclosure of tax lien to the sheriff who shall serve it or cause it to be served personally upon the owner, if known to be a resident of this state. If the owner is a nonresident of this state, the county auditor shall serve the notice by certified mail addressed to the owner at the owner's last-known post-office address and determine whether personal service upon any person is required under subsection 3. If the current assessment records show that no residential building is located on the property, the auditor shall serve the notice by certified mail addressed to the owner at the owner's last-known post-office address.

2. By March first, the county auditor shall request from the recorder and the clerk of the district court a certified list giving the names and addresses of all persons who appear to be interested as owners, mortgagees, lienholders, or otherwise in the property except a person whose only interest is in judgment creditors. Ownership does not include an easement or right of way recorded, or a mineral interest that was severed from the surface estate, before filing of any unsatisfied lien or mortgage or before January first of the year following the year for which the taxes were levied and to which the tax lien relates, upon whom the notice of foreclosures must be served. The recorder and the clerk of the district court shall provide the county auditor with the requested lists by April fifteenth following the request.
3. ~~The notice must be served~~On or before June first, the county auditor shall serve the notice of tax lien foreclosure personally upon any person actually residing upon the property subject to tax lien and by certified mail upon any tenant or other person entitled to the possession of the property as may appear from the records of the recorder or clerk of the district court.
4. The county auditor shall serve the notice of foreclosure of tax lien upon each mortgagee, lienholder, and other person with an interest in the property except a person whose only interest is in a mineral interest that was severed from the surface estate before the filing of any unsatisfied lien or mortgage or before January first of the year following the year for which the taxes were levied and to which the notice of foreclosure of tax lien relates, and upon whom personal service is not required by this section, as shown by the records of the recorder or the clerk of the district court of the county. The notice must be served by certified mail. If a mortgagee, lienholder, or other person entitled to notice under this subsection has an agent registered with the secretary of state for the purpose of accepting service, the notice required under this subsection must be served on that registered agent.
5. The expense of service of the notice, publication, and other foreclosure costs under this chapter in the amount of fifty dollars or actual costs whichever is higher must be added to the amount required to satisfy the tax lien. The auditor or sheriff shall make proof of service by mail by affidavit showing the names and addresses of all parties upon whom the notice was served with the date of mailing in each case and shall attach the registry, certification, and return receipts and file the affidavit and receipts with the original notice of foreclosure of tax lien. Service by publication under this chapter must be shown of record by filing of an affidavit of publication.

**SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2016.

Approved March 13, 2017

Filed March 13, 2017

## CHAPTER 89

### HOUSE BILL NO. 1250

(Representatives Louser, Beadle, Vetter)  
(Senators Casper, Meyer)

AN ACT to amend and reenact section 11-18-02.2 and paragraph 8 of subdivision a of subsection 3 of section 47-10-27 of the North Dakota Century Code, relating to property sales price disclosures; and to provide a penalty.

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

<sup>33</sup> **SECTION 1. AMENDMENT.** Section 11-18-02.2 of the North Dakota Century Code is amended and reenacted as follows:

#### **11-18-02.2. Statements of full consideration to be filed with ~~state board of equalization or recorder~~ - Procedure - Penalty.**

1. Any grantee or grantee's authorized agent who presents a deed in the office of the county recorder shall certify on the face of the deed ~~any one of the following:~~
  - a. ~~A statement that the grantee has filed a report of the full consideration paid for the property conveyed with the state board of equalization.~~
  - b. ~~A statement that the grantee has filed a report of the full consideration paid for the property conveyed with the recorder.~~
  - e. A statement of the full consideration paid for the property conveyed.
  - ~~d-b.~~ A statement designating one of the exemptions in subsection 76 which the grantee believes applies to the transaction.
2. Any party who presents an affidavit of affixation to real property of a manufactured home in the office of the county recorder in accordance with section 47-10-27 and who acquired the manufactured home before the affixation of the manufactured home to the real property shall either contain in or present in addition to the affidavit of affixation ~~any one of the following:~~
  - a. ~~A statement that the party has filed with the state board of equalization a report of the full consideration paid for the manufactured home before the affixation.~~
  - b. ~~A statement that the party has filed with the recorder a report of the full consideration paid for the manufactured home before the affixation.~~
  - e. A statement of the full consideration paid by the party for the manufactured home before the affixation.

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<sup>33</sup> Section 11-18-02.2 was also amended by section 1 of House Bill No. 1356, chapter 90.

