

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2280

Introduced by

Senators Freborg, Watne

1 A BILL for an Act to amend and reenact sections 11-18-01, 11-18-06, 11-18-07, 11-18-10,
2 11-18-11, 35-03-11, 35-03-16, 35-22-15, 35-22-16, 35-27-12, 40-50.1-14, 40-50.1-17,
3 47-19-10, 47-29-04, and subsection 2 of section 52-04-12 of the North Dakota Century Code,
4 relating to the recording of documents by the register of deeds; and to repeal section 19-08-07
5 of the North Dakota Century Code, relating to recording of bottle brands.

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

7 **SECTION 1. AMENDMENT.** Section 11-18-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **11-18-01. Register of deeds' duties - Recording and filing instruments - Abstracts**

10 ~~Recording brands.~~ The register of deeds shall:

- 11 1. Keep a full and true record, in proper books or other storage media provided for
12 that purpose, of each patent, deed, mortgage, bill of sale, security agreement,
13 judgment, decree, lien, certificate of sale, and other instrument required to be filed
14 or admitted to record, if the person offering ~~such the~~ instrument for filing or
15 recording ~~shall first pay~~ pays to the register of deeds the fees provided by law for
16 ~~such the~~ filing or recording.
- 17 2. Endorse upon each instrument filed with the register of deeds for record or
18 otherwise the date and the hour and minute of the day of ~~such the~~ filing or
19 recording.
- 20 3. ~~Endorse upon each instrument, when the same is recorded, in addition to the data~~
21 ~~specified in subsection 2, the number or letter designating the book of records in~~
22 ~~which the record of the instrument is made and the page upon which it is recorded.~~
- 23 4. When the instrument is recorded or filed, endorse ~~thereon, in a note at~~ on the
24 instrument the foot of the recorded instrument book and page or document

1 number, the date, and the hour and minute of the date when it was recorded or
2 filed with the register of deeds ~~and the book of records in which the record thereof~~
3 ~~is made and the page upon which it is recorded.~~

4 ~~5-~~ 4. Prepare a security agreement abstract ~~forthwith~~ whenever any person requests
5 the ~~same~~ agreement and pays the required fee.

6 ~~6-~~ Continue ~~an abstract of title to real property prepared by the register of deeds~~
7 ~~whenever any person presents the same to the register of deeds for continuation~~
8 ~~and pays the required fee.~~

9 ~~7-~~ Record in a book suitable for such purposes and maintained in the register of
10 ~~deeds' office as a public record, on the application of any person, firm, corporation,~~
11 ~~or limited liability company lawfully manufacturing, selling, or bottling soda water,~~
12 ~~mineral water, and other like beverages within the county, a description of the~~
13 ~~names, brands, trademarks, and labels, or any of them, used by such person, firm,~~
14 ~~corporation, or limited liability company for marking its casks, kegs, barrels, bottles,~~
15 ~~jugs, fountains, boxes, or other packages.~~

16 ~~8-~~ 5. Furnish upon written or telephonic request to persons the information contained in
17 financing statements filed to perfect a security interest pursuant to chapter 41-09
18 when the collateral is farm products, and to provide written confirmation of the oral
19 information provided upon receipt of a fee which shall be the same as for recording
20 that instrument.

21 **SECTION 2. AMENDMENT.** Section 11-18-06 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **11-18-06. Register of deeds to keep ~~fee book~~ an accounting record of fees -**
24 **Monthly reports.** The register of deeds shall ~~keep a book provided by the county in which~~
25 ~~shall be entered each item~~ maintain an accounting record of fees for services rendered. Within
26 three days after the close of each calendar month and also at the end of the register of deeds'
27 term of office, the register of deeds shall file with the county auditor a statement under oath
28 showing the fees ~~which~~ that the register of deeds has received as ~~such officer~~ the register of
29 deeds since the date of the register of deeds' last report.

