

Sixty-second
Legislative Assembly
of North Dakota

SENATE BILL NO. 2249

Introduced by

Senator Olafson

Representative Klemin

1 A BILL for an Act to amend and reenact sections 35-20-16, 35-34-04, and 41-09-73, subsection
2 2 of section 41-09-87, subsection 5 of section 57-34-10, subsection 4 of section 57-36-09.5,
3 section 57-38-49, subsection 4 of section 57-39.2-13, subsection 4 of section 57-40.2-16,
4 subsection 3 of section 57-40.3-07.1, subsection 4 of section 57-43.1-17.4, subsection 4 of
5 section 57-43.2-16.3, subsection 4 of section 57-43.3-22, subsection 2 of section 57-51-11, and
6 subsection 4 of section 57-63-10 of the North Dakota Century Code, relating to the contents of
7 a child support lien filed with the secretary of state, the contents of a vessel lien for the
8 collection of child support, the contents of a financing statement, the filing of a financing
9 statement, a tax lien on a telecommunications carrier, a tax lien for the collection of taxes on
10 tobacco products, a tax lien for the collection of income taxes, a tax lien for the collection of
11 sales tax, a tax lien for the collection of use tax, a tax lien for the collection of motor vehicle
12 excise tax, a tax lien for the collection of motor vehicle fuel tax, a tax lien for the collection of
13 special fuels and importer for use tax; and to declare an effective date.

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

15 **SECTION 1. AMENDMENT.** Section 35-20-16 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **35-20-16. Procedure to obtain unpaid earned property or casualty insurance premium**
18 **lien - Filing.**

19 The secretary of state shall prescribe a form that can be used to obtain a lien under this
20 section and also be entered in the central indexing system. Any person entitled to an unpaid
21 earned property or casualty insurance premium lien, within ninety days after termination of
22 coverage, shall file in the office of the recorder of the county or counties in which the property
23 covered by the policy is located and with any loss payee named in the policy, a verified
24 statement in writing stating all of the following:

- 1 1. The name and address of the policyholder.
- 2 2. The name and address of the lienholder.
- 3 3. ~~The social security number of the debtor, or in the case of a debtor doing business~~
- 4 ~~other than as an individual, the internal revenue service taxpayer identification number~~
- 5 ~~of that person.~~
- 6 4. The nature and quantity of insurance coverage provided.
- 7 ~~5.4.~~ The amount of unpaid earned premium.
- 8 ~~6.5.~~ A description of the property covered by the insurance and subject to the lien.
- 9 ~~7.6.~~ That a lien is claimed upon the property described.

10 **SECTION 2. AMENDMENT.** Section 35-34-04 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **35-34-04. Vessel lien.**

- 13 1. In the case of a vessel, the child support agency may establish a lien by filing a notice
- 14 of lien with the secretary of state if the value of the vessel is estimated to be at least
- 15 twice the cost of establishing the lien. The notice must contain a description of the
- 16 make, model designation, and serial number of the vessel, including its identification
- 17 or registration number, if any, and the name, ~~social security number,~~ and last-known
- 18 address of the obligor. The notice of lien must state that the child support obligation is
- 19 past due and that a copy of the notice of lien has been served on the obligor by
- 20 first-class mail at the obligor's last-known address.
- 21 2. Upon filing of the notice of lien in accordance with this section, the notice of lien must
- 22 be indexed by the secretary of state in the central indexing system and may be
- 23 enforced and foreclosed in the same manner as a security agreement under the
- 24 provisions of title 41.
- 25 3. The secretary of state shall remove and destroy the lien notification statement in the
- 26 same manner as provided for other liens in section 11-18-14 for the recorder.
- 27 4. A lien under this section is perfected when notice of the lien is filed with the secretary
- 28 of state.
- 29 5. The child support agency may file an amendment to correct the ~~social security number~~
- 30 ~~of the obligor, to correct the spelling of the obligor's name, or to correct or change the~~
- 31 address of the obligor.

1 **SECTION 3. AMENDMENT.** Section 41-09-73 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **41-09-73. (9-502) Contents of financing statement - Record of mortgage as financing**
4 **statement - Time of filing financing statement - Amending financing statement.**

5 1. Subject to subsection 2, a financing statement is sufficient only if the statement:

- 6 a. Provides the name of the debtor;
- 7 b. Provides the name of the secured party or a representative of the secured party;
- 8 c. Indicates the collateral covered by the financing statement;
- 9 d. If it is a financing statement that is to be filed to gain protection under the central
10 notice system, includes a reasonable description of the property, including the
11 county in which the property is located, and any other additional information
12 required by the Food Security Act of 1985 [Pub. L. 99-198; Stat. 1535; 7 U.S.C.
13 1631], as prescribed by the secretary of state, and, to be sufficient a financing
14 statement must include ~~the social security number or federal tax identification-~~
15 ~~number of the debtor;~~ the name and address of the secured party; and unless
16 electronically filed, the signatures of the debtor and secured parties;
- 17 e. ~~Provides the social security number or federal tax identification number of the~~
18 ~~debtor;~~
- 19 f. Provides a mailing address for the secured party; and
- 20 ~~g-f.~~ Provides a mailing address for the debtor.