3. The recorder may not record any deed unless the deed contains ~~one of the statements required by~~complies with subsection 1 or record any affidavit of affixation unless the affidavit contains ~~or is accompanied by one of the statements required by~~complies with subsection 2.
4. The recorder ~~shall accumulate and at least monthly forward to the state board of equalization a report containing the information filed in the recorder's office pursuant to subsection 1 or subsection 2.~~
5. The state board of equalization shall prescribe the necessary forms for the statements and reports to be used in carrying out this section, and the forms must contain a space for the explanation of special circumstances that may have contributed to the amount of the consideration.
- ~~6.~~5. For purposes of subsection 1, the word "deed" means an instrument or writing whereby any real property or interest therein is granted, conveyed, or otherwise transferred to the grantee, purchaser, or other person, except any instrument or writing that transfers any ownership in minerals or interests in minerals underlying land if that ownership has been severed from the ownership of the overlying land surface or any instrument or writing for the easement, lease, or rental of real property or any interest therein.
- ~~7.~~6. This section does not apply to deeds transferring title to the following types of property, or to deeds relating to the following transactions:
  - a. Property owned or used by public utilities.
  - b. Property classified as personal property.
  - c. A sale when the grantor and the grantee are of the same family or corporate affiliate, if known.
  - d. A sale that resulted as a settlement of an estate.
  - e. All sales to or from a government or governmental agency.
  - f. All forced sales, mortgage foreclosures, and tax sales.
  - g. All sales to or from religious, charitable, or nonprofit organizations.
  - h. All sales when there is an indicated change of use by the new owners.
  - i. All transfer of ownership of property for which is given a quitclaim deed.
  - j. Sales of property not assessable by law.
  - k. Agricultural lands of less than eighty acres [32.37 hectares].
  - l. A transfer that is pursuant to a judgment.
- ~~8.~~7. Any person that, in the statements provided for in subsection 1 or subsection 2, willfully falsifies the consideration paid for the transferred real property or the manufactured home, as applicable, or interest therein ~~or that~~

~~falsely certifies that the person has filed a report of full consideration with the state board of equalization is guilty of a class B misdemeanor.~~

<sup>34</sup> **SECTION 2. AMENDMENT.** Paragraph 8 of subdivision a of subsection 3 of section 47-10-27 of the North Dakota Century Code is amended and reenacted as follows:

- (8) If the party executing the affidavit acquired the manufactured home before the affixation of the manufactured home to the real property, that party shall complete ~~one of the statements~~statement required by subsection 2 of section 11-18-02.2; and

Approved March 22, 2017

Filed March 23, 2017

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<sup>34</sup> Section 47-10-27 was also amended by section 3 of House Bill No. 1219, chapter 261.

**CHAPTER 90****HOUSE BILL NO. 1356**

(Representatives Dockter, Owens)

AN ACT to amend and reenact subsection 7 of section 11-18-02.2 of the North Dakota Century Code, relating to recording statements of full consideration.

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

<sup>35</sup> **SECTION 1. AMENDMENT.** Subsection 7 of section 11-18-02.2 of the North Dakota Century Code is amended and reenacted as follows:

7. This section does not apply to deeds transferring title to the following types of property, or to deeds relating to the following transactions:
  - a. Property owned or used by public utilities.
  - b. Property classified as personal property.
  - c. A sale when the grantor and the grantee are of the same family or corporate affiliate, if known.
  - d. A sale that resulted as a settlement of an estate.
  - e. ~~All sales to or from a government or governmental agency.~~
  - f. All forced sales, mortgage foreclosures, and tax sales.
  - ~~g-f.~~ All sales to or from religious, charitable, or nonprofit organizations.
  - ~~h-g.~~ All sales when there is an indicated change of use by the new owners.
  - ~~i-h.~~ All transfer of ownership of property for which is given a quitclaim deed.
    - j-i. Sales of property not assessable by law.
    - k-j. Agricultural lands of less than eighty acres [32.37 hectares].
    - l-k. A transfer that is pursuant to a judgment.
    - m-l. A transfer on death deed or revocation instrument authorized under chapter 30.1-32.1.

Approved March 22, 2017

Filed March 22, 2017

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<sup>35</sup> Section 11-18-02.2 was also amended by section 1 of House Bill No. 1250, chapter 89.

## CHAPTER 91

### SENATE BILL NO. 2340

(Senators Meyer, Burckhard, Casper)  
(Representatives Beadle, Louser, Delmore)

AN ACT to amend and reenact subsection 1 of section 11-18-05 of the North Dakota Century Code, relating to fees charged by a county recorder for filing mortgage disclosures.