30 **SECTION 3. AMENDMENT.** Section 11-18-07 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 FORM OF SECTIONAL SYSTEM OF TRACT INDEX TO REAL ESTATE TOWNSHIP

2 NO. _____ RANGE NO. _____ SECTION NO. _____

3	No. of	Quarter	Part Quarter						
4	Section	Section	Section	Vol.	Page	Vol.	Page	Vol.	Page
5					<u>or</u>		<u>or</u>		<u>or</u>
6					<u>Docu-</u>		<u>Docu-</u>		<u>Docu-</u>
7					<u>ment</u>		<u>ment</u>		<u>ment</u>
8					<u>No.</u>		<u>No.</u>		<u>No.</u>
9	1	N.E.	N.E. quarter	_____	_____	_____	_____	_____	_____
10			N.W. quarter	_____	_____	_____	_____	_____	_____
11			S.W. quarter	_____	_____	_____	_____	_____	_____
12			S.E. quarter	_____	_____	_____	_____	_____	_____
13		N.W.	N.E. quarter	_____	_____	_____	_____	_____	_____
14			N.W. quarter	_____	_____	_____	_____	_____	_____
15			S.W. quarter	_____	_____	_____	_____	_____	_____
16			S.E. quarter	_____	_____	_____	_____	_____	_____
17		S.W.	N.E. quarter	_____	_____	_____	_____	_____	_____
18			N.W. quarter	_____	_____	_____	_____	_____	_____
19			S.W. quarter	_____	_____	_____	_____	_____	_____
20			S.E. quarter	_____	_____	_____	_____	_____	_____
21		S.E.	N.E. quarter	_____	_____	_____	_____	_____	_____
22			N.W. quarter	_____	_____	_____	_____	_____	_____
23			S.W. quarter	_____	_____	_____	_____	_____	_____
24			S.E. quarter	_____	_____	_____	_____	_____	_____

25 **SECTION 4. AMENDMENT.** Section 11-18-10 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **11-18-10. Register of deeds to keep reception ~~book~~ record - Contents.** The
28 register of deeds shall keep a ~~book~~ record known as "The Reception ~~Book~~ Record". ~~Such book~~
29 ~~shall~~ The record must be ruled in parallel columns showing:

- 30 1. ~~In the first column at the left side of the page, the~~ The document number.
- 31 2. ~~In the second column, the~~ The date of filing recording.

- 1 3. ~~In the third column, the~~ The name of the grantor.
- 2 4. ~~In the fourth column, the~~ The name of the grantee.
- 3 5. ~~In the fifth column, the~~ The character of the instrument.
- 4 6. ~~In the sixth column, the~~ The book ~~in which~~ and page or document number upon
5 which the instrument is recorded.
- 6 7. ~~In the seventh column, the~~ The name of the person to whom the instrument was
7 delivered returned.
- 8 8. ~~In the eighth column, a~~ A brief description of the property, if any, described in the
9 instrument.

10 Immediately after any document or paper of a kind mentioned in section 11-18-09 is numbered,
11 it ~~shall~~ must be entered in the reception ~~book~~ record. The reception ~~book~~ shall record must be
12 a part of the public records of the office and open to public inspection during office hours.

13 **SECTION 5. AMENDMENT.** Section 11-18-11 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **11-18-11. Register of deeds to record ~~or file~~ instruments.** When an instrument
16 affecting the title to or creating a lien upon real estate within the county is numbered and
17 entered in the reception ~~book~~ record and indexed, it ~~shall~~ must be recorded or filed as provided
18 by law. The register of deeds shall ~~write or stamp, or cause to be written or stamped, at the~~
19 ~~beginning of a recorded~~ provide recording information on the instrument ~~the words "document~~
20 ~~number" and shall add thereto the number stamped or written on the document. The register of~~
21 ~~deeds shall add, immediately after the record of such instrument, a certificate reciting that the~~
22 ~~instrument was filed in the register of deeds' office and giving the date and hour of filing. The~~
23 ~~register of deeds~~ as required by paragraph 4 of subdivision a of subsection 1 of section
24 11-18-05 and shall authenticate the certificate information with an official signature, ~~but need~~
25 ~~not affix~~ and the official seal ~~thereto~~ of the office as required by section 11-18-04.

