

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

SENATE BILL NO. 2400
(Senator Christmann)
(Representatives Headland, Wrangham)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

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

1. Pass any interest of the owner, mortgagee, or lienholder in the property to the county. The interest acquired by the county is subject ~~only~~ to the lien for installments of special assessments certified to the county auditor or which may become due after the service of the notice of foreclosure of tax lien. The interest acquired by the county is subject to an easement or right of way recorded with an effective date that precedes the date of official notice to the record titleholder which states that property taxes are delinquent and constitute a property lien.
2. Foreclose all rights of satisfaction.
3. Waive all errors, irregularities, or omissions which do not affect the substantial rights of the parties, except jurisdictional defects.

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

57-28-09. Tax deed to be issued. After the date of foreclosure for property with an unsatisfied tax lien, the county auditor shall issue a tax deed to the county or, in cases in which the state engineer has made an assessment against the property under section 61-03-21.3, the county auditor shall issue a tax deed to the state or, if the property was sold by another political subdivision of this state within the ten years preceding the foreclosure, the county auditor shall issue a tax deed to that political subdivision. The tax deed passes the property in fee to the county, the state, or political subdivision, free from all encumbrances except installments of special assessments certified to the county auditor or which may become due after the service of the notice of foreclosure of tax lien ~~and except for,~~ a

homestead credit for special assessments lien provided for in section 57-02-08.3, and an easement or right of way recorded with an effective date that precedes the date of official notice to the record titleholder which states that property taxes are delinquent and constitute a property lien. While the county, the state, or political subdivision holds title under a tax deed, it is not liable for the payment of any installments of special assessments which become due unless the board of county commissioners, the state, or political subdivision has leased or contracted to sell the property. A deed issued under this section is prima facie evidence of the truth and regularity of all facts and proceedings before the execution of the deed.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2400.

Senate Vote: Yeas 45 Nays 0 Absent 2

House Vote: Yeas 89 Nays 0 Absent 5

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,
at _____ o'clock _____ M.

Secretary of State