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

**SECTION 1. AMENDMENT.** Subsection 1 of section 11-18-05 of the North Dakota Century Code is amended and reenacted as follows:

1. For recording an instrument affecting title to real estate:
  - a. Deeds, mortgages, and all other instruments not specifically provided for in this subsection, ~~twenty~~ dollars for the first page and three dollars for each additional page documents containing one to six pages and ~~sixty-five dollars for documents containing more than six pages plus three dollars for each additional page after the first twenty-five pages.~~ In addition, for all documents recorded under this section that list more than ~~five~~ ten sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for ~~the first page of each instrument recorded under this subdivision must be placed in the document preservation fund.~~
    - (1) "Page" means one side of a single legal size sheet of paper not exceeding eight and one-half inches [21.59 centimeters] in width and fourteen inches [35.56 centimeters] in length.
    - (2) The printed, written, or typed words must be considered legible by the recorder before the page will be accepted for recording and, unless the form was issued by a government agency, must have a font size equal to or larger than ten point calibri.
    - (3) Each real estate instrument must have a legal description considered to be adequate by the recorder before such instrument will be accepted for recording.
    - (4) A space of at least ~~four inches by three and one-half inches [10.16 by 8.89 centimeters]~~ three inches [7.62 centimeters] must be provided ~~on across the top of the first or last page of each instrument for the recorder's recording information. If recording information can only be placed on the reverse side of an instrument a space of at least three inches [7.62 centimeters] is not provided across the top of the first page, the recorder shall add a page, and an additional page charge must be levied in accordance with the fee structure.~~
  - b. Instruments satisfying, releasing, assigning, subordinating, continuing, amending, or extending more than ~~one instrument~~ ten instruments

previously recorded in the county in which recording is requested, ~~ten dollars for the first page and three dollars for each additional page plus a fee of twenty dollars for documents containing one to six pages, sixty-five dollars for documents containing more than six pages plus three dollars for each additional page after the first twenty-five pages, and three dollars for each such additional document number or book and page after the first ten referenced instruments.~~ In addition, for all documents recorded under this section which list more than ~~five~~ ten separate sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for ~~the first page of~~ each instrument recorded under this subdivision must be placed in the document preservation fund.

- c. Plats, twenty dollars for twenty lots or fewer and fifty dollars for more than twenty lots.
- d. All instruments presented for recording after June 30, 2001, must contain a one-inch [2.54-centimeter] top, bottom, or side margin on each page of the instrument for the placement of computerized recording labels. An instrument that does not conform to this margin requirement may be recorded upon payment of an additional fee of ten dollars.

Approved April 10, 2017

Filed April 10, 2017

## CHAPTER 92

### HOUSE BILL NO. 1294

(Representatives Seibel, B. Anderson, C. Johnson, Lanning, Lefor, Nathe, J. Nelson,  
Rohr)  
(Senators Klein, Unruh)

AN ACT to amend and reenact section 11-19.1-15, subsections 9 and 18 of section 23-02.1-01, sections 23-02.1-08, 23-02.1-21, and 23-02.1-22, subsection 2 of section 23-02.1-32, sections 23-06-02, 23-06-03, 23-06-04, 23-06-05, 23-06-06, 23-06-07, 23-06-08, 23-06-09, 23-06-10, 23-06-11, 23-06-12, 23-06-13, and 23-06-26, subsection 8 of section 23-06.6-13, section 30.1-28-06, subsection 4 of section 43-10-01, and sections 43-10-15.4, 43-10-21, and 43-10.1-02 of the North Dakota Century Code, relating to transportation and disposition upon death; and to provide a penalty.

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

**SECTION 1. AMENDMENT.** Section 11-19.1-15 of the North Dakota Century Code is amended and reenacted as follows:

#### **11-19.1-15. Notice of next of kin, disposition of personal belongings - Disposition of body when next of kin cannot be found.**

The coroner of the county in which a death is discovered shall take charge of the case and ensure that relatives or friends of the deceased individual, if known, are notified as soon as possible, giving details of the death and disposition of the deceased individual. If the relatives or friends of the deceased are unknown, the coroner shall dispose of the personal effects and body in the following manner:

1. After using such clothing as may be necessary in the ~~burial~~final disposition of the body, the remaining personal effects of the deceased must be turned over to law enforcement for appropriate disposition.
2. The remains must be:
  - a. Disposed of in accordance with section 23-06-14; or
  - b. ~~Buried~~Otherwise disposed of in accordance with the laws governing the burial of indigent persons within this state.

