

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Monday, the sixth day of January,
one thousand nine hundred and ninety-seven**

SENATE BILL NO. 2191
(Senators Holmberg, W. Stenehjem, Traynor)

AN ACT to amend and reenact subsection 3 of section 57-02-08.3, sections 57-38-49, 57-38-50, subsections 3, 4, 5, and 6 of section 57-39.2-13, subsections 3, 4, 5, and 6 of section 57-40.2-16, subsections 2, 3, and 4 of section 57-40.3-07.1, subsections 3, 4, and 6 of section 57-43.1-17.4, and subsections 3, 4, and 6 of section 57-43.2-16.3 of the North Dakota Century Code, relating to filing of tax liens; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 57-02-08.3 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. a. Any credit allowed under subsection 1, plus interest in the amount of nine percent per year from the time the credit is taken, creates a lien in favor of the state against the property upon which the special assessment credit is allowed and remains a lien upon the property from the time the credit is allowed until the lien is fully satisfied by depositing the amount of the lien in the state general fund. If the amount of the lien exceeds the market value of the property, the state may accept the amount of the market value of the property as payment in full on the lien.
- b. (1) Except as otherwise provided in this subdivision, a transfer of title to the homestead because of sale, death, or otherwise may not be made without the lien being satisfied. When a credit under subsection 1 is allowed, the county auditor shall cause a notice of lien of record to be filed against subject property with the ~~secretary of state~~ register of deeds.
- (2) When a transfer occurs between spouses because of the death of one of them, the lien allowed by this section need not be satisfied until the property is again transferred.
- c. This lien has precedence over all other liens except general tax liens and prior special assessment liens and shall not be divested at any judicial sale. A mistake in the description of the property covered by this lien or in the name of the owner of the property does not defeat the lien if the property can be identified by the description in the special assessment list.

SECTION 2. AMENDMENT. Section 57-38-49 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-38-49. Preservation of lien. ~~In order to preserve the lien provided for in section 57-38-48 against subsequent mortgagees, purchasers, or Any mortgagee, purchaser, judgment creditors, for value and without notice of the lien, creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the commissioner shall file with filing in the central notice system maintained by the secretary of state a notice of the lien provided for in section 57-38-48, takes free of, or has priority over, the lien. The secretary of state commissioner shall enter index in the central indexing notice system the following data, under the names of taxpayers arranged alphabetically:~~

1. The name of the taxpayer.
2. The tax identification number or social security number of the taxpayer.
3. The name "State of North Dakota" as claimant.

- ~~3.~~ 4. ~~Time~~ The date and time the notice of lien was received indexed.
4. ~~Date of notice.~~
5. ~~Amount~~ The amount of the lien then due.
6. ~~When satisfied.~~

~~The secretary of state shall endorse on each notice of lien the day, hour, and minute when received and shall preserve the same, and shall index the notice in the central indexing system. The notice of lien is effective as against subsequent creditors, purchasers, and encumbrances from the time of the indexing of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner with a register of deeds prior to July 1, 1996, may be refiled with the secretary of state indexed in the central notice system without changing its original priority as to property in the county where the lien was filed. The secretary of state commissioner shall accept index any notice of lien for filing when it is received with no payment of fees or costs to be made on behalf of the commissioner the secretary of state.~~

SECTION 3. AMENDMENT. Section 57-38-50 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-38-50. Satisfaction of lien. Upon the payment of a the tax, together with any accrued penalties and interest attached, as to which the commissioner has filed a notice of lien with the secretary of state, the commissioner shall file with the secretary of state index a satisfaction of the tax and lien and the secretary of state shall enter the satisfaction on the notice on file and shall indicate that fact on in the central indexing notice system with no payment of without fees or costs to be made on behalf of the tax commissioner.

