

46-0418. SECRETARY OF STATE TO SELL STATUTES.) The secretary of state shall sell to any person applying therefor the published volumes of the North Dakota Revised Code of 1943 at the price of forty dollars per set to residents of the state of North Dakota and fifty dollars per set to nonresidents thereof and the other volumes of laws of this state for the cost and ten percent added, and shall pay over to the state treasurer all sums so received, taking the official receipt of such treasurer therefor, § 17. REPEAL.) Sections 46-0303, 6-0304, 46-0309, 46-0312, 46-0313, 46-0314, 46-0316, 46-0317, 46-0406, 46-0409 and 15-2116 of the North Dakota Revised Code of 1943 are hereby repealed.

Approved March 9, 1951.

PROPERTY

CHAPTER 276

H. B. No. 801

(Homelvig, Bohm, Wollitz, Acheson, Langley, Mollet,
(Rhode, Hageman, Wadeson)

TITLE TO REAL PROPERTY, ADVERSE POSSESSION; TAX DEED AN ACT

To amend and reenact sections 47-0603 and 57-2705 of the North Dakota Revised Code of 1943, relating to real property.

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

§ 1. AMENDMENT.) Section 47-0603 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

47-0603. TITLE TO REAL PROPERTY; ADVERSE POSSESSION.) A title to real property, vested in any person or those under whom he claims, who shall have been in the actual open adverse and undisputed possession of the land under such title for a period of ten years and who shall have paid all taxes and assessments legally levied thereon, shall be valid in law. A contract for deed shall constitute color of title within the meaning of this section from and after the execution of such contract.

§ 2. AMENDMENT.) Section 57-2705 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

57-2705. TAX DEED TO BE ISSUED.) At the expiration of the period of redemption, and after the filing of the proof of service of the notice of expiration of such period, the county auditor, if no redemption has been made, on surrender of the certificate of tax sale to him, shall execute to the owner of the certificate, his heirs and assigns, in the name of the state, a deed of the land remaining unredeemed, which shall vest in the said certificate owner, his heirs and assigns, an absolute estate in fee simple in such lands, subject to claims of the state or other taxing districts on account of taxes or other liens or encumbrances. Such deed shall be executed by the county auditor under his hand and seal. Such deed shall be conclusive evidence of the truth of all facts therein recited and prima facie evidence of the regularity of all the proceedings from the assessment and valuation of the land by the assessor up to the execution of the deed.

Approved March 8, 1951.

CHAPTER 277

H. B. No. 590
(Jansonius)

HOMESTEAD DEFINED

AN ACT

To amend and reenact sub-section 47-1801 of the North Dakota Revised Code of 1943, defining homesteads.

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

§ 1. AMENDMENT.) Sub-section 1 of Section 47-1801 of the North Dakota Revised Code of 1943, is hereby amended and reenacted to read as follows:

47-1801. HOMESTEAD DEFINED: EXEMPTION.) The Homestead of every head of the family residing in this State shall consist:

1. If within a town plat, of not to exceed two acres of land upon which the claimant resides, and the improvements thereon, and not exceeding in value \$25,000.00 over and above liens or encumbrances or both.

Approved February 15, 1951.

CHAPTER 278

S. B. No. 179
(Day, Duffy and Knudson)

INSTRUMENTS ENTITLED TO RECORD WITHOUT
ACKNOWLEDGMENT

AN ACT

To amend and reenact section 47-1902 of the North Dakota Revised Code of 1943 relating to the recording of instruments.

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

§ 1. AMENDMENT.) Section 47-1902 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

47-1902. INSTRUMENTS ENTITLED TO RECORD WITHOUT ACKNOWLEDGMENT.) The following instruments may be recorded without acknowledgment or further proof:

1. Any judgment affecting the title to or the possession of real property authenticated by the certificate of the clerk of the court in which such judgment is rendered;
2. Any letters patent from the United States;
3. Any duplicate final register's receipt;
4. A certificate from the United States Land Office;
5. A contract between the state and a purchaser of school and institutional lands for the purchase and sale of such lands;
6. An assignment of any such contract when such assignment has been approved by the board of university and school lands;
7. Any certified copy of a patent or of a duplicate final register's receipt or certificate when certified and proved according to the laws of the United States and of this state in such manner as to entitle it to admission as evidence in the courts of this state, and when so recorded, it shall be notice in like manner and to the same extent as the originals thereof would have been if the same had been recorded;
8. Any affidavit made as is provided in section 47-1912
9. A certified copy of an order of a county court relating to estate tax determinations; and
10. A statement of the state tax commissioner relating to estate tax determination.