26 **SECTION 6. AMENDMENT.** Section 35-03-11 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **35-03-11. Certificate of discharge - How recorded.** A certificate of the discharge of a
29 mortgage and proof or acknowledgment ~~thereof~~ of the discharge must be recorded at length
30 and a reference made in the record to the book and page or document number where the

1 mortgage is recorded and of the minute of the discharge, made upon the record of the
2 mortgage, to the book and page or document number where the discharge is recorded.

3 **SECTION 7. AMENDMENT.** Section 35-03-16 of the 1997 Supplement to the North
4 Dakota Century Code is amended and reenacted as follows:

5 **35-03-16. Satisfaction of mortgage - Discharge - Form - Power of attorney.** A
6 recorded mortgage must be discharged upon the record by the register of deeds having
7 custody ~~thereof~~ of the mortgage on the presentation of a certificate of discharge signed by the
8 mortgagee, the mortgagee's executors, administrators, guardians, trustees, assigns, personal
9 representatives, or special administrators appointed for that purpose, properly acknowledged or
10 proved and certified as prescribed by chapter 47-19. The certificate of discharge must contain
11 a brief description of the mortgage and must state that the mortgage has been paid in full or
12 otherwise satisfied and discharged and that the officer is authorized to discharge the ~~same~~
13 mortgage of record. Any person executing a certificate of discharge as a personal
14 representative of the mortgagee first shall file and have recorded in the office of the register of
15 deeds where the mortgage is recorded, a power of attorney showing the person's authority to
16 discharge mortgages in behalf of the mortgagee and in the mortgagee's name. The mortgagee
17 shall present the certificate of discharge to the register of deeds for recording in the county in
18 which the property is located within thirty days after the certificate of discharge is signed. The
19 mortgagee may add the amount of the recording fee to the balance of the debt paid by the
20 mortgagor. A certificate of the satisfaction of a mortgage may be made in substantially the
21 following form:

22 This certifies that a certain mortgage executed by _____ of _____,
23 mortgagor, to _____ of _____, mortgagee, dated the _____ day of
24 _____ in the year _____, upon the _____ (here describe the property
25 covered by the mortgage) and recorded in the office of the register of deeds in and for the
26 county of _____ and state of North Dakota, in book _____ of mortgages on
27 page _____ or as document number _____, is paid and satisfied; and
28 _____ hereby authorize and require ~~said the~~ the register of deeds to discharge the ~~same~~
29 mortgage of record in the register of deeds' office.

30 Witness _____ hand this _____ day of _____ A.D.
31 _____ (Acknowledgment).

1 **SECTION 8. AMENDMENT.** Section 35-22-15 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **35-22-15. Register of deeds - Note of sale on margin of mortgage record.** A note
4 referring to the page and book or document number where the evidence of any sale made
5 under a mortgage is recorded must be made by the register of deeds in the margin of the
6 record of ~~such~~ the mortgage.

7 **SECTION 9. AMENDMENT.** Section 35-22-16 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **35-22-16. Affidavit of publication recorded - Effect of in evidence.** The affidavit of
10 publication must be recorded at length by the register of deeds of the county in which the real
11 property is situated in a ~~book~~ record kept for ~~the record of~~ mortgages. The original affidavit, the
12 record thereof, and certified copies of the record are prima facie evidence of the facts ~~therein~~
13 contained in the record.

14 **SECTION 10. AMENDMENT.** Section 35-27-12 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **35-27-12. Register of deeds to record notice.** The register of deeds shall record the
17 verified notice of intention in the reception ~~book~~ record, tract index, and elsewhere according to
18 law.

19 **SECTION 11. AMENDMENT.** Section 40-50.1-14 of the 1997 Supplement to the North
20 Dakota Century Code is amended and reenacted as follows:

21 **40-50.1-14. Notice of errors on recorded plat - Certificate by original surveyor.**
22 Notwithstanding section 40-50.1-06, if a plat, or what purports to be a plat, has been signed
23 and filed in the office of the register of deeds of the county where the land is situated, and the
24 plat fails to identify or correctly describe the land to be so platted or subdivided, or to show
25 correctly on its face the tract of land intended or purported to be platted or subdivided, or is
26 defective because the plat or subdivision and the description of land purported to be so platted
27 or subdivided is inconsistent or incorrect, the registered land surveyor who prepared the plat
28 may sign a certificate stating the nature of the error, omission, or defect and stating the
29 information that surveyor believes corrects the error, supplies the omission, or cures the defect,
30 referring, by correct book and page or document number, to the plat or subdivision and

1 designating its name, if it has a name. The registered land surveyor shall date and sign the
2 certificate.