SECTION 4. AMENDMENT. Subsections 3, 4, 5, and 6 of section 57-39.2-13 of the 1995 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- ~~3. In order to preserve the lien against subsequent mortgagees, purchasers, or Any mortgagee, purchaser, judgment creditors, for value and without notice of the lien, creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the commissioner shall file with filing in the central notice system maintained by the secretary of state, a notice of the lien provided for in section 57-39.2-12, takes free of, or has priority over, the lien.~~
4. The ~~secretary of state commissioner~~ shall enter index in the central indexing notice system the following data, ~~under the names of taxpayers, arranged alphabetically:~~
 - a. The name of the taxpayer.
 - b. The tax identification number or social security number of the taxpayer.
 - c. The name "State of North Dakota" as claimant.
 - ~~e.~~ d. ~~Time~~ The date and time the notice of lien was received indexed.
 - ~~d.~~ ~~Date of notice.~~
 - e. ~~Amount~~ The amount of the lien then due.
 - f. ~~When satisfied.~~

~~The secretary of state shall endorse on each notice of lien the day, hour, and minute when received and preserve the same, and shall index the notice in the central indexing system and the The notice of lien is effective from the time of indexing as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner with a register of deeds before July 1, 1996, may be refiled with the secretary of state indexed in the central notice system without changing its original priority as to property in the county where the lien was filed.~~

5. The commissioner is exempt from the payment of the filing fees as otherwise provided by law for the ~~filing~~ indexing of the notice of lien, or for its satisfaction.
6. Upon the payment of a the tax as to which the commissioner has filed indexed notice with the secretary of state in the central notice system, the commissioner shall ~~file with the secretary of state~~ index a satisfaction of the tax and the secretary of state shall enter the satisfaction on the notice on file and indicate that fact lien in the central indexing notice system.

SECTION 5. AMENDMENT. Subsections 3, 4, 5, and 6 of section 57-40.2-16 of the 1995 Supplement to the North Dakota Century Code are amended and reenacted as follows:

3. ~~In order to preserve the lien against subsequent mortgagees, purchasers, or Any mortgagee, purchaser, judgment creditors, for value and without notice of the lien, creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the commissioner shall file with filing in the central notice system maintained by the secretary of state, a notice of the lien provided for in this section, takes free of, or has priority over, the lien.~~
4. The ~~secretary of state~~ commissioner shall enter index in the central indexing notice system the following data, ~~under the names of taxpayers, arranged alphabetically:~~
 - a. The name of the taxpayer.
 - b. The tax identification number or social security number of the taxpayer.
 - c. The name "State of North Dakota" as claimant.
 - e. ~~d.~~ Time The date and time the notice of lien was received indexed.
 - d. ~~Date of notice.~~
 - e. ~~Amount~~ The amount of the lien then due.
 - f. ~~When satisfied.~~

~~The secretary of state shall endorse on each notice of lien the day, hour, and minute when received and preserve the same, and shall index the notice in the central indexing system, and the~~ The notice of lien is effective from the time of indexing as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner with a register of deeds ~~before July 1, 1996, may be refiled with the secretary of state indexed in the central notice system without changing its original priority as to property in the county where the lien was filed.~~

5. The commissioner is exempt from the payment of the recording and filing fees as otherwise provided by law for the ~~recording and filing~~ indexing of the notice of lien, or for its satisfaction.
6. Upon the payment of a the tax as to which the commissioner has filed indexed notice with the secretary of state in the central notice system, the commissioner shall ~~file with the secretary of state~~ index a satisfaction of the tax and the secretary of state shall enter the satisfaction on the notice on file and indicate that fact lien in the central indexing notice system.

SECTION 6. AMENDMENT. Subsections 2, 3, and 4 of section 57-40.3-07.1 of the 1995 Supplement to the North Dakota Century Code are amended and reenacted as follows:

2. ~~In order to preserve the lien against subsequent mortgagees, purchasers, or Any mortgagee, purchaser, judgment creditors, for value and without notice of the lien, creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the commissioner shall file with filing in the central notice system maintained by the~~

secretary of state, a notice of the lien provided for in this section, takes free of, or has priority over, the lien.

3. ~~The secretary of state~~ commissioner shall ~~enter~~ index in the central ~~indexing~~ notice system the following data, ~~under the names of taxpayers, arranged alphabetically:~~
 - a. The name of the taxpayer.
 - b. The tax identification number or social security number of the taxpayer.
 - c. The name "State of North Dakota" as claimant.
 - e- d. The date and time the notice of lien was received indexed.
 - d- ~~The date of notice.~~
 - e. The amount of the lien ~~then due.~~
 - f. ~~When satisfied.~~

~~The secretary of state shall endorse on each notice of lien the day, hour, and minute received and preserve and index the notice in the central indexing system, and the~~ The notice of lien is effective from the time of the indexing as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner with a register of deeds before July 1, 1996, may be refiled with the secretary of state indexed in the central notice system without changing its original priority as to property in the county where the lien was filed. The commissioner is exempt from the payment of fees otherwise provided by law for the filing indexing or the satisfaction of the lien.

