

SENATE BILL NO. 2191

Introduced by

Senators Holmberg, W. Stenehjem, Traynor

1 A BILL for an Act to amend and reenact subsection 3 of section 57-02-08.3, sections 57-38-49,
2 and 57-38-50 of the North Dakota Century Code, relating to filing of tax liens; and to provide an
3 effective date.

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

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

7 3. a. Any credit allowed under subsection 1, plus interest in the amount of nine
8 percent per year from the time the credit is taken, creates a lien in favor of the
9 state against the property upon which the special assessment credit is
10 allowed and remains a lien upon the property from the time the credit is
11 allowed until the lien is fully satisfied by depositing the amount of the lien in
12 the state general fund. If the amount of the lien exceeds the market value of
13 the property, the state may accept the amount of the market value of the
14 property as payment in full on the lien.

15 b. (1) Except as otherwise provided in this subdivision, a transfer of title to the
16 homestead because of sale, death, or otherwise may not be made
17 without the lien being satisfied. When a credit under subsection 1 is
18 allowed, the county auditor shall cause a notice of lien of record to be
19 filed against subject property with the ~~secretary of state~~ register of
20 deeds.

21 (2) When a transfer occurs between spouses because of the death of one
22 of them, the lien allowed by this section need not be satisfied until the
23 property is again transferred.

- 1 c. This lien has precedence over all other liens except general tax liens and prior
2 special assessment liens and shall not be divested at any judicial sale. A
3 mistake in the description of the property covered by this lien or in the name
4 of the owner of the property does not defeat the lien if the property can be
5 identified by the description in the special assessment list.

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

8 **57-38-49. Preservation of lien.** ~~In order to preserve the lien provided for in section~~
9 ~~57-38-48 against subsequent mortgagees, purchasers, or~~ Any mortgagee, purchaser, judgment
10 ~~creditors, for value and without notice of the lien, creditor, or lien claimant acquiring any interest~~
11 in, or lien on, any property situated in the state, prior to the commissioner shall file with filing in
12 the central notice system maintained by the secretary of state a notice of the lien provided for in
13 section 57-38-48, takes free of, or has priority over, the lien. ~~The secretary of state~~
14 commissioner shall enter index in the central indexing notice system the following data, under
15 the names of taxpayers arranged alphabetically:

- 16 1. The name of the taxpayer.
17 2. The tax identification number or social security number of the taxpayer.
18 3. The name "State of North Dakota" as claimant.
19 ~~3.~~ 4. ~~Time~~ The date and time the notice of lien was received indexed.
20 ~~4. Date of notice.~~
21 5. ~~Amount~~ The amount of the lien then due.
22 ~~6. When satisfied.~~

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

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

3 **57-38-50. Satisfaction of lien.** Upon ~~the~~ payment of a the tax, together with any
4 accrued penalties and interest ~~attached~~, as to which the commissioner has filed a notice of lien
5 ~~with the secretary of state~~, the commissioner shall ~~file with the secretary of state~~ index a
6 satisfaction of the ~~tax and lien and the secretary of state shall enter the satisfaction on the~~
7 ~~notice on file and shall indicate that fact on~~ in the central ~~indexing~~ notice system ~~with no~~
8 payment of without fees or costs ~~to be made on behalf of the tax commissioner.~~

9 **SECTION 4. EFFECTIVE DATE.** This Act is effective for tax liens filed after July 31,
10 1997.