

Sixtieth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2221

Introduced by

Senator Holmberg

1 A BILL for an Act to create and enact a new section to chapter 28-20 of the North Dakota
2 Century Code, relating to the effect of bankruptcy on a judgment lien; to amend and reenact
3 section 47-18-18 of the North Dakota Century Code, relating to declaration of a homestead;
4 and to repeal sections 28-20-30, 28-20-31, and 28-20-32 of the North Dakota Century Code,
5 relating to cancellation of judgment against bankrupts, service in bankruptcy proceedings, and
6 affidavits in bankruptcy proceedings.

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

8 **SECTION 1.** A new section to chapter 28-20 of the North Dakota Century Code is
9 created and enacted as follows:

10 **Effect of bankruptcy on judgment lien.**

11 1. If a judgment lien appears on a judgment debtor's real property and the debtor is
12 later the subject of bankruptcy proceedings in which the judgment lien is avoided
13 or set aside, the judgment lien may be terminated of record by filing a certified
14 copy of the bankruptcy court lien avoidance judgment.

15 2. A prebankruptcy petition judgment does not create a lien on real property that is
16 acquired by the judgment debtor after the filing of the bankruptcy petition which
17 may be established by filing a copy of the discharge.

18 3. A copy of the discharge may be filed to remove a judgment lien as a cloud on the
19 homestead set aside to the bankruptcy debtor.

20 4. Subsection 2 does not apply if the judgment creditor files a certified copy of an
21 order or a judgment of the bankruptcy court which declares the debt is
22 nondischargeable. A judgment creditor may record lis pendens stating the
23 judgment creditor has filed a nondischargability action in bankruptcy court. This

section does not apply to debts automatically excepted from discharge under
section 523 of the United State Bankruptcy Code [11 U.S.C. 523].

5. As used in this section, "files" or "filing" means a filing with the clerk of district court
in the county in which the judgment is docketed or transcribed.

SECTION 2. AMENDMENT. Section 47-18-18 of the North Dakota Century Code is
amended and reenacted as follows:

47-18-18. Declaration of homestead - How executed and acknowledged. In order
to select a homestead the claimant ~~must~~ shall execute and acknowledge, in the same manner
as a grant of real property is acknowledged, a declaration of homestead, and file the
declaration for record.

A ~~finding claim~~ of a homestead ~~exemption by the bankruptcy court on behalf of a
person discharged from debts pursuant to the Act of the Congress of the United States known
as "an act to establish a uniform system of bankruptcy throughout the United States, approved
July 1, 1898", as amended [ch. 541, 30 Stat. 544], shall be~~ a debtor who received a discharge
is a declaration of homestead.

Filing for record in the recorder's office of the county where the homestead is located a
certified copy with the legal description of the ~~bankrupt's discharge of bankruptcy~~ constitutes
notice that the property ~~has been found to be~~ is a homestead and exempt from ~~these~~
judgments ~~determined by the bankruptcy court to be discharged.~~

SECTION 3. REPEAL. Sections 28-20-30, 28-20-31, and 28-20-32 of the North
Dakota Century Code are repealed.