<sup>36</sup> **SECTION 2. AMENDMENT.** Subsections 9 and 18 of section 23-02.1-01 of the North Dakota Century Code are amended and reenacted as follows:

9. "Final disposition" means the entombment, burial, interment, cremation, whole-body donation to a school of medicine, removal from the state, or other disposition of a dead body or fetus.

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<sup>36</sup> Section 23-02.1-01 was also amended by section 1 of House Bill No. 1292, chapter 187.

18. "Subregistrar" means a funeral ~~director~~practitioner or other suitable individual from a licensed funeral home who is appointed by the state registrar for the purpose of issuing ~~burial-transit~~final disposition-transit permits.

**SECTION 3. AMENDMENT.** Section 23-02.1-08 of the North Dakota Century Code is amended and reenacted as follows:

**23-02.1-08. Duties of subregistrars.**

A subregistrar may issue ~~burial-transit~~final disposition-transit permits for those counties served by the funeral home the subregistrar is employed by. The subregistrar or cemetery sexton shall file all completed ~~burial-transit~~final disposition-transit permits with the county recorder in the county where the final disposition took place within ten days after the date of ~~interment~~final disposition or within the time prescribed by the local board of health. The subregistrar is subject to the supervision and control of the state registrar and may be removed by the state registrar for reasonable cause. The subregistrar is subject to the penalties for neglect of duties as provided in section 23-02.1-32.

**SECTION 4. AMENDMENT.** Section 23-02.1-21 of the North Dakota Century Code is amended and reenacted as follows:

**23-02.1-21. Permits.**

1. The funeral ~~director~~practitioner who first obtains custody of a dead body or fetus shall obtain a ~~burial-transit~~final disposition-transit permit before final disposition or removal from this state of the body or fetus.
2. The ~~burial-transit~~final disposition-transit permits must be issued by the state registrar or a subregistrar and must be filed in the office of the county recorder where the final disposition occurs in accordance with the requirements of sections 23-02.1-19 and 23-02.1-20.
3. A ~~burial-transit~~final disposition-transit permit issued under the laws of another state which accompanies a dead body or fetus brought into this state is authority for final disposition of the body or fetus in this state.
4. A permit for disinterment and reinterment is required before disinterment of a dead body or fetus except as authorized by rules or otherwise provided by law. The permit must be issued by the state registrar to a ~~licensed embalmer~~funeral practitioner upon proper application.

**SECTION 5. AMENDMENT.** Section 23-02.1-22 of the North Dakota Century Code is amended and reenacted as follows:

**23-02.1-22. Extension of time.**

1. The state department of health may, by regulation and upon such conditions as it may prescribe to assure compliance with the purposes of this chapter, provide for the extension of the periods of time prescribed in sections 23-02.1-19, 23-02.1-20, and 23-02.1-21 for the filing of death records, fetal death records, medical certification of death, and for the obtaining of ~~burial-transit~~final disposition-transit permits in cases in which compliance with the applicable prescribed period would result in undue hardship.
2. Regulations of the state department of health may provide for the issuance of a ~~burial-transit~~final disposition-transit permit under section 23-02.1-21 ~~prior~~

~~to before~~ the filing of a record of death or fetal death upon conditions designed to assure compliance with the purposes of this chapter in cases in which compliance with the requirement that the records be filed ~~prior to before~~ the issuance of the permit would result in undue hardship.

**SECTION 6. AMENDMENT.** Subsection 2 of section 23-02.1-32 of the North Dakota Century Code is amended and reenacted as follows:

2. a. Any person who refuses to provide information required by this chapter;
- b. Any person who knowingly transports or accepts for transportation, interment, or other final disposition of a dead body or fetus without an accompanying final disposition-transit permit as provided in this chapter; or
- c. Any person who willfully neglects or violates any of the provisions of this chapter or refuses to perform any of the duties imposed upon the person by this chapter;

is guilty of an infraction.

**SECTION 7. AMENDMENT.** Section 23-06-02 of the North Dakota Century Code is amended and reenacted as follows:

**23-06-02. Custody of body.**

The person charged with the duty of ~~burying~~final disposition of the body of a deceased person is entitled to the custody of such body for the purpose of ~~burying~~arranging for final disposition. When the coroner is required to hold an inquest, however, the coroner is entitled to the custody of the body until such inquest has been completed.

