

Introduced by

Senator Christmann

Representatives Headland, Wrangham

1 A BILL for an Act to amend and reenact subsection 2 of section 57-28-04, and sections
2 57-28-08 and 57-28-09 of the North Dakota Century Code, relating to survival of an easement
3 or right of way on property upon acquisition by the county through tax foreclosure.

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

5 **SECTION 1. AMENDMENT.** Subsection 2 of section 57-28-04 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 2. By March first, the county auditor shall request from the recorder and the clerk of
8 the district court a certified list giving the names and addresses of all persons who
9 appear to be interested as owners, mortgagees, lienholders, or otherwise in the
10 property except a person whose only interest is in an easement or right of way
11 recorded, or a mineral interest that was served from the surface estate, before
12 filing of any unsatisfied lien or mortgage or before January first of the year following
13 the year for which the taxes were levied and to which the tax lien relates, upon
14 whom the notice of foreclosures must be served. The recorder and the clerk of the
15 district court shall provide the county auditor with the requested lists by April
16 fifteenth following the request.

17 **SECTION 2. AMENDMENT.** Section 57-28-08 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **57-28-08. Effect of failure to satisfy tax lien.** The failure of the owner, any
20 mortgagee, or other lienholder to satisfy the tax lien before the date of foreclosure shall:

21 1. Pass any interest of the owner, mortgagee, or lienholder in the property to the
22 county. The interest acquired by the county is subject ~~only~~ to the lien for
23 installments of special assessments certified to the county auditor or which may
24 become due after the service of the notice of foreclosure of tax lien. The interest

1 acquired by the county is subject to an easement or right of way recorded before
2 January first of the year following the year for which the taxes were levied and to
3 which the tax lien relates.

4 2. Foreclose all rights of satisfaction.

5 3. Waive all errors, irregularities, or omissions which do not affect the substantial
6 rights of the parties, except jurisdictional defects.

7 **SECTION 3. AMENDMENT.** Section 57-28-09 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **57-28-09. Tax deed to be issued.** After the date of foreclosure for property with an
10 unsatisfied tax lien, the county auditor shall issue a tax deed to the county or, in cases in which
11 the state engineer has made an assessment against the property under section 61-03-21.3, the
12 county auditor shall issue a tax deed to the state or, if the property was sold by another political
13 subdivision of this state within the ten years preceding the foreclosure, the county auditor shall
14 issue a tax deed to that political subdivision. The tax deed passes the property in fee to the
15 county, the state, or political subdivision, free from all encumbrances except installments of
16 special assessments certified to the county auditor or which may become due after the service
17 of the notice of foreclosure of tax lien ~~and except for~~, a homestead credit for special
18 assessments lien provided for in section 57-02-08.3, and an easement or right of way recorded
19 before January first of the year following the year for which the taxes were levied and to which
20 the tax lien relates. While the county, the state, or political subdivision holds title under a tax
21 deed, it is not liable for the payment of any installments of special assessments which become
22 due unless the board of county commissioners, the state, or political subdivision has leased or
23 contracted to sell the property. A deed issued under this section is prima facie evidence of the
24 truth and regularity of all facts and proceedings before the execution of the deed.