21 2. Except as otherwise provided in subsection 2 of section 41-09-72, to be sufficient, a
22 financing statement that covers as-extracted collateral or timber to be cut, or which is
23 filed as a fixture filing and covers goods that are or are to become fixtures, must
24 satisfy subsection 1 and also:

- 25 a. Indicate that it covers this type of collateral;
- 26 b. Indicate that it is to be filed for record in the real property records;
- 27 c. Provide a description of the real property to which the collateral is related
28 sufficient to give constructive notice of a mortgage under the law of this state if
29 the description were contained in a record of the mortgage of the real property;
30 and

- 1 d. If the debtor does not have an interest of record in the real property, provide the
2 name of a record owner.
- 3 3. A record of a mortgage is effective, from the date of recording, as a financing
4 statement filed as a fixture filing or as a financing statement covering as-extracted
5 collateral or timber to be cut only if:
- 6 a. The record indicates the goods or accounts that it covers;
- 7 b. The goods are or are to become fixtures related to the real property described in
8 the record or the collateral is related to the real property described in the record
9 and is as-extracted collateral or timber to be cut;
- 10 c. The record satisfies the requirements for a financing statement in this section
11 other than an indication that it is to be filed in the real property records; and
- 12 d. The record is duly recorded.
- 13 4. A financing statement may be filed before a security agreement is made or a security
14 interest otherwise attaches.
- 15 5. A financing statement filed to gain protection under the central notice system must be
16 amended within three months of a material change to reflect that change. The
17 amended financing statement must be signed by both the debtor and secured party
18 and filed in the same manner as the original financing statement. An electronically filed
19 amendment does not need to be signed.
- 20 6. Any social security number or federal tax identification number submitted ~~under~~
21 ~~subdivision e of subsection 4~~ on a financing statement filed pursuant to this chapter as
22 a central indexing filing prior to January 1, 2012, is an exempt record as defined by
23 subsection 5 of section 44-04-17.1 and, ~~for documents submitted after January 1,~~
24 ~~2002~~, may not be disclosed as part of any search under section 41-09-94 or 41-09-96
25 or as part of a copy of the record. After December 31, 2011, a debtor's social security
26 number or federal tax identification number may not be filed only pursuant to this
27 chapter in the filing office with the central indexing system and may not be recorded in
28 the real property records.

29 **SECTION 4. AMENDMENT.** Subsection 2 of section 41-09-87 of the North Dakota Century
30 Code is amended and reenacted as follows:

- 1 2. Filing does not occur with respect to a record that a filing office refuses to accept
2 because:
- 3 a. The record is not communicated by a method or medium of communication
4 authorized by the filing office;
- 5 b. An amount equal to or greater than the applicable filing fee is not tendered;
- 6 c. The filing office is unable to index the record because:
- 7 (1) In the case of an initial financing statement, the record does not provide a
8 name for the debtor;
- 9 (2) In the case of an amendment or correction statement, the record:
- 10 (a) Does not identify the initial financing statement as required by section
11 41-09-83 or 41-09-89, as applicable; or
- 12 (b) Identifies an initial financing statement whose effectiveness has
13 lapsed under section 41-09-86;
- 14 (3) In the case of an initial financing statement that provides the name of a
15 debtor identified as an individual or an amendment that provides a name of
16 a debtor identified as an individual which was not previously provided in the
17 financing statement to which the record relates, the record does not identify
18 the debtor's last name; or
- 19 (4) In the case of a record filed or recorded in the filing office described in
20 subdivision a of subsection 1 of section 41-09-72, the record does not
21 provide a sufficient description of the real property to which it relates;
- 22 d. In the case of an initial financing statement or an amendment that adds a
23 secured party of record, the record does not provide a name and mailing address
24 for the secured party of record;
- 25 e. In the case of an initial financing statement or an amendment that provides a
26 name of a debtor which was not previously provided in the financing statement to
27 which the amendment relates, the record does not:
- 28 (1) Provide a mailing address for the debtor;
- 29 (2) Indicate whether the debtor is an individual or an organization; or
- 30 (3) If the financing statement indicates that the debtor is an organization,
31 provide:

- 1 (a) A type of organization for the debtor;
- 2 (b) A jurisdiction of organization for the debtor; or
- 3 (c) An organizational identification number for the debtor or indicate that
- 4 the debtor has none;
- 5 f. In the case of an assignment reflected in an initial financing statement under
- 6 subsection 1 of section 41-09-85 or an amendment filed under subsection 2 of
- 7 section 41-09-85, the record does not provide a name and mailing address for
- 8 the assignee;
- 9 g. In the case of a continuation statement, the record is not filed within the
- 10 six-month period prescribed by subsection 4 of section 41-09-86; ~~or~~
- 11 ~~h. The record does not contain the social security number or the federal tax~~
- 12 ~~identification number of the debtor.~~

13 **SECTION 5. AMENDMENT.** Subsection 5 of section 57-34-10 of the North Dakota Century
14 Code is amended and reenacted as follows:

- 15 5. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest
- 16 in, or lien on, any property situated in the state, prior to the tax commissioner filing in
- 17 the central indexing system maintained by the secretary of state a notice of the lien
- 18 provided for in subsection 4, takes free of, or has priority over, the lien. The tax
- 19 commissioner shall index in the central indexing system the following data:

- 20 a. The name of the taxpayer.
- 21 ~~b. The tax identification number or social security number of the taxpayer.~~
- 22 ~~c. The name "State of North Dakota" as claimant.~~
- 23 ~~d. c.~~ The date and time the notice of lien was indexed.
- 24 ~~e. d.~~ The amount of the lien.

25 The notice of lien is effective as of eight a.m. the next day following the indexing of the
26 notice. The tax commissioner shall index any notice of lien with no payment of fees or
27 costs to the secretary of state.

28 **SECTION 6. AMENDMENT.** Subsection 4 of section 57-36-09.5 of the North Dakota
29 Century Code is amended and reenacted as follows:

- 30 4. The commissioner shall index in the central indexing system the following data:
- 31 a. The name of the taxpayer.

1 b. ~~The tax identification number or social security number of the taxpayer.~~

2 e. The name "State of North Dakota" as claimant.

3 ~~d.c.~~ The date and time the notice of lien was indexed.

4 ~~e.d.~~ The amount of the lien.

5 The notice of lien is effective as of eight a.m. next day following the indexing of the
6 notice. Any notice of lien filed by the commissioner with a recorder may be indexed in
7 the central indexing system without changing its original priority as to property in the
8 county where the lien was filed.

9 **SECTION 7. AMENDMENT.** Section 57-38-49 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **57-38-49. Preservation of lien.**

12 Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or
13 lien on, any property situated in the state, prior to the commissioner filing in the central indexing
14 system maintained by the secretary of state a notice of the lien provided for in section 57-38-48,
15 takes free of, or has priority over, the lien. The commissioner shall index in the central indexing
16 system the following data:

17 1. The name of the taxpayer.

18 2. ~~The tax identification number or social security number of the taxpayer.~~

19 ~~3.~~ The name "State of North Dakota" as claimant.

20 ~~4.3.~~ The date and time the notice of lien was indexed.

21 ~~5.4.~~ The amount of the lien.

22 The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any
23 notice of lien filed by the commissioner with a recorder may be indexed in the central indexing
24 system without changing its original priority as to property in the county where the lien was filed.
25 The commissioner shall index any notice of lien with no payment of fees or costs to the
26 secretary of state.

27 **SECTION 8. AMENDMENT.** Subsection 4 of section 57-39.2-13 of the North Dakota
28 Century Code is amended and reenacted as follows:

29 4. The commissioner shall index in the central indexing system the following data:

30 a. The name of the taxpayer.

31 b. ~~The tax identification number or social security number of the taxpayer.~~

1 e. The name "State of North Dakota" as claimant.

2 ~~d.c.~~ The date and time the notice of lien was indexed.

3 ~~e.d.~~ The amount of the lien.

4 The notice of lien is effective as of eight a.m. next following the indexing of the notice.

5 Any notice of lien filed by the commissioner with a recorder may be indexed in the

6 central indexing system without changing its original priority as to property in the

7 county where the lien was filed.

8 **SECTION 9. AMENDMENT.** Subsection 4 of section 57-40.2-16 of the North Dakota

9 Century Code is amended and reenacted as follows:

10 4. The commissioner shall index in the central indexing system the following data:

11 a. The name of the taxpayer.

12 ~~b. The tax identification number or social security number of the taxpayer.~~

13 e. The name "State of North Dakota" as claimant.

14 ~~d.c.~~ The date and time the notice of lien was indexed.

15 ~~e.d.~~ The amount of the lien.

16 The notice of lien is effective as of eight a.m. next following the indexing of the notice.

17 Any notice of lien filed by the commissioner with a recorder may be indexed in the

18 central indexing system without changing its original priority as to property in the

19 county where the lien was filed.

20 **SECTION 10. AMENDMENT.** Subsection 3 of section 57-40.3-07.1 of the North Dakota

21 Century Code is amended and reenacted as follows:

22 3. The commissioner shall index in the central indexing system the following data:

23 a. The name of the taxpayer.