<sup>37</sup> **SECTION 8. AMENDMENT.** Section 23-06-03 of the North Dakota Century Code is amended and reenacted as follows:

**23-06-03. Duty of ~~burial~~final disposition.**

1. The duty of ~~burying~~final disposition of the body of a deceased individual devolves upon the following individuals in order of priority:
  - a. Any legally competent adult given the duty of final disposition by the deceased individual in a statement conforming with section 23-06-31, except the legally competent adult specified in the statement conforming with section 23-06-31 may decline the duty of final disposition unless the individual would otherwise have the duty of final disposition under this section;
  - b. The surviving husband or wife if the deceased was married ~~or, if,~~
  - c. If the deceased was not married but left kindred, upon one or more individuals in the same degree, of adult age, nearest of kin to the deceased and possessed of sufficient means to defray the necessary expenses the majority of the adult children of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician

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<sup>37</sup> Section 23-06-03 was also amended by section 1 of House Bill No. 1338, chapter 188.

- may rely on instructions given by the child who represents to be the sole surviving child or the children who represent to constitute a majority of the surviving children;
- d. The surviving parent or parents of the decedent, each having equal authority;
  - e. The adult sibling or the majority of the adult siblings of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by the sibling who represents to be the sole surviving sibling or the siblings who represent to constitute a majority of the surviving siblings;
  - f. The adult grandchild or the majority of the adult grandchildren of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by a grandchild who represents to be the only grandchild reasonably available to control final disposition of the decedent's remains or the grandchildren who represent to constitute a majority of grandchildren reasonably available to control final disposition of the decedent's remains;
  - g. The grandparent or the grandparents of the decedent, each having equal authority;
  - h. The adult nieces and nephews of the decedent or a majority of the adult nieces and nephews; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by a niece or nephew, who represents to be the only niece or nephew reasonably available to control final disposition of the decedent's remains or the nieces and nephews who represent to constitute a majority of the nieces and nephews reasonably available to control final disposition of the decedent's remains;
  - i. An individual who was acting as the guardian of the decedent with authority to make health care decisions for the decedent at the time of death;
  - j. An adult who exhibited special care and concern for the decedent;
  - k. An individual respectively in the next degree of kinship in the order named by law to inherit the estate of the decedent; or
  - l. The appropriate public or court authority, as required by law. For purposes of this subdivision, the appropriate public or court authority includes the county social service board of the county in which the death occurred if the individual dies without apparent financial means to provide for final disposition or the district court in the county in which the death occurred.
2. If there is only one individual in a degree of relationship to the decedent described in subsection 1, and a district court determines the person and the decedent were estranged at the time of death, the right to control and the duty of disposition devolves to the next degree of relationship under subsection 1. For purposes of this subsection, "estranged" means having a relationship characterized by mutual enmity, hostility, or indifference.

3. If an individual to whom the right to control and duty of disposition devolves under subsection 1, refuses to accept or declines to act upon the right or duty, that right and duty passes as follows:
  - a. To another individual with the same degree of relationship to the decedent as the individual refusing to accept or declining to act; or
  - b. To the individual in the next degree of relationship to the decedent under subsection 1.
4. If a dispute exists regarding the right to control or duty of disposition, the parties in dispute or the mortician or funeral director may file a petition in the district court in the county of residence of the decedent requesting the court make a determination in the matter. If the right to control and duty of disposition devolves to more than one individual with the same degree of relationship to the decedent and those individuals do not, by majority vote, make a decision regarding arrangements and final disposition and a district court has been petitioned to make a determination, the court shall consider the following factors in making a determination:
  - a. The reasonableness, practicality, and resources available for payment of the proposed arrangements and final disposition;
  - b. The degree of the personal relationship between the decedent and each of the individuals in the same degree of relationship to the decedent;
  - c. The expressed wishes and directions of the decedent and the extent to which the decedent provided resources for the purpose of carrying out the wishes or directions; and
  - d. The degree to which the arrangements and final disposition will allow for participation by all who wish to pay respect to the decedent.
5. If the individual who has the duty of ~~burial~~final disposition does not ~~bury~~arrange for final disposition of the body within the time required by this chapter, the individual next specified shall bury or otherwise dispose of the body within the requirements of this chapter.
- 3-6. If the deceased is not survived by an individual described by subsection 1 and did not leave sufficient means to defray funeral expenses, including the cost of a casket, and is not survived by an individual described by subsection 1 and identified for financial responsibility within the county's general assistance policy, the county social service board of the county in which the deceased had residence for county general assistance purposes or, if residence cannot be established, the county social service board of the county in which the death occurs shall employ some person to arrange for and supervise the ~~burial or cremation~~final disposition. If the deceased was a resident or inmate of a public institution, the county in which the deceased was a resident for county general assistance purposes immediately before entering the institution shall employ a person to arrange for and supervise the ~~burial or cremation~~final disposition. Each board of county commissioners may negotiate with the interested funeral directors or funeral homes regarding cremation expenses and burial expenses but the total charges for burial services, including transportation of the deceased to the place of burial, the grave box or vault, grave space, and grave opening and closing expenses, may not be less than one thousand five hundred dollars. The county social services board may provide for the use of a military casket or urn, if the

deceased was a veteran as defined in section 37-01-40, unless the additional cost exceeds the negotiated expenses of this section or a surviving spouse or the nearest of kin of the deceased elects a nonmilitary casket. The county social service board shall pay the charge for funeral expenses as negotiated by the board of county commissioners, less any amount left by the deceased to defray the expenses.

- 4-7. If the ~~person~~individual with the duty of ~~burial~~final disposition under this section, or the personal representative of the decedent's estate, if any, is aware of the decedent's instructions regarding the disposition of the remains, that person shall honor those instructions, to the extent reasonable and possible, to the extent the instructions do not impose an economic or emotional hardship. A decedent's instructions may be reflected in a variety of methods, including pre-need funeral arrangements a deceased articulated and funded in a pre-need funeral service contract, a health care directive, a durable power of attorney for health care, a power of attorney, a will, a document created under section 23-06-31, or a document of gift for an anatomical gift.
- 5-8. If the decedent died while serving in any branch of the United States armed forces, the United States reserve forces, or the national guard, as provided by 10 U.S.C. 1481 section (a)(1) through (8) as effective through December 2001, and completed a United States department of defense record of emergency data, DD form 93, or its successor form or its equivalent branch's form, the duty to bury the decedent or to provide other funeral and disposition arrangements for the decedent devolves on the person authorized by the decedent pursuant to that form.

**SECTION 9. AMENDMENT.** Section 23-06-04 of the North Dakota Century Code is amended and reenacted as follows:

**23-06-04. Time within which ~~burial or cremation~~final disposition must be made - Exceptions.**

1. The dead body of a human being must be ~~buried or cremated~~disposed of by the person charged with that duty within eight days after the death of such person except when any of the following occur:
  1. a. The right to dissect the body is expressly conferred by law.
  2. b. The body is being carried through this state.
  3. c. The body is being removed from this state for the purpose of ~~burial or cremation~~final disposition in some other state.
  4. d. A permit is obtained from the local health officer or the state department of health allowing a longer time during which the body need not be ~~buried or cremated~~disposed. The permit shall state the additional length of time during which the body need not be ~~buried or cremated~~disposed.
  5. e. The body is being stored for an extended period of time in a vault determined suitable by the state department of health, but the body may not be stored in a vault for a period of more than eight days during the months of June through October unless a permit is obtained from the local health officer or the state department of health.

2. The date of ~~burial or cremation~~final disposition must be the date of the committal service or date of placement in a storage vault or school of medicine.

**SECTION 10. AMENDMENT.** Section 23-06-05 of the North Dakota Century Code is amended and reenacted as follows:

**23-06-05. Failure to burydispose within required time - Penalty.**

Any person ~~who~~that fails to comply with or who violates any of the provisions of section 23-06-04, or ~~who~~that refuses or neglects promptly to obey any order or instruction of the local board of health, is guilty of a class B misdemeanor.

**SECTION 11. AMENDMENT.** Section 23-06-06 of the North Dakota Century Code is amended and reenacted as follows:

**23-06-06. Neglect of burialfinal disposition - Penalty.**

Every person upon ~~whom~~which the duty of making burialfinal disposition of the remains of a deceased person is imposed by law ~~who~~that omits to perform that duty as required in this chapter is guilty of a class B misdemeanor.

**SECTION 12. AMENDMENT.** Section 23-06-07 of the North Dakota Century Code is amended and reenacted as follows:

**23-06-07. Regulation of burialfinal disposition - Issuance of burial-transitfinal disposition-transit permit regulated.**

The body of any ~~person~~individual whose death occurs in this state may not be interred, deposited in a vault or tomb, cremated, donated to a school of medicine, or otherwise disposed of as authorized by law, until a burial-transitfinal disposition-transit permit has been properly issued by a subregistrar. ~~A burial-transit permit may not be issued by any subregistrar until a complete and satisfactory certificate and return of the death has been filed with the state registrar.~~ If the certificate is incorrect or incomplete, the subregistrar may not issue the permit until it is corrected or completed. In the case of any death outside of this state, a burial-transitfinal disposition-transit permit issued in accordance with the law and the health regulations in force in the state where the death occurred, when accompanying a body shipped through or into this state, may be accepted with the same effect as a permit from a subregistrar. If the death occurred from some disease that is held to be communicable by the state department of health, the subregistrar shall refuse to issue a permit for the removal or other disposition of the body except under the conditions prescribed by the state department of health and the local board of health.

