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## MECHANIC'S LIENS

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### CHAPTER 208.

[S. B. No. 263—Putnam.]

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#### MECHANIC'S LIENS.

AN ACT to Amend Section 6245, Chapter 79, of the Revised Codes of North Dakota for 1905, Relating to the Enforcement of Mechanic's Liens.

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.] That Section 6245 of the Revised Codes of 1905 be amended to read as follows:

§ 6245. ACTION TO ENFORCE.] Any person having a lien by virtue of this Chapter may bring action to enforce the same in the district court in the county or judicial subdivision in which the property is situated, and any number of persons claiming liens against the same property may join in the same action, and when separate actions are commenced, the court may consolidate them; *provided*, however, that before such lien holder may enforce such lien as herein provided, he shall give ten days' written notice to the record owner of property affected, of his intentions so to do, which notice shall be made by personal service, or by registered letter directed to the person's last known address. *Provided*, further, that if notice is given by registered letter, that twenty days' notice from date of registry receipt must be given before beginning action to enforce such lien. Whenever in the sale of the property subject to the lien there is a deficiency of the proceeds, judgment may be entered for the deficiency in like manner and with like effect as in actions for the foreclosure of mortgages.

Approved March 13, 1913.

## CHAPTER 209.

[S. B. No. 350—Judiciary Committee.]

## MECHANIC'S LIENS.

AN ACT Fixing Priorities of Liens, and Requiring All Persons Who May Be Entitled to a Mechanic's Lien to File a Notice of Lien and the Owner's Consent for Such Lien and Providing a Penalty for Filing Unlawful Liens.

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. NOTICE TO BE FILED.] Every person who shall be entitled to have a mechanic's lien for material under the provisions of Section 6237 of the Revised Codes for 1905 and Acts amendatory thereto, and who wishes to avail himself of the provisions of said Section, shall, in addition to the requirements of said Section, file with the clerk of the district court of the county in which such land, building or improvement is situated, a notice in writing, giving the name of the possessor of the land, a description of the property to be charged with the lien, the date of the contract, and that he will claim and thereafter file a verified account thereof, as provided by statute, and perfect a mechanic's lien against the said described building, improvements or premises according to law, in the event the same shall not have been paid. This notice shall be signed by such person so entitled to such mechanic's lien or by authorized agent. The clerk of court shall file and record such notice in a book to be entitled the "Book of Mechanic's Liens Notice" upon the receipt of a fee of twenty-five cents for filing and indexing the same. A mechanic's lien shall be void against the owner or holder of any mortgage or deed or conveyance, whose mortgage, deed or conveyance shall have been filed and recorded prior to the filing for record of the herein prescribed notice of mechanic's lien.

§ 2. NOTICE AND CONSENT OF OWNER REQUIRED.] Every person who shall be entitled to a mechanic's lien for material under the provisions of said Chapter and Acts amendatory thereto, and who wishes to avail himself of the provisions of said Section shall in addition to the requirements of said Section file with his lien a statement to the effect that the owner of the premises has consented that said line may be filed, which statement must be signed by the owner of said premises, and which statement must be made in duplicate and duplicate delivered to the owner of the premises, and both original and duplicate notice be signed on or before the time the first material is furnished; *provided*, that when the owner of the premises has consented that a

lien may be filed against the premises by a contractor it shall not be necessary for any sub-contractor or material man to obtain any further consent to the filing of liens for materials furnished for the improvement of said premises. Such notice must be substantially in the following form:

I hereby acknowledge that notice has been given me that a mechanic's lien may be filed for material furnished, under my contract with (name of contractor or person furnishing material) made on this.....day of .....191.., and I hereby consent that such lien may be filed as security for material furnished to me (character of improvement).

§ 3. PENALTY FOR FILING UNLAWFUL LIEN.] Whoever signs and files a mechanic's lien under the provisions of Section 6237 of the Revised Codes of 1905 and Acts amendatory thereto, and knowing and wilfully includes in said lien classes of said material for which the law does not permit the filing of a line, shall be guilty of a misdemeanor.

Approved March 13, 1913.