Approved February 27, 1951.

CHAPTER 279

S. B. No. 180
(Day, Duffy and Knudson)

DEATH CERTIFICATES; EVIDENCE OF ESTATES AND
INTERESTS IN REAL PROPERTY

AN ACT

To amend and reenact section 47-1906 of the North Dakota Revised Code of 1943 relating to recording death certificates and to evidence of termination of estates and interests in real property.

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

§ 1. AMENDMENT.) Section 47-1906 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

47-1906. DEATH CERTIFICATES: JOINT TENANT; ESTATE TAX DETERMINATION; PRIMA FACIE EVIDENCE OF TERMINATION OF ESTATE HELD.) In all cases of joint tenancy in lands, and in all cases where an estate, title, or interest in, or lien upon, lands has been or may be created, which estate, title, interest, or lien was or is to continue only during the life of any person named or described in the instrument by which such estate, title, interest, or lien was created, a copy of the record of the death of any such joint tenant or of the person upon whose life such estate, title, interest, or lien was or is limited, duly certified by any officer who is required by the laws of the state or country in which such record is made, to keep a record of the death of persons occurring within the jurisdiction of such officer, may be recorded in the office of the register of deeds of the county in which such lands are situated if, in cases where said decedent had an estate, title, or interest in, or lien upon, said lands, there has been recorded a certified copy of an order of a County Court or a statement of the state tax commissioner relating to estate tax determination of said decedent's estate. Such certified copy of death certificate, or such record thereof in said office, or a duly certified copy of such last mentioned record, shall be prima facie evidence of the death of such person and the termination of such joint tenancy and of all such estate, title, interest, and lien as was or is limited upon the life of such person.

Approved February 27, 1951.

CHAPTER 280

H. B. No. 728

(Holand and McLellan)

MARKETABLE RECORD TITLE

AN ACT

Relating to real property; to define a marketable record title to an interest in real estate and other terms; to require the filing of notice of claim of interest in such real estate in certain cases, within a definite period of time and to require the recording thereof; to make invalid and of no force and effect all claims with respect to the real estate affected thereby where no such notices of claim of interest are filed within the required period; to provide for filing evidence of possession by affidavit and for the recording of such affidavits; to provide penalties for filing slanderous notices of claim and interest; to provide certain exceptions to the applicability and operation thereof.

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

§ 1. WHAT CONSTITUTES MARKETABLE TITLE.) Any person having the legal capacity to own real estate in this state, who has an unbroken chain of title to any interest in real estate by himself and his immediate or remote grantors under a deed of conveyance which has been recorded for a period of thirty years or longer, and is in possession of such real estate, shall be deemed to have a marketable record title to such interest, subject only to such claims thereto and defects of title as are not extinguished or barred by the application of the provisions of this act, instruments which have been recorded less than thirty years, and any encumbrances of record not barred by the statute of limitations.

§ 2. DEFINITIONS.) As used in this Act:

1. A person shall be deemed to have the unbroken chain of title to an interest in real estate when the official public records of the county wherein such land is situated disclose a conveyance or other title transaction dated and recorded thirty years or more prior thereto, which conveyance or other title transaction purports to create such interest in such person or his immediate or remote grantors, with nothing appearing of record purporting to divest such person and his immediate or remote grantors of such purported interest.
2. Title transaction means any transaction affecting title to real estate, including title by will or descent from any

person who held title of record at the date of his death, title by a decree or order of any court, title by tax deed or by trustee's, referee's, guardian's, executor's, master's in chancery, or sheriff's deed, as well as by direct conveyance.

§ 3. NOTICE OF CLAIM OF INTEREST FILED.) Such marketable title shall be held by such person and shall be taken by his successors in interest free and clear of all interest, claims, any charges whatever, the existence of which depends in whole or in part upon any act, transaction, event, or omission that occurred thirty years or more prior thereto, whether such claim or charge be evidenced by a recorded instrument or otherwise, and all such interests, claims, and charges affecting such interest in real estate shall be barred and not enforceable at law or equity, unless any person making such claim or asserting such interest or charge, shall, on or before thirty-one years from the date of recording of deed of conveyance under which title is claimed, or within one year from the effective date of this Act, whichever event is the latest in point of time, file for record a notice in writing, duly verified by oath, setting forth the nature of his claim, interest or charge; and no disability nor lack of knowledge of any kind on the part of anyone shall operate to extend the time for filing such claims after the expiration of thirty-one years from the recording of such deed of conveyance or one year after the effective date of this Act, whichever event is the latest in point of time.