**SECTION 13. AMENDMENT.** Section 23-06-08 of the North Dakota Century Code is amended and reenacted as follows:

**23-06-08. Burial-transitFinal disposition-transit permit - Contents.**

The burial-transitfinal disposition-transit permit must be on the form prescribed by the state registrar of vital statistics, must be signed by the subregistrar issuing it, and may be limited to a statement by the subregistrar showing:

1. That a satisfactory death record has been filed with the state registrar as required by law.
2. That permission is granted to inter, remove, or otherwise dispose of as authorized by law the body of the deceased.

3. The name, age, ~~and sex,~~ ~~and the cause of death~~ of the deceased and any other necessary details.

**SECTION 14. AMENDMENT.** Section 23-06-09 of the North Dakota Century Code is amended and reenacted as follows:

**23-06-09. Disposition of ~~burial-transit~~final disposition-transit permit.**

The ~~undertaker~~funeral practitioner, or ~~person~~individual acting as ~~undertaker~~funeral practitioner, shall secure the ~~burial-transit~~final disposition-transit permit from the subregistrar. The ~~undertaker~~funeral practitioner, or person acting as ~~undertaker~~funeral practitioner, shall deliver such permit to the sexton or person in charge of the place of ~~burial~~final disposition before interring the body, cremating the body, donating the body to a medical school, or otherwise disposing of the body as authorized by law, or shall attach it to the box containing the corpse when the same is shipped by any transportation company. Such permit must be accepted by the sexton or person in charge as authority for the ~~interment~~final disposition of the body. A body may not be accepted for carriage by a common carrier unless the permit is attached as required in this section.

**SECTION 15. AMENDMENT.** Section 23-06-10 of the North Dakota Century Code is amended and reenacted as follows:

**23-06-10. Sextons to endorse and return ~~burial-transit~~final disposition-transit permit - Record of burials.**

Each sexton or person in charge of the burial ground shall endorse the date of interment upon the ~~burial-transit~~final disposition-transit permit over the person's signature, and return the ~~burial-transit~~final disposition-transit permit to the ~~subregistrar~~county recorder. The subregistrar or sexton shall file all completed permits, so endorsed, with the county recorder within ten days after the date of interment or within the time prescribed by the local board of health.

The sexton shall keep a record of all interments made in the premises under the sexton's charge, stating the name of the deceased ~~person~~individual, the place of death, the date of burial, and the name and address of the ~~undertaker~~ or funeral ~~director~~practitioner. Such record at all times must be open to public inspection.

In the absence of a sexton, the funeral director making the burial shall endorse and return the ~~burial-transit~~final disposition-transit permit to the subregistrar.

**SECTION 16. AMENDMENT.** Section 23-06-11 of the North Dakota Century Code is amended and reenacted as follows:

**23-06-11. Burial without ~~burial-transit~~final disposition-transit permit - Penalty.**

It is unlawful for a person, acting as an ~~undertaker~~ funeral practitioner, to inter, remove, or otherwise dispose of as authorized by law the body of any deceased ~~person~~individual without having received a ~~burial-transit~~final disposition-transit permit.

**SECTION 17. AMENDMENT.** Section 23-06-12 of the North Dakota Century Code is amended and reenacted as follows:

**23-06-12. Transporting body without ~~burial-transit~~final disposition-transit permit.**

It is unlawful for a transportation company or common carrier to transport, or accept for transportation, the body of any deceased ~~person~~individual unless that body is accompanied by a ~~burial-transit~~final disposition-transit permit issued in accordance with the provisions of this chapter.

**SECTION 18. AMENDMENT.** Section 23-06-13 of the North Dakota Century Code is amended and reenacted as follows:

**23-06-13. Dissection - When allowed.**

The dead body of a human being may be dissected:

1. When the death occurs under circumstances in which a coroner is authorized by law to hold an inquest upon the body, and a coroner authorizes such dissection for the purposes of the inquest;
2. ~~When~~If the ~~husband, wife~~spouse, or one of the next of kin of a deceased ~~person~~individual, charged by law with the duty of ~~burial~~final disposition, authorizes such dissection for the purposes of ascertaining the cause of death; or
3. When permission has been given therefor by deceased.

