

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

HOUSE BILL NO. 1180
(Agriculture Committee)
(At the request of the Secretary of State)

AN ACT to amend and reenact subsection 1 of section 35-13-02, section 35-20-16, subsection 2 of section 35-34-04, subsection 2 of section 35-34-06, subsections 3, 5, and 6 of section 41-09-46, sections 57-38-49, 57-38-50, subsections 3, 4, and 6 of section 57-39.2-13, subsections 3, 4, 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, subsections 3, 4, and 6 of section 57-43.2-16.3, and subsections 2 and 3 of section 57-51-11 of the North Dakota Century Code, relating to the filings indexed in the central indexing system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 35-13-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. The secretary of state shall prescribe one form that ~~must~~ can be used to obtain a lien under this section and ~~gain protection under~~ also be entered in the central ~~notice~~ indexing system. A person entitled to a lien under this chapter who retains possession of the property made, altered, or repaired is not required to file any statement to perfect the lien. If the possession of the property so made, altered, or repaired is relinquished, the person shall file, within ninety days, or if the property is used for agricultural purposes within one hundred twenty days, or in the exploration for or the production of oil or gas within six months, after the materials are furnished or the labor is completed, in the office of the register of deeds of the county in which the owner or legal possessor of the property resides, a verified written statement showing:
 - a. The labor performed.
 - b. The materials furnished.
 - c. The price agreed upon for the labor performed or materials furnished, or, if no price was agreed upon, the reasonable value thereof.
 - d. The name of the person for whom the labor was performed or to whom the materials were furnished.
 - e. The social security number, if available, or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number, if available, of the person for whom the labor was performed or to whom the materials were furnished.
 - f. The name and address of the person claiming the lien.
 - g. A description of the property upon which the lien is claimed.

SECTION 2. AMENDMENT. Section 35-20-16 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

35-20-16. Procedure to obtain unpaid earned property or casualty insurance premium lien - Filing. The secretary of state shall prescribe a form that can be used to obtain a lien under this section and also be entered in the central ~~notice~~ indexing system. Any person entitled to an unpaid earned property or casualty insurance premium lien, within ninety days after termination of coverage,

shall file in the office of the register of deeds of the county or counties in which the property covered by the policy is located and with any loss payee named in the policy, a verified statement in writing stating all of the following:

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

SECTION 3. AMENDMENT. Subsection 2 of section 35-34-04 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. Upon filing of the notice of lien in accordance with this section, the notice of lien must be indexed by the secretary of state in the central ~~notice~~ indexing system and may be enforced and foreclosed in the same manner as a security agreement under the provisions of title 41.

SECTION 4. AMENDMENT. Subsection 2 of section 35-34-06 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. The information filed with a register of deeds or with the secretary of state under this section must be included in the computerized central ~~notice~~ indexing system maintained by the secretary of state under section 41-09-46 and must be accessible to the public on the same terms and conditions that apply to access other statutory lien information maintained in the computerized central ~~notice~~ indexing system.

SECTION 5. AMENDMENT. Subsections 3, 5, and 6 of section 41-09-46 of the 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

3. The secretary of state shall develop and implement a computerized central ~~notice~~ indexing system which must contain the information filed with the office of the secretary of state or with any of the offices of the registers of deeds in this state pursuant to sections 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, and 41-09-40. The system must connect each register of deeds' office to the secretary of state's office through the information services division. The system must allow access to financing statement information by equipment that conforms to requirements determined by the information services division. The system must have safeguards to allow access to information that is in the system relating to security interests or liens and to prevent unauthorized alteration or deletion of that information and to allow access to other information in the system as prescribed by the secretary of state. Within one working day of receipt of a financing statement, continuation statement, amendment, or termination statement filed pursuant to this chapter or a statement filed pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, or 35-31-02, the register of deeds or secretary of state shall record the information contained in the statement in the computerized central ~~notice~~ indexing system. A computer printout of information from the system is prima facie evidence of the existence or nonexistence of the filing of a financing statement or lien. From the computerized central ~~notice~~ indexing system, the secretary of state or a designee shall produce each month one list for crops and one list for livestock which contain the information as filed on the forms pursuant to section 41-09-40. The secretary of state shall also include the information filed for crops and livestock pursuant to sections 35-17-04, 35-30-02, and 35-31-02. The list must be in

alphabetical order according to the last name of, or in numerical order according to the social security number of, the person engaged in farming operations. The lists may be prepared in categories according to county, regions as designated by the secretary of state, or on a statewide basis. If requested, the lists must be in printed form and on microfiche. Each list must conspicuously note its effective date.

5. Upon a verbal request of any person, the secretary of state or a designee or a register of deeds shall verbally provide information contained on the list generated through the computerized central ~~notice~~ indexing system when the collateral is crops or livestock. The requesting party may request a certificate from the secretary of state or the register of deeds and the secretary of state or the register of deeds shall confirm the information given. Direct computer access is equivalent to oral confirmation and a computer printout constitutes the written confirmation of the secretary of state, if use of this method of confirmation does not cause the central ~~notice~~ indexing system to lose its federal certification. The fee for a verbal request and such a certificate must be as provided by section 41-09-42.
6. A computer printout from the computerized central ~~notice~~ indexing system constitutes the certificate of the secretary of state or the register of deeds as to whether there is on file, on the date and hour stated on the computer printout, a financing statement.