4. ~~Upon the payment of a the tax relative to which the commissioner has filed indexed notice with the secretary of state in the central notice system, the commissioner shall file with the secretary of state index a satisfaction of the tax, and the secretary of state shall enter the satisfaction on the notice on file and indicate that fact~~ lien in the central indexing notice system.

SECTION 7. AMENDMENT. Subsections 3, 4, and 6 of section 57-43.1-17.4 of the 1995 Supplement to the North Dakota Century Code are amended and reenacted as follows:

3. ~~To preserve the lien against subsequent mortgagees, purchasers, or Any mortgagee, purchaser, judgment creditors, for value and without notice of the lien, creditor, or lien claimant acquiring any interest in, or lien on, any property situated in a county the state, prior to the commissioner shall file a notice of the lien with filing in the central notice system maintained by the secretary of state, a notice of the lien provided for in this section, takes free of, or has priority over, the lien.~~
4. ~~The secretary of state~~ commissioner shall ~~enter~~ index in the central ~~indexing~~ notice system the following data, ~~under the names of taxpayers, arranged alphabetically:~~
 - a. The name of the taxpayer.
 - b. The tax identification number or social security number of the taxpayer.
 - c. The name "State of North Dakota" as claimant.
 - e- d. The date and time the notice of lien was received indexed.
 - d- ~~The date of notice.~~
 - e. The amount of the lien ~~then due.~~
 - f. ~~The date of satisfaction.~~

~~The secretary of state shall endorse on each notice of lien the day, hour, and minute when received and preserve the same, and shall index the notice in the central indexing system and the~~ The notice of lien is effective from the time of indexing as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner with a register of deeds ~~before July 1, 1996,~~ may be refiled with the secretary of state indexed in the central notice system without changing its original priority as to property in the county where the lien was filed.

6. Upon payment of a the tax as to which the commissioner has filed indexed notice with the secretary of state in the central notice system, the commissioner shall ~~file with the secretary of state~~ index a satisfaction of tax and ~~the secretary of state shall enter the satisfaction on the notice on file and indicate the fact on~~ the lien in the central indexing notice system.

SECTION 8. AMENDMENT. Subsections 3, 4, and 6 of section 57-43.2-16.3 of the 1995 Supplement to the North Dakota Century Code are amended and reenacted as follows:

3. ~~To preserve the lien against subsequent mortgagees, purchasers, or~~ Any mortgagee, purchaser, judgment creditors, for value and without notice of the lien, creditor, or lien claimant acquiring any interest in, or lien on, any property situated in a county the state, prior to the commissioner shall ~~file a notice of the lien with~~ filing in the central notice system maintained by the secretary of state a notice of the lien provided for in this section, takes free of, or has priority over, the lien.
4. The ~~secretary of state~~ commissioner shall ~~enter~~ index in the central indexing notice system the following data, ~~under the names of taxpayers, arranged alphabetically:~~
 - a. The name of the taxpayer.
 - b. The tax identification number or social security number of the taxpayer.
 - c. The name "State of North Dakota" as claimant.
 - e. d. The date and time the notice of lien was received indexed.
 - d. ~~The date of notice.~~
 - e. The amount of the lien ~~then due.~~
 - f. ~~The date of satisfaction.~~

~~The secretary of state shall endorse on each notice of lien the day, hour, and minute when received and preserve the same, and shall index the notice in the central indexing system and the~~ The notice of lien is effective from the time of indexing as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner with a register of deeds ~~before July 1, 1996,~~ may be refiled with the secretary of state indexed in the central notice system without changing its original priority as to property in the county where the lien was filed.

6. Upon payment of a the tax as to which the commissioner has filed indexed notice with the secretary of state in the central notice system, the commissioner shall ~~file with the secretary of state~~ index a satisfaction of tax and ~~the secretary of state shall enter the satisfaction on the notice on file and indicate the fact~~ the lien in the central indexing notice system.

SECTION 9. EFFECTIVE DATE. This Act is effective for tax liens filed after July 31, 1997.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2191.

Senate Vote: Yeas 47 Nays 0 Absent 2

House Vote: Yeas 94 Nays 0 Absent 3

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,

at _____ o'clock _____ M.

Secretary of State