24 ~~b. The tax identification number or social security number of the taxpayer.~~

25 e. The name "State of North Dakota" as claimant.

26 ~~d.c.~~ The date and time the notice of lien was indexed.

27 ~~e.d.~~ The amount of the lien.

28 The notice of lien is effective as of eight a.m. next following the indexing of the notice.

29 Any notice of lien filed by the commissioner with a recorder may be indexed in the

30 central indexing system without changing its original priority as to property in the

1 county where the lien was filed. The commissioner is exempt from the payment of fees
2 otherwise provided by law for the indexing or the satisfaction of the lien.

3 **SECTION 11. AMENDMENT.** Subsection 4 of section 57-43.1-17.4 of the North Dakota
4 Century Code is amended and reenacted as follows:

5 4. The commissioner shall index in the central indexing system the following data:

6 a. The name of the taxpayer.

7 ~~b. The tax identification number or social security number of the taxpayer.~~

8 ~~c.~~ The name "State of North Dakota" as claimant.

9 ~~d.~~ The date and time the notice of lien was indexed.

10 ~~e.~~ The amount of the lien.

11 The notice of lien is effective as of eight a.m. next following the indexing of the notice.

12 Any notice of lien filed by the commissioner with a recorder may be indexed in the
13 central indexing system without changing its original priority as to property in the
14 county where the lien was filed.

15 **SECTION 12. AMENDMENT.** Subsection 4 of section 57-43.2-16.3 of the North Dakota
16 Century Code is amended and reenacted as follows:

17 4. The commissioner shall index in the central indexing system the following data:

18 a. The name of the taxpayer.

19 ~~b. The tax identification number or social security number of the taxpayer.~~

20 ~~c.~~ The name "State of North Dakota" as claimant.

21 ~~d.~~ The date and time the notice of lien was indexed.

22 ~~e.~~ The amount of the lien.

23 The notice of lien is effective as of eight a.m. next following the indexing of the notice.

24 Any notice of lien filed by the commissioner with a recorder may be indexed in the
25 central indexing system without changing its original priority as to property in the
26 county where the lien was filed.

27 **SECTION 13. AMENDMENT.** Subsection 4 of section 57-43.3-22 of the North Dakota
28 Century Code is amended and reenacted as follows:

29 4. The commissioner shall index in the central indexing system the following data:

30 a. The name of the taxpayer.

31 ~~b. The tax identification number or social security number of the taxpayer.~~

1 e. The name "State of North Dakota" as claimant.

1 ~~d.c.~~ The date and time the notice of lien was indexed.

2 ~~e.d.~~ The amount of the lien.

3 The notice of lien is effective as of eight a.m. next following the indexing of the notice.

4 Any notice of lien filed by the commissioner with a recorder may be indexed in the

5 central indexing system without changing its original priority as to property in the

6 county where the lien was filed.

7 **SECTION 14. AMENDMENT.** Subsection 2 of section 57-51-11 of the North Dakota Century
8 Code is amended and reenacted as follows:

9 2. Any judgment creditor, or lien claimant acquiring any interest in, or lien on, any
10 property situated in this state, prior to the commissioner filing in the central indexing
11 system maintained by the secretary of state, a notice of the lien provided for in this
12 section, takes free of, or has priority over, the lien. The commissioner shall index in the
13 central indexing system the following data:

14 a. The name of the taxpayer.

15 ~~b. The tax identification number or social security number of the taxpayer.~~

16 e. The name "State of North Dakota" as claimant.

17 ~~d.c.~~ The date and time the notice of lien was indexed.

18 ~~e.d.~~ The amount of the lien.

19 The notice of lien is effective as of eight a.m. of the first day following the indexing of
20 the notice. A notice of lien filed by the commissioner with a recorder before August 1,
21 1997, may be indexed in the central indexing system without changing its original
22 priority as to property in the county where the lien was filed.

23 **SECTION 15. AMENDMENT.** Subsection 4 of section 57-63-10 of the North Dakota
24 Century Code is amended and reenacted as follows:

25 4. The commissioner shall index in the central indexing system the following data:

26 a. The name of the facility.

27 ~~b. The tax identification number of the facility or social security number of the~~
28 ~~owner, officer, or manager of the facility.~~

29 e. The name "State of North Dakota" as claimant.

30 ~~d.c.~~ The date and time the notice of lien was indexed.

1 e.d. The amount of the lien.

2 The notice of lien is effective as of eight a.m. the next day following the indexing of the
3 notice. A notice of lien filed by the commissioner with the recorder may be indexed in
4 the central indexing system without changing its original priority as to property in the
5 county where the lien was filed.

6 **SECTION 16. EFFECTIVE DATE.** This Act becomes effective January 1, 2012.