3 **SECTION 12. AMENDMENT.** Section 40-50.1-17 of the 1997 Supplement to the North
4 Dakota Century Code is amended and reenacted as follows:

5 **40-50.1-17. Action by register of deeds.** The register of deeds shall write in plain,
6 legible letters, in black ink that is not ballpoint ink, across that part of a plat which has been
7 vacated the word "vacated" and shall make a reference on the plat to the volume and page or
8 document number in which the instrument of vacation is recorded.

9 **SECTION 13. AMENDMENT.** Section 47-19-10 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **47-19-10. Separate ~~books~~ records for grants and mortgages.** Grants, absolute in
12 terms, are to be recorded in one set of ~~books~~ records and mortgages in another.

13 **SECTION 14. AMENDMENT.** Section 47-29-04 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **47-29-04. Recording instrument incorporating master forms.** Whenever a
16 mortgage or deed of trust is presented for recording on which is set forth matter purporting to
17 be a copy or reproduction of ~~such the~~ the master form instrument or of a part thereof of the master
18 form instrument, identified by its title as provided in section 47-29-01 and stating the date when
19 it was recorded and the book and page or document number where it was recorded, preceded
20 by the words "do not record" or "not to be recorded", and plainly separated from the matter to
21 be recorded as a part of the mortgage or deed of trust in ~~such a~~ a manner that it will not appear
22 upon a photographic reproduction of any page containing any part of the mortgage or deed of
23 trust, ~~such the~~ the matter ~~shall~~ may not be recorded by the register of deeds to whom the
24 instrument is presented for recording; ~~in such case the.~~ The register of deeds shall record only
25 the mortgage or deed of trust apart from ~~such the~~ the matter and ~~shall~~ is not be liable for so doing,
26 ~~any other provisions of law to the contrary~~ notwithstanding any other provision of law.

27 **SECTION 15. AMENDMENT.** Subsection 2 of section 52-04-12 of the North Dakota
28 Century Code is amended and reenacted as follows:

29 2. Whenever any employer, liable to pay contributions, interest, or penalty, fails to
30 pay ~~the same~~, the amount of contributions, interest, penalty, and costs that ~~may~~
31 accrue is a lien in favor of the state ~~of North Dakota~~ upon all ~~real or personal~~

1 property and all rights to property belonging to the employer. The lien attaches at
2 the time the contributions, interest, or penalty becomes due, and continues until
3 the liability is satisfied. To preserve the lien against subsequent mortgages,
4 purchasers for value and without notice of the lien, judgment creditors, and
5 lienholders, job service North Dakota shall file with the register of deeds, in the
6 county in which the property is located, a notice of the lien. The lien is effective
7 from the time of filing of the notice. The register of deeds shall preserve the notice
8 and endorse on it the day, hour, and minute when it was received. The register of
9 deeds shall index the notice of lien in an appropriate index ~~book~~ record and record
10 the notice of lien in the manner provided for recording real estate mortgages. The
11 register of deeds shall accept the notice of lien for filing without payment of a fee
12 by job service North Dakota. Upon payment of the contributions, interest, penalty,
13 and costs, job service North Dakota shall file with the register of deeds a
14 satisfaction of the lien. The register of deeds shall enter the satisfaction on the
15 notice of lien, index the satisfaction in an appropriate index ~~book~~ record, and
16 record the satisfaction in the manner provided for recording satisfactions of real
17 estate mortgages. The register of deeds shall accept the satisfaction for filing
18 without payment of a fee by job service North Dakota. The attorney general, upon
19 request of job service North Dakota, may bring suit without bond, to foreclose the
20 lien.

21 **SECTION 16. REPEAL.** Section 19-08-07 of the North Dakota Century Code is
22 repealed.