

GENERAL PROVISIONS

CHAPTER 84

S. B. No. 130
(Davis)

VETERANS DAY

AN ACT

To amend and reenact subsection 10 of section 1-0301 of the 1953 Supplement to the North Dakota Revised Code of 1943, relating to holidays.

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

§ 1. **Amendment.)** Subsection 10 of section 1-0301 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

10. The eleventh day of November, which is Veterans day;

Approved March 3, 1955.

CHAPTER 85

S. B. No. 107
(Knudson)

VALIDATING DEEDS OR MORTGAGES

AN ACT

Validating deeds, mortgages, or assignments of mortgage not containing the post office address of the grantee, recorded prior to the effective date of this Act.

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

§ 1. **Validating Deed or Mortgage.)** The record in the office of the register of deeds, prior to January 1, 1955, of a deed, mortgage, or assignment of mortgage which shall have failed to contain the post office address of the grantee, mortgagee, or assignee named in such deed, mortgage, or assignment as provided by section 35-0304, if such deed, mortgage, or assignment otherwise was entitled to record, is hereby validated and declared to be operative fully as constructive notice.

Approved March 2, 1955.

CHAPTER 86

S. B. No. 62

(Knudson)

VALIDATION OF CERTAIN LAND TRANSFERS TO
MUNICIPALITIES FOR PARK PURPOSES

AN ACT

Relating to property transferred to municipalities for park purposes by the counties, validating certain transfers thereof, and providing for the disposition thereof, and declaring an emergency.

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

§ 1.) Any sale or transfer of lands acquired by any municipality under the provisions of section 11-2708 of the North Dakota Revised Code of 1943, by any governing body of any municipality or park district in this state is hereby validated and confirmed and declared to be fully effective and operative to convey the estates therein granted, free and clear of any restrictions as to their use for park purposes. The provisions of this section shall apply to all estates granted or conveyed prior to the effective date of this Act.

§ 2.) Any municipality or park district may abandon and discontinue as a park or recreational area, any land acquired by any municipality or park district for park and recreational purposes under the provisions of section 11-2708 of the North Dakota Revised Code of 1943, and any municipality or park district may sell, convey or transfer any such lands free from any restrictions as to their use for park and recreational purposes.

§ 3. **Emergency.)** An emergency is hereby declared to exist and this Act shall take effect and be in force from and after the date of its passage and approval.

Approved March 3, 1955.

CHAPTER 87

H. B. No. 740
(Baldwin and Simonson)

VALIDATING CERTAIN CITY PROCEEDINGS FOR
IMPROVEMENT DISTRICTS

AN ACT

Legalizing and validating proceedings taken by certain cities for the creation of improvement districts, notwithstanding certain defects in such proceedings, authorizing the levy of special assessments and taxes for payment of the municipal share of the cost of such improvements and the issuance of warrants in anticipation of the collection thereof, and declaring an emergency.

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

§ 1.) In all cases where the governing body of any city with a population of over ten thousand has heretofore entered into an agreement with the highway department of the state of North Dakota for the improvement of streets and construction of street lights, sewers, water mains or any of such facilities, and for such purpose has created a special improvement district or districts and has by resolution declared the necessity of such improvement, whether or not final plans and specifications for such work and estimates of the cost thereof have previously been prepared and filed, and has caused such resolution to be published in the official newspaper of the city, and no protests have been filed with the city auditor within thirty days after the first publication of such resolution by owners of property situated within the improvement district, or the protests so filed are signed by owners of less than seventy-five percent of such property, all such proceedings are hereby legalized and validated, notwithstanding any errors, omissions or defects therein, including, but without limitation, any defect which exists or may exist by reason of the execution of any such agreement and the award of a contract for construction of all or any part of any such improvement by the city or the highway department prior to the adoption of and hearing of protests against the resolution of necessity, and any and all such agreements and contracts heretofore entered into are likewise legalized and validated, and such cities are hereby authorized to pay all or any part of their share of the cost of any such improvement by the levy of special assessments upon benefited properties within the improvement district created therefor, or by the levy of ad valorem taxes upon all taxable property within their corporate limits, or by both

of such means, in the manner prescribed in Title 40 of the North Dakota Revised Code of 1943, as amended, provided that in no case shall the principal sum be paid initially by the levy of ad valorem taxes exceed twenty per cent of the total cost of any such improvement, and such cities are further authorized to issue warrants in anticipation of the collection of such special assessments and taxes and to take all measures for the collection of said assessments and taxes and the payment of said warrants as are provided in said Title 40.