**SECTION 19. AMENDMENT.** Section 23-06-26 of the North Dakota Century Code is amended and reenacted as follows:

**23-06-26. Purchasing body forbidden - Penalty.**

Every person who purchases or who receives, except for the purpose of ~~burial~~final disposition, any dead body of a human being, knowing that the same has been removed contrary to the provisions of this chapter, is guilty of a class C felony.

**SECTION 20. AMENDMENT.** Subsection 8 of section 23-06.6-13 of the North Dakota Century Code is amended and reenacted as follows:

8. Subject to subsection 9 of section 23-06.6-10 and section 23-06.6-22, the rights of the person to which a part passes under section 23-06.6-10 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this chapter, a person that accepts an anatomical gift of an entire body may allow embalming, burial or cremation, whole-body donation to a school of medicine, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under section 23-06.6-11, upon the death of the donor and before embalming, burial, whole-body donation to a school of medicine, or cremation, shall cause the part to be removed without unnecessary mutilation.

**SECTION 21. AMENDMENT.** Section 30.1-28-06 of the North Dakota Century Code is amended and reenacted as follows:

**30.1-28-06. (5-306) Termination of guardianship.**

The authority and responsibility of a guardian for an incapacitated person terminates upon the death of the guardian or ward, except, the guardian may arrange for a deceased ward's ~~burial~~final disposition and refer the ward's estate to probate, if no other person is available to perform those acts, the determination of incapacity of the guardian, or upon removal or resignation as provided in section 30.1-28-07. Testamentary appointment under an informally probated will terminates if the will is

later denied probate in a formal proceeding. Termination does not affect the guardian's liability for prior acts nor the guardian's obligation to account for funds and assets of the ward.

**SECTION 22. AMENDMENT.** Subsection 4 of section 43-10-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Final disposition" means the entombment, burial in a cemetery, or cremation, removal from the state, or whole-body donation to a school of medicine of a dead human body.

**SECTION 23. AMENDMENT.** Section 43-10-15.4 of the North Dakota Century Code is amended and reenacted as follows:

**43-10-15.4. Intern embalmer - Application - Qualifications.**

The board shall issue a certificate of registration as an intern embalmer to each applicant who files an application upon a form and in a manner the board prescribes, accompanied by a fee not to exceed fifty dollars, and who furnishes sufficient evidence to the board that the applicant:

1. Is at least eighteen years of age;
2. Is of good moral character; and
3. Has completed an accredited four-year high school course of study and ~~two years~~one year of accredited college or university studies; ~~and~~
4. ~~Has graduated from an accredited college of mortuary science.~~

**SECTION 24. AMENDMENT.** Section 43-10-21 of the North Dakota Century Code is amended and reenacted as follows:

**43-10-21. Definition.**

As used in sections 43-10-21 through 43-10-24, the term "funeral establishment" ~~shall mean~~means a place of business situated at a specific street address or location, and used in the care and preparation for burial, transportation, or other disposition of dead human bodies, or used for the purpose of conducting funeral services. ~~A branch establishment is a funeral establishment and must be independently licensed.~~

**SECTION 25. AMENDMENT.** Section 43-10.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**43-10.1-02. Pre-need funeral service contracts.**

A person may not engage in the sale or execution of a pre-need funeral service contract unless that person is the operator, agent, employee, or manager of a licensed funeral establishment or cemetery association. As part of the sale of a pre-need funeral service contract, the seller shall inform the purchaser of the extent to which the person with the duty of burial~~final disposition~~ under section 23-06-03 might be bound by any pre-need funeral arrangements.

Approved April 14, 2017

Filed April 17, 2017

**CHAPTER 93****SENATE BILL NO. 2171**

(Senators Burckhard, Campbell, Kannianen)  
(Representatives Maragos, Pyle, Toman)

AN ACT to amend and reenact section 11-27-02 of the North Dakota Century Code, relating to the notice requirements for the sale of property at a public sale.

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

**SECTION 1. AMENDMENT.** Section 11-27-02 of the North Dakota Century Code is amended and reenacted as follows:

**11-27-02. Notice of sale when property sold at public sale.**

Upon the resolution of the board of county commissioners authorizing the sale of county property at public sale, the county auditor shall cause to be published in the official county newspaper once each week for ~~three~~two consecutive weeks a notice containing a description of the property to be sold and designating the place where and the day and hour when the sale will be held. The notice ~~shall~~must specify whether the bids are to be received at auction or as sealed bids as determined by the board.

Approved March 22, 2017

Filed March 22, 2017