

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1257

Introduced by

Representative Klemin

Senator Trenbeath

1 A BILL for an Act to create and enact a new section to chapter 32-19 of the North Dakota
2 Century Code, relating to requests for notice of intention to foreclose.

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

4 **SECTION 1.** A new section to chapter 32-19 of the North Dakota Century Code is
5 created and enacted as follows:

6 **Request for notice of intention to foreclose.**

- 7 1. A person with an interest in the real estate, other than the legal owner of record,
8 may record in the office of the recorder of the county in which the real estate is
9 located a request for service of a notice of intention to foreclose a real estate
10 mortgage or contract for deed. The request for notice must be recorded as a
11 separate and distinct document. The request must state:
- 12 a. The recording data for the mortgage or contract for deed on which a notice of
13 intention to foreclose is requested;
 - 14 b. The names of the parties to the mortgage or contract for deed on which a
15 notice of intention to foreclose is requested;
 - 16 c. The name and address of the person requesting service of a notice of
17 intention to foreclose; and
 - 18 d. A legally sufficient description of the real property collateral affected by the
19 real estate mortgage or contract for deed.
- 20 2. A person that records a request under subsection 1 before the date on which a
21 notice before foreclosure required by section 32-19-20 is served is entitled to be
22 served with a notice of intention to foreclose. The person must be served by
23 first-class mail addressed to the person at the address shown on the recorded
24 request. Recording a request does not affect the title to the real property collateral

- 1 and does not impute knowledge to any person of an interest in the real property
2 collateral held or claimed by the person requesting service of a notice of intention
3 to foreclose. A person that records a request for service of a notice of intention to
4 foreclose under this section may subsequently record an amendment withdrawing
5 the request or supplementing or correcting the person's name, address, or other
6 information in the request.
- 7 3. The notice of intention to foreclose required by this section must contain:
- 8 a. A description of the real estate;
- 9 b. The date of the mortgage or contract for deed;
- 10 c. The name and address of the recordholder of the mortgage or contract for
11 deed; and
- 12 d. A statement that one or more defaults exist under the mortgage or contract
13 for deed and that if the defaults are not cured within the time permitted by law,
14 proceedings may be commenced to foreclose the mortgage or contract for
15 deed. The statement required by this subsection is not customer information
16 for the purposes of chapter 6-08.1.
- 17 4. If foreclosure of a mortgage or contract for deed on real estate is completed and a
18 person that had timely recorded a proper request for service of a notice of intention
19 to foreclose under subsection 1 was not served with a notice of intention to
20 foreclose, the person is entitled to recover five hundred dollars from the foreclosing
21 creditor. No other remedy or sanction may be imposed against the foreclosing
22 creditor on behalf of the person for failure to serve a notice of intention to
23 foreclose. Failure to serve the notice does not constitute a defense to the
24 foreclosure or invalidate the foreclosure in any way.