

SENATE BILL NO. 2221

Introduced by

Senator Holmberg

1 A BILL for an Act to create and enact a new section to chapter 28-20 of the North Dakota
2 Century Code, relating to the effect of bankruptcy on a judgment lien; to amend and reenact
3 section 47-18-18 of the North Dakota Century Code, relating to declaration of a homestead; and
4 to repeal sections 28-20-30, 28-20-31, and 28-20-32 of the North Dakota Century Code,
5 relating to cancellation of judgment against bankrupts, service in bankruptcy proceedings, and
6 affidavits in bankruptcy proceedings.

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

8 **SECTION 1.** A new section to chapter 28-20 of the North Dakota Century Code is
9 created and enacted as follows:

10 **Effect of bankruptcy on judgment lien.**

- 11 1. If a judgment lien appears on a judgment debtor's real property and the debtor is
12 later the subject of bankruptcy proceedings in which the judgment lien is avoided or
13 set aside, the judgment lien may be terminated of record by filing a certified copy of
14 the bankruptcy court lien avoidance judgment.
- 15 2. A prebankruptcy petition judgment does not create a lien on real property that is
16 acquired by the judgment debtor after the filing of the bankruptcy petition which
17 may be established by filing a copy of the discharge.
- 18 3. A copy of the discharge may be filed to remove a judgment lien as a cloud on the
19 homestead set aside to the bankruptcy debtor.
- 20 4. Subsection 2 does not apply if the judgment creditor files a certified copy of an
21 order or a judgment of the bankruptcy court which declares the debt is
22 nondischargeable. A judgment creditor may record lis pendens stating the
23 judgment creditor has filed a nondischargability action in bankruptcy court.

1 5. As used in this section, "files" or "filing" means a filing with the clerk of district court
2 in the county in which the judgment is docketed or transcribed.

3 **SECTION 2. AMENDMENT.** Section 47-18-18 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **47-18-18. Declaration of homestead - How executed and acknowledged.** In order
6 to select a homestead the claimant ~~must~~ shall execute and acknowledge, in the same manner
7 as a grant of real property is acknowledged, a declaration of homestead, and file the declaration
8 for record.

9 A finding claim of a homestead exemption by ~~the bankruptcy court on behalf of a person~~
10 ~~discharged from debts pursuant to the Act of the Congress of the United States known as "an~~
11 ~~act to establish a uniform system of bankruptcy throughout the United States, approved July 1,~~
12 ~~1898", as amended [ch. 541, 30 Stat. 544], shall be a debtor who received a discharge is a~~
13 declaration of homestead.

14 Filing for record in the recorder's office of the county where the homestead is located a
15 certified copy of the ~~bankrupt's discharge of bankruptcy~~ constitutes notice that the property ~~has~~
16 ~~been found to be~~ is a homestead and exempt from ~~these judgments determined by the~~
17 ~~bankruptcy court to be discharged.~~

18 **SECTION 3. REPEAL.** Sections 28-20-30, 28-20-31, and 28-20-32 of the North
19 Dakota Century Code are repealed.