SECTION 6. AMENDMENT. Section 57-38-49 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-38-49. Preservation of lien. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the commissioner filing in the central ~~notice~~ indexing 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 commissioner shall index in the central ~~notice~~ indexing system the following data:

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.
4. The date and time the notice of lien was indexed.
5. The amount of the lien.

The notice of lien is effective 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 may be indexed in the central ~~notice~~ indexing system without changing its original priority as to property in the county where the lien was filed. The commissioner shall index any notice of lien with no payment of fees or costs to the secretary of state.

SECTION 7. AMENDMENT. Section 57-38-50 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

57-38-50. Satisfaction of lien. Upon payment of the tax, together with any accrued penalties and interest, as to which the commissioner has filed a notice of lien, the commissioner shall index a satisfaction of the lien in the central ~~notice~~ indexing system without fees or costs.

SECTION 8. AMENDMENT. Subsections 3, 4, and 6 of section 57-39.2-13 of the 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

3. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the commissioner filing in the central ~~notice~~ indexing 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 commissioner shall index in the central ~~notice~~ indexing system the following data:

- 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.
- d. The date and time the notice of lien was indexed.
- e. The amount of the lien.

The notice of lien is effective 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 may be indexed in the central ~~notice~~ indexing system without changing its original priority as to property in the county where the lien was filed.

6. Upon payment of the tax as to which the commissioner has indexed notice in the central ~~notice~~ indexing system, the commissioner shall index a satisfaction of the lien in the central ~~notice~~ indexing system.

SECTION 9. AMENDMENT. Subsections 3, 4, and 6 of section 57-40.2-16 of the 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

3. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the commissioner filing in the central ~~notice~~ indexing 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 commissioner shall index in the central ~~notice~~ indexing system the following data:
 - 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.
 - d. The date and time the notice of lien was indexed.
 - e. The amount of the lien.

The notice of lien is effective 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 may be indexed in the central ~~notice~~ indexing system without changing its original priority as to property in the county where the lien was filed.

6. Upon payment of the tax as to which the commissioner has indexed notice in the central ~~notice~~ indexing system, the commissioner shall index a satisfaction of the lien in the central ~~notice~~ indexing system.

SECTION 10. AMENDMENT. Subsections 2, 3, and 4 of section 57-40.3-07.1 of the 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

2. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the commissioner filing in the central ~~notice~~ indexing 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 commissioner shall index in the central ~~notice~~ indexing system the following data:
 - 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.

- d. The date and time the notice of lien was indexed.
- e. The amount of the lien.

The notice of lien is effective 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 may be indexed in the central ~~notice~~ indexing 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 indexing or the satisfaction of the lien.

- 4. Upon payment of the tax relative to which the commissioner has indexed notice in the central ~~notice~~ indexing system, the commissioner shall index a satisfaction of the lien in the central ~~notice~~ indexing system.

SECTION 11. AMENDMENT. Subsections 3, 4, and 6 of section 57-43.1-17.4 of the 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- 3. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the commissioner filing in the central ~~notice~~ indexing 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 commissioner shall index in the central ~~notice~~ indexing system the following data:
 - 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.
 - d. The date and time the notice of lien was indexed.
 - e. The amount of the lien.

The notice of lien is effective 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 may be indexed in the central ~~notice~~ indexing system without changing its original priority as to property in the county where the lien was filed.

- 6. Upon payment of the tax as to which the commissioner has indexed notice in the central ~~notice~~ indexing system, the commissioner shall index a satisfaction of the lien in the central ~~notice~~ indexing system.

SECTION 12. AMENDMENT. Subsections 3, 4, and 6 of section 57-43.2-16.3 of the 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- 3. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the commissioner filing in the central ~~notice~~ indexing 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 commissioner shall index in the central ~~notice~~ indexing system the following data:
 - 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.
 - d. The date and time the notice of lien was indexed.
 - e. The amount of the lien.

The notice of lien is effective 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 may be indexed in the central ~~notice~~ indexing system without changing its original priority as to property in the county where the lien was filed.

6. Upon payment of the tax as to which the commissioner has indexed notice in the central ~~notice~~ indexing system, the commissioner shall index a satisfaction of the lien in the central ~~notice~~ indexing system.

SECTION 13. AMENDMENT. Subsections 2 and 3 of section 57-51-11 of the 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

2. Any judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in this state, prior to the commissioner filing in the central ~~notice~~ indexing 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. The commissioner shall index in the central ~~notice~~ indexing system the following data:
 - 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.
 - d. The date and time the notice of lien was indexed.
 - e. The amount of the lien.

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

3. Upon the payment of tax, penalty, and interest, if applicable, or a penalty assessed under section 57-51-06, as to which the commissioner has indexed a notice in the central ~~notice~~ indexing system, the commissioner shall index a satisfaction of the lien in the central ~~notice~~ indexing system.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1180.

House Vote: Yeas 90 Nays 4 Absent 4

Senate Vote: Yeas 47 Nays 0 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,

at _____ o'clock _____ M.

Secretary of State