§ 2. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 7, 1955.

CHAPTER 88

S. B. No. 36

(Legislative Research Committee)

CORRECTION OF CLERICAL AND PRINTING ERRORS

AN ACT

To correct clerical, typographical or printing errors in sections of the North Dakota Revised Code of 1943 or the 1953 Supplement thereto, and amending sections 26-2315, 35-2302, 40-0105, 40-2501, of the North Dakota Revised Code of 1943, and sections 24-0128 of the 1953 Supplement to the North Dakota Revised Code of 1943.

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

§ 1. Amendment.) Section 24-0128 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

24-0128. Vacating Highways by Commissioner; Sale of Property.) The commissioner may vacate any land or part thereof, or rights in land taken or acquired for highway purposes under the provisions of this title, by executing and recording a deed thereof, and said vacation shall revert the title to the land or rights in the persons, their heirs, successors, or assigns, in whom it was vested at the time of the taking. As oil, gas and fluid minerals are not a part of and essential for highway purposes, all such rights heretofore taken, if any, are hereby vacated and returned to the person or persons in whom the title was vested at the time of taking, their heirs,

administrators, executors or assigns. Such reconveyance shall be subject to any existing contracts or agreements covering such property, and all rights and benefits thereof shall accrue to the grantee. The governor, on recommendation of the commissioner, may sell and convey on behalf of the state the interests of the state in property acquired by purchase under this title and deemed no longer necessary for the purposes thereof, and the proceeds of such sale so far as practicable shall be credited to the funds from which such purchase was made originally.

§ 2. Amendment.) Section 26-2315 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2315. Suit by Party Injured by Default of Public Employee; Subrogation; Right of Appeal.) Any person or corporation injured by the default or wrongful act of any public employee may sue such public employee and join the fund as codefendant. If a judgment is obtained against such public employee, it shall specify that, to the extent to which the fund is liable upon the bond of such public employee, the judgment shall be paid out of any moneys in the fund or that may accrue thereafter to such fund. If a judgment is paid out of the fund, the fund shall be subrogated to the right of the judgment creditor to recover against such public employee. In all proceedings to enforce such right of subrogation, the commissioner shall act for and in behalf of the fund, and in any action or proceeding, he may appeal from any appealable order or from any judgment against the fund the same as other parties to civil actions may appeal.

§ 3. Amendment.) Section 35-2302 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

35-2302. Foreclosure Enjoined; Procedure.) When the mortgagee or his assignee has commenced foreclosure by advertisement and it appears by the affidavit of the mortgagor, his agent or attorney, to the satisfaction of a judge of the district court of the county where the mortgaged property is situated, that the mortgagor has a legal counterclaim or any other valid defense against the collection of the whole or any part of the amount claimed to be due on such mortgage, the judge, by an order to that effect, may enjoin the mortgagee or assignee from foreclosing the mortgage by advertisement and may direct that all further proceedings for the foreclosure be had in the district court having jurisdiction of the subject matter. For the purpose of carrying out the provisions of this section, service may be made upon the attorney or agent of the mortgagee or assignee.

§ 4. Amendment.) Section 40-0105 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-0105. Ordinances and Resolutions Remain in Force; Legal Identity Not Changed.) A change in the form of organization of a municipality shall not change its legal identity as a municipal corporation. All ordinances and resolutions in force therein at the date of such change shall continue in full force and effect until repealed or amended.

§ 5. Amendment.) The first paragraph and first numbered section of chapter 40-25 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

40-2501. Sale of Real Property to Enforce Collections of Delinquent Special Assessments.) Real property shall be sold to enforce the collection of special assessments or installments of special assessments which have become delinquent at the same time and in the same manner as is provided in the title Taxation for the sale of real property for delinquent general taxes. The sale shall be made by the same officer and upon like notice and subject to the same provision in relation to redemption, and the same record thereof shall be kept by the officer making the sale as in the case of the sale of real property for delinquent general taxes.

Approved March 3, 1955.