

ABSTRACTERS OF TITLE

CHAPTER 329.

[H. B. No. 410—Fried]

RELATING TO ABSTRACTERS OF TITLE.

AN ACT to Amend Sections 2231, 2232, 2233, and 2234 of the Revised Codes of 1905, Relating to Abstracters of Titles.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Section 2231 of the revised codes of 1905 as amended by chapter 1 of the session laws of 1907, is hereby amended and re-enacted to read as follows:

§ 2231. ABSTRACTERS TO GIVE BONDS.] It shall be unlawful for any person, firm or corporation to engage or continue in the business of making or compiling abstracts of title to real estate in this state or to demand and receive pay for the same without first having for use in such business a complete set of abstract books or records of all instruments of record in the office of the register of deeds in and for the county in which such business is to be conducted, (such set of records also to include, in every case, all necessary tract indexes and copies of all maps and plats filed as a part of the records of said register of deeds,) or engaged in good faith for at least three months in the preparation of such abstract records and having at least one-fourth of the entire record actually completed, and without first filing in the office of the county auditor of the county in which such business is to be conducted, a surety bond to the county in the penal sum of ten thousand dollars for each and every ten thousand inhabitants, or major part of that number residing within such county, as shown by the official federal or state census last taken prior to the filing of such surety bond, to be approved as to form and security by the board of county commissioners of such county conditioned for the payment by such abstracters of any and all damages that may be sustained by or accrue to any person by reason of any error, deficiency or mistake in any abstract or certificate of title or continuation of any abstract of title made and issued by such person, firm or corporation; provided, that in counties containing less than a major part of ten thousand inhabitants the bond herein required shall be for not less than five thousand dollars.

Provided, further, that it shall be conclusive evidence of lack of good faith upon the part of any person, firm or corporation who heretofore has been or hereafter may be permitted to engage in the business of making or compiling abstracts to real estate in the state upon the representation that such person, firm or corporation was or is engaged in good faith in the preparation

of such abstract records, if it appears that such person, firm or corporation shall not have completed and in use and in operation a complete and comprehensive set of abstract records as specified above, within the time hereafter specified, viz: in counties having a population of not exceeding ten thousand, two years; in counties having a population of over ten thousand and not exceeding fifteen thousand, three years; and in counties having a population of over fifteen thousand and not exceeding twenty thousand, four years; and in counties having a population exceeding twenty thousand, five years. The time in each case to be reckoned from the date when the work of such preparation was commenced as shown by the first certificate granted said person, firm or corporation as provided by section 2232 of this article, as formerly in force or as herein amended; and no such person, firm or corporation, their successors or assigns, shall be permitted to continue in the business of making or compiling abstracts to real estate in this state, until it is shown by competent proof that such person, firm or corporation is possessed of a complete and comprehensive system of abstract records as contemplated by this section.

§ 2. Section 2232 of the Revised Codes of North Dakota for 1905, is hereby amended and re-enacted to read as follows:

§ 2232. CERTIFICATE ISSUED WHEN.] When any abstracter shall file his bond and the same shall have been approved as above provided, he shall at the same time, file with the county auditor an affidavit setting forth (1) that he, the said abstracter, has in use a complete set of records as enumerated in section 2231, or (2) that he has been engaged in good faith for at least three months last past in the preparation of such records, and at least one-fourth of the entire record as contemplated by the provisions of said section 2231, has been actually completed. The said abstracter shall then be entitled to receive from such county auditor a certificate reciting that such bond has been duly approved and filed in his office, together with the affidavit required under this section; and it shall be unlawful for any county auditor to issue the certificate herein provided for, or for any person, firm or corporation to engage or continue in the business of making or compiling abstracts of title to real estate in this state unless the requirements of this section shall be strictly complied with in every respect.

§ 3. Section 2233 of the Revised Codes of North Dakota for 1905 is hereby amended and re-enacted to read as follows:

§ 2233. CERTIFICATE OF AUTHORITY.] It is the duty of the county auditor after the requirements of sections 2231 and 2232 have been fully complied with to issue to each abstracter on demand a certificate of authority in writing, under his hand and official seal, which shall authorize him to make such abstracts. Such certificate shall continue in force for five years, unless re-

called or cancelled as provided in the next section. After such certificate shall have been issued, the person, firm or corporation holding the same during the continuance of such certificate shall have full access to all records of the county during office hours; and it is the duty of any person, firm or corporation holding such certificate to furnish an abstract of title to any tract of land in such county when requested to do so, on payment of the fees hereinafter provided.

§ 4. Section 2234 of the Revised Codes of North Dakota for 1905 is hereby amended and re-enacted to read as follows:

§ 2234. ADDITIONAL SECURITY. ANNULMENT OF CERTIFICATE.] The bond herein provided may run during the continuance of such person, firm or corporation in such abstract business, not to exceed five years, and the board of county commissioners may at any time require such abstractor upon ten days' notice to furnish an additional bond and show cause why the same should not be declared invalid, and the certificate thereof recalled and annulled; and if within such time such additional bond is not furnished, and no sufficient reason is shown to the commissioners why the same should not be required, then the certificate issued to such abstractor by the county auditor as provided by the preceding section shall be recalled and annulled. Provided, further, that if it shall appear at any time, that said certificate was obtained through fraud or misrepresentation on the part of said abstractor, or if it shall appear that said abstractor, having a complete set of abstract records at the time of the granting of said certificate has ceased to keep up such records from day to day, thus failing to render them of the greatest public utility; or in case such abstractor was at the time of the granting of such certificate, represented as being engaged in good faith in the preparation of such records, and shall cease to continue the work of preparation from day to day, then and in either or any such case the certificate hereby provided for shall immediately be recalled and annulled..

§ 5. REPEAL.] All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

§ 6. This act shall take effect and be in force from and after January 1, 1912.

Received from the Governor and filed in the office of the Secretary of State, March 21, 1911.

VETO.

Bismarck, March 21, 1911.

To the Honorable, the Secretary of State:

I file herewith house bill No. 410, an act to amend sections 2231, 2232, 2233 and 2234 of the Revised Codes of 1905, relating to abstracters of title, without my approval for the reason that

the subject of this bill seems to be already thoroughly covered by the statute in as far as the legislature has power to go.

JOHN BURKE,
Governor.

NOTICE OF ORDER OF SUPREME COURT.

Bismarck, N. D., May 9, 1911

Secretary of State,
Bismarck, N. Dak.

Dear Sir:—

You are hereby notified that in the case of State ex rel Watkins v. P. D. Norton, as Secretary of State, an order was this day entered granting plaintiff's application for a peremptory writ of mandamus, and under the terms of said writ you are commanded to forthwith include House Bill No. 410, entitled: "A bill for an act to amend sections 2231, 2232, 2233 and 2234 of the Revised Codes of 1905, relative to abstracters of titles," as among the laws passed by the 12th Legislative Assembly of the state of North Dakota and publish the same as such, as required by law.

Yours truly,

R. D. HOSKINS,

Clerk Supreme Court,
State of North Dakota.

(SEAL)