§ 4. WHO MAY FILE NOTICE.) The notice mentioned in section 3 may be filed for record by the claimant of any interest therein described, or by any other person acting on behalf of a claimant who is under disability, unable to assert a claim on his own behalf, or one of a class but whose identity cannot be established or is uncertain at the time of filing such claim for record.

§ 5. WHERE NOTICE FILED; CONTENTS.) The claim referred to in section 3 and 4 shall be filed in each county where the claimed real estate, or any part thereof, is located, and must set forth the legal description of the real estate affected by such claim together with a statement of the nature of the claim, charge, or interest asserted. The description shall be set forth in particular terms and not by general inclusion.

§ 6. NOTICE RECORDED AND INDEXED.) The register of deeds of each county shall accept all such notices which describe real estate located within the county which he serves and shall enter and record such notices in full among miscellaneous instruments and index the same against the real estate.

§ 7. EVIDENCE OF POSSESSION RECORDED.) For the purpose of this Act, the fact of possession of real estate referred to in sec-

tion 1 may be shown of record by one or more affidavits which shall contain the legal description of the real estate referred to and show that the record titleholder is upon the date thereof in possession of such real estate. The register of deeds shall record such affidavits in the miscellaneous records of his county and index the same against the real estate. No such affidavits of possession shall be filed as to any real estate before the expiration of thirty-one years from the recording of deed of conveyance under which title is claimed, or before one year after the effective date of this Act, whichever event is the latest in point of time, as to any real estate as to which a claim under the provisions of section 5 shall have been filed.

§ 8. EXISTING STATUTES OF LIMITATION NOT EFFECTED.) Nothing contained in this Act shall be construed to shorten or extend the period for bringing an action or doing any act required under any existing statute of limitations, nor to affect the operation of any existing Acts governing the effect of the recording or the failure to record any instrument affecting lands.

§ 9. SLANDEROUS NOTICE; PENALTY.) No person shall use the privilege of filing notices hereunder for the purpose of slandering the title to real estate and in any action brought for the purpose of quieting title to real estate, if the court shall find that any person has filed a claim for the purpose only of a slandering title to such real estate, the court shall award the plaintiff all the costs of such action, including attorney fees to be fixed and allowed to the plaintiff by the court, and all damages that plaintiff may have sustained as the result of such notice of claim having been filed for record.

§ 10. PURPOSE OF ACT.) This Act shall be construed to effect the legislative purpose of simplifying and facilitating real estate title transactions by allowing persons to deal with the record title owner as defined herein and to rely upon the record title covering a period of thirty years or more subsequent to the recording of deed of conveyance as set out in section 1 of this Act, and to that end to bar all claims that affect or may affect the interest thus dealt with, the existence of which claims arises out of or depends upon any act, transaction, event, or omission occurring before the recording to such deed of conveyance, unless a notice of such claim, as provided in section 5, shall have been duly filed for record. The claims hereby barred shall mean any and all interests of any nature whatever, however denominated, whether such claims are asserted by a person sui juris or under disability, whether such person is or has been within or without the state, and whether such person is natural, corporate, private, or governmental.

§ 11. EXCEPTIONS.) This Act shall not be:

1. Applied to bar:

- a. The rights of any lessor or his successor as reversionary of his right to possession on the expiration of any lease by reason of failure to file the notice herein required;
- b. The rights of any remainderman upon the expiration of any life estate or trust created before the recording of deed of conveyance as set out in section 1 of this Act;
- c. Rights founded upon any mortgage, trust deed, or contract for sale of lands which is not barred by the statute of limitations; or
- d. Conditions subsequent contained in any deed; nor

2. Deemed to affect the right, title or interest of the state of North Dakota, or the United States, in any real estate in North Dakota.

3. Applied to the right, title, or interest of any railroad.

Approved March 9, 1951.

PUBLIC UTILITIES

CHAPTER 281

S. B. No. 182
(Geelan)
(By Request)

CERTAIN CONTRACTS EXEMPTING RAILROAD CORPORATIONS FROM LIABILITY VOID

AN ACT

To amend and reenact section 49-1605 of the North Dakota Revised Code of 1943, declaring void certain contracts exempting railroad corporations from liability.

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

§ 1. AMENDMENT.) Section 49-1605 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows: