

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1175
(Finance and Taxation Committee)
(At the request of the Tax Commissioner)

AN ACT to amend and reenact sections 11-13-12, 11-18-02, and 40-63-05, subsection 4 of section 57-02-01, subsection 3 of section 57-02-08.3, and sections 57-06-19, 57-12-09, 57-14-08, and 57-55-01 of the North Dakota Century Code, relating to liens noted in auditor's certificates on deeds and other instruments for the transfer of property, recording of certain instruments related to the transfer of property affected by liens, the status of property tax exemptions within renaissance zones, the definition of centrally assessed property, duties of recorders regarding property upon which liens have been created under the homestead credit for special exemptions, references to true and full value for ad valorem assessments, duties of special assessors to notify real estate owners when reassessing land and improved property, and the definition of utility services as applied to the taxation of mobile homes; to repeal sections 57-06-17 and 57-45-03 of the North Dakota Century Code, relating to the allocation of the assessment of operative property constituting a single and continuous property and the furnishing of lists of lands added to or taken from tax rolls; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-13-12 of the North Dakota Century Code is amended and reenacted as follows:

11-13-12. Auditor's certificate of taxes and special assessments on deeds, contracts for deed, plats, replats, and patents.

1. Whenever a deed, contract for deed, or patent is presented to the county auditor for transfer, the auditor shall ascertain from the books and records in the auditor's office and in the office of the county treasurer whether there are delinquent taxes or, special assessments, or an unsatisfied lien created under section 57-02-08.3 against the land described in the instrument, or whether the land has been sold for taxes.
 - a. If there are delinquent taxes or, special assessments, or an unsatisfied lien created under section 57-02-08.3 against lands described in the instrument, the auditor shall certify the same. When the receipt of the county treasurer is produced for the delinquent and current taxes or special assessments, the auditor shall enter "Taxes and special assessments paid and transfer accepted".
 - b. If the land described has been sold for taxes to a purchaser other than the county, the auditor shall enter "Taxes paid by sale of the land described within and transfer accepted".
 - c. If the instrument presented is entitled to record without regard to taxes, the auditor shall enter "Transfer accepted".
 - d. Acceptances required under this subsection must be accompanied by the auditor's signature.
2. Whenever a deed, contract for deed, or patent is presented to the county auditor for transfer, the auditor shall ascertain from the books and records in the auditor's office whether there are current taxes or, current special assessments, or an unsatisfied lien created under section 57-02-08.3 against the land described in the instrument. If there are current taxes or, current special assessments, or an unsatisfied lien created under section

57-02-08.3 against the land described in the instrument, the auditor shall place a statement on the instrument showing the amount of any current taxes ~~or~~, current special assessments, or unsatisfied lien created under section 57-02-08.3. When the receipt of the county treasurer is produced showing payment of delinquent and current taxes and special assessments, and satisfaction of all liens created under section 57-02-08.3, if any, the auditor shall enter "Taxes and special assessments paid, all liens created under section 57-02-08.3 satisfied, if any, and transfer accepted". For purposes of this subsection:

- a. "Current special assessments" means special assessments that have been certified to the county auditor for collection but are not yet delinquent and have become due on the first day of January under section 57-20-01.
 - b. "Current taxes" means real estate taxes, as shown on the most recent tax list prepared by the county auditor, which are not yet delinquent and have become due on the first day of January under section 57-20-01.
3. Whenever a plat, replat, auditor's lot, or any instrument that changes the current property description, including condominium ownership established under chapter 47-04.1, is presented to the county auditor for transfer, the auditor shall ascertain from the books and records in the auditor's office and in the office of the county treasurer whether there are current or delinquent taxes, special assessments, or an unsatisfied lien created under section 57-02-08.3 and, after February first of each year, the tax estimate for that year against the land described in the instrument or whether the land has been sold for taxes. If there are current taxes, delinquent taxes, delinquent special assessments, installments of special assessments, an unsatisfied lien created under section 57-02-08.3 or tax estimates against lands described in the instrument, the auditor shall certify the same.

SECTION 2. AMENDMENT. Section 11-18-02 of the North Dakota Century Code is amended and reenacted as follows:

11-18-02. Recorder not to record certain instruments unless they bear auditor's certificate of transfer. Except as otherwise provided in section 11-18-03, the recorder shall refuse to receive or record any deed, contract for deed, plat, replat, patent, auditor's lot, or any other instrument that changes the current property description unless there is entered thereon a certificate of the county auditor showing that a transfer of the lands described therein has been entered and that the delinquent and current taxes and delinquent and current special assessments against the land described in such instrument have been paid, or if the land has been sold for taxes, that the delinquent taxes and special assessments have been paid by sale of the land, or that the instrument is entitled to record without regard to taxes. The recorder may not record any deed for property on which the county auditor has determined that there is an unsatisfied lien created under section 57-02-08.3.

SECTION 3. AMENDMENT. Section 40-63-05 of the North Dakota Century Code is amended and reenacted as follows:

40-63-05. Property tax exemptions.

1. A municipality may grant a partial or complete exemption from ad valorem taxation on single-family residential property, exclusive of the land on which it is situated, if the property was purchased or rehabilitated by an individual for the individual's primary place of residence as a zone project. An exemption granted under this subsection may not extend beyond five taxable years following the date of acquisition or completion of rehabilitation.
2. A municipality may grant a partial or complete exemption from ad valorem taxation on buildings, structures, fixtures, and improvements purchased or rehabilitated as a zone project for any business or investment purpose. An exemption under this subsection may

not extend beyond five taxable years following the date of purchase or completion of rehabilitation.

SECTION 4. AMENDMENT. Subsection 4 of section 57-02-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Centrally assessed property" means all property ~~except railroad operating property,~~ which is assessed by the state board of equalization ~~pursuant to~~ under chapters 57-05, 57-06, and 57-32.

SECTION 5. AMENDMENT. Subsection 3 of section 57-02-08.3 of the North Dakota Century Code is amended and reenacted as follows:

3. a. Any credit allowed under subsection 1, plus interest in the amount of nine percent per year from June first of the year for which the special assessment installment for which a credit is taken becomes payable, creates a lien in favor of the state against the property upon which the special assessment credit is allowed and remains a lien upon the property from the time the credit is allowed until the lien is fully satisfied by depositing the amount of the lien in the state general fund. If the amount of the lien exceeds the market value of the property, the state may accept the amount of the market value of the property as payment in full on the lien.
- b. (1) Except as otherwise provided in this subdivision, a transfer of title to the homestead because of sale, death, or otherwise may not be made without the lien being satisfied. When a credit under subsection 1 is allowed, the county auditor shall cause a notice of lien of record to be filed against subject property with the recorder.
- (2) The recorder may not record any deed for property on which the county auditor has determined that there is an unsatisfied lien created under this section, except for a transfer between spouses because of the death of one of them as provided in paragraph 3.
- (3) When a transfer occurs between spouses because of the death of one of them, the lien allowed by this section need not be satisfied until the property is again transferred.
- c. This lien has precedence over all other liens except general tax liens and prior special assessment liens and shall not be divested at any judicial sale. A mistake in the description of the property covered by this lien or in the name of the owner of the property does not defeat the lien if the property can be identified by the description in the special assessment list.

SECTION 6. AMENDMENT. Section 57-06-19 of the North Dakota Century Code is amended and reenacted as follows:

57-06-19. Certification of assessment. The state tax commissioner shall certify to the county auditor of each county in which the company assessed owns property:

1. ~~The the total assessed true and full valuation of the company's property ~~not constituting a single and continuous line,~~ with information as to the amount in each assessment district within ~~such~~ the county.~~
2. ~~The number of miles [kilometers] of line, valuation per mile [1.61 kilometers], and total valuation of any property constituting a single and continuous line within each taxing district in each county.~~

SECTION 7. AMENDMENT. Section 57-12-09 of the North Dakota Century Code is amended and reenacted as follows:

57-12-09. Written notice of increased assessment to real estate owner. When any assessor has increased the ~~assessed true and full~~ valuation of any lot or tract of land together with any improvements thereon by fifteen percent or more of the last assessment, written notice of the amount of increase over the last assessment and the amount of the last assessment must be delivered by ~~such~~ the assessor to the property owner or mailed to the property owner at the property owner's last-known address except that no ~~such~~ notice need be delivered or mailed if the ~~assessed true and full~~ valuation is increased by less than ~~one thousand five hundred~~ three thousand dollars. The tax commissioner shall prescribe suitable forms for this notice and ~~such~~ the notice must ~~also~~ show the true and full value as defined by law of the property, including ~~such~~ improvements, that the assessor used in making the assessment for the current year and for the year in which the last assessment was made and must also show the date prescribed by law for the meeting of the local equalization board of the assessment district in which the property is located and the meeting date of the county equalization board. ~~Such~~ The notice must be mailed or delivered to the property owner at least ten days in advance of the meeting date of the local equalization board and must be mailed or delivered at the expense of the assessment district for which the assessor is employed.

SECTION 8. AMENDMENT. Section 57-14-08 of the North Dakota Century Code is amended and reenacted as follows:

57-14-08. General reassessment of property - Allowance. A reassessment may be made as follows:

1. Upon the filing of a petition signed by not less than ten freeholders in a political subdivision, or by the governing body of that subdivision, requesting a reassessment of property in the subdivision or upon investigation by the board of county commissioners, the board of county commissioners, before October first, may order a reassessment of any class of property, or of all property, located within the subdivision or within any subdivision if, in its opinion, taxable property located within the subdivision has escaped assessment in whole or in part, or has been assessed unfairly, or has not been assessed according to law.
2. The board of county commissioners then may appoint a competent citizen of this state as a special assessor who shall make a reassessment of the property specified by the board, and who shall proceed in accordance with the provisions of law governing assessors. The special assessor may be selected by competitive bidding or a process determined by the board of county commissioners. The special assessor is entitled to reasonable compensation by the board of county commissioners for the special assessor's services, together with meals and lodging as allowed by law, and mileage expense at the rate allowed by law for each mile [1.61 kilometers] actually and necessarily traveled in the performance of that person's duties, which must be audited and allowed by the board of county commissioners and paid out of the county treasury upon warrant of the county auditor. If the reassessment was ordered by the tax commissioner, the commissioner shall appoint a competent citizen of this state as a special assessor who shall make a reassessment of the property specified by the commissioner and who shall proceed in accordance with the provisions of the law governing assessors; the special assessor is entitled to reasonable compensation by the commissioner for that person's services plus meals, lodging, and mileage expense at the rates provided by law, and the commissioner shall audit and allow the bill, and the same must be paid out of the county treasury. In either case, the compensation must be charged to the political subdivision in which the reassessment was made and must be deducted by the county treasurer from funds coming into the treasurer's hands apportionable to the subdivision. The board of county commissioners or tax commissioner who appoints a special assessor may authorize such assistants as may be necessary to aid the special assessor and shall allow reasonable compensation for each of the assistants plus meals, lodging, and mileage expense at the rates provided by law, which amounts must be audited, allowed, and paid and must be charged to the political subdivision reassessed in the manner provided for the special assessor.

3. Upon completion of the reassessment, the assessor shall certify the result to the county auditor, who forthwith shall give notice by mail to the state tax commissioner and the board of county commissioners and the governing boards of each township, city, and school district which is wholly or partially within the reassessment district, that a reassessment has been completed in the named assessment district and that a meeting for the purpose of equalizing the assessment will be held in the county courthouse on the day and at the time specified in the notice. Each board shall appoint one of its members to attend the equalization meeting and the tax commissioner shall attend or appoint a representative from the commissioner's office to attend the meeting. The group of persons comprise the special board of equalization for the reassessment. The member representing the board of county commissioners serves as chairman and the county auditor serves as secretary for the special board of equalization. The meeting must be held not later than thirty days from the date of the written notice of the meeting mailed by the county auditor. A notice of the special meeting and its purpose must be published at least once in the official newspaper of the county in which the reassessment was made not less than one week prior to the meeting. Each person, except the tax commissioner or the commissioner's appointee, serving on this special board of equalization is entitled to compensation at the rate of up to forty-five dollars per day plus mileage expense and necessary expenses for meals and lodging at the rate allowed by law for attendance at the meeting. Claims therefor must be audited and allowed by the board of county commissioners and must be paid, charged, and deducted in the same manner as the claim of the special assessor. The claims for mileage expense and necessary expenses for meals and lodging of the tax commissioner or the commissioner's appointee in attending the special equalization meeting must be audited, allowed, and paid as are other similar claims made by them.
4. When any special assessor has increased the true and full valuation of any lot or tract of land together with any improvements to that lot or tract of land by fifteen percent or more of the last assessment, written notice of the amount of increase over the last assessment and the amount of the last assessment must be delivered by the special assessor to the property owner or mailed to the property owner at the property owner's last-known address except that no notice need be delivered or mailed if the true and full valuation is increased by less than three thousand dollars. The tax commissioner shall prescribe suitable forms for this notice and the notice must also show the true and full value as defined by law of the property, including improvements, that the special assessor used in making the reassessment and must also show the date prescribed by law for the meeting of the special board of equalization of the assessment district in which the property is located. This notice must be mailed or delivered to the property owner at least ten days in advance of the meeting date of the special board of equalization and must be mailed or delivered at the expense of the assessment district for which the special assessor is employed.
5. At the meeting, the special board of equalization shall hear all grievances and complaints in regard to the reassessment and shall proceed to equalize the same. All tax lists must be corrected to comply with the action.

SECTION 9. AMENDMENT. Section 57-55-01 of the North Dakota Century Code is amended and reenacted as follows:

57-55-01. Definitions. For the purposes of this chapter, "mobile home" means a structure, either single or multisectional, which is built on a permanent chassis, ordinarily designed for human living quarters, either on a temporary or permanent basis, owned or used as a residence or place of business of the owner or occupant, which is either attached to utility services or is twenty-seven feet [8.23 meters] or more in length. For purposes of this chapter "utility services" means services purchased by the occupant from a utility company under the jurisdiction of the public service commission, a rural electric cooperative, or a political subdivision of the state.

SECTION 10. REPEAL. Sections 57-06-17 and 57-45-03 of the North Dakota Century Code are repealed.

SECTION 11. EFFECTIVE DATE. This Act is effective for all taxable years beginning after December 31, 2004.

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-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1175.

House Vote: Yeas 89 Nays 1 Absent 4

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State