

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

SENATE BILL NO. 2222
(Senator Holmberg)

AN ACT to amend and reenact sections 28-24-01, 28-24-02, 28-24-03, 28-24-04, 28-24-05, 28-24-06, 28-24-07, 28-24-10, 28-24-13, and 28-24-14 of the North Dakota Century Code, relating to redemption of property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 28-24-01 of the North Dakota Century Code is amended and reenacted as follows:

28-24-01. Who may redeem - Redemptioner. ~~Property~~ A property sold subject to redemption, ~~or any part sold separately,~~ may be redeemed ~~in the manner hereinafter as provided; in this chapter~~ by the following ~~persons~~ person or their successors in interest:

1. The judgment debtor, ~~or the judgment debtor's successors in interest; and~~ or
2. A creditor having a lien ~~by judgment, mortgage, or otherwise~~ on the property ~~sold,~~ or on some ~~share or part thereof of the property,~~ subsequent to that on which the property was sold, and is designated in this chapter as a redemptioner.

~~The persons described in subsection 2 are in this chapter termed redemptioners.~~

SECTION 2. AMENDMENT. Section 28-24-02 of the North Dakota Century Code is amended and reenacted as follows:

28-24-02. Payment on and period of redemption. The judgment debtor or redemptioner may redeem the property from the purchaser ~~by during the redemption period by~~ paying the purchaser amount of the ~~purchase bid and any additional lien claimed under section 28-24-07~~ with interest at the rate provided in the original instrument on which the judgment is based, ~~plus the amount of any insurance premiums, assessments, taxes, utilities, or other items paid by the purchaser in protection of the title or the premises, which the purchaser may have paid after the purchase, and interest at the same rate on that amount, and, if.~~ If the purchaser is also a creditor having a lien superior to that of the redemptioner other than the judgment under which the purchase was made, the amount of that prior lien with interest must be paid to effect a redemption. The period of redemption is six months for a redemption under subsection 1 of section 32-19-104 and for all other redemptions the period of redemption is one year. The period of redemption begins at the time of the filing of the summons and complaint in the office of the clerk of district court or at the time of the first publication of the notice before foreclosure by advertisement, unless it is determined by the court that the mortgagee is not entitled to judgment. The final date for redemption may not be earlier than sixty days after the sheriff's sale. Except as provided in section 32-19-18 for redemption from foreclosure sales, the redemption period is one year from the date of the sheriff's sale.

SECTION 3. AMENDMENT. Section 28-24-03 of the North Dakota Century Code is amended and reenacted as follows:

28-24-03. Redemption by redemptioner - Notice to be recorded. A redemptioner ~~making redemption~~ shall give a written notice of redemption to the sheriff and at the same time shall record a duplicate in the office of the county recorder of the county where the land is situated. The redemptioner ~~shall~~ must state in the notice of redemption an amount that the redemptioner will credit on the claim ~~against the debtor~~ on making redemption. If the amount stated in the notice is less than the amount of the lien under which the redemptioner makes redemption, a later redemptioner having a subordinate

~~lien~~ may redeem from the earlier redemptioner by paying the amount paid by that redemptioner, ~~together with the amount of any taxes, assessments, utilities, or other items paid by that redemptioner in protection of the title or premises,~~ and interest at the same rate as provided in the original instrument on which the judgment is based, together with the amount stated by the first redemptioner in the notice. The amount stated by a redemptioner in the notice must be treated as a payment of that amount on the indebtedness; and the redemptioner ~~shall~~ immediately shall endorse that on the evidence of the claim. If the claim is a judgment, the redemptioner shall cause a statement of that amount to be entered by the clerk of court in the judgment docket. That credit is ~~deemed~~ conditional ~~only~~ and must be canceled on proof of a further redemption by the debtor or by a redemptioner having a prior right, without payment of the amount credited.

SECTION 4. AMENDMENT. Section 28-24-04 of the North Dakota Century Code is amended and reenacted as follows:

28-24-04. Successive redemptions - Time. If property is redeemed by a redemptioner, another redemptioner, even after the expiration of ~~one year from the day of sale~~ redemption period, may redeem from the last redemption if the redemption is made within sixty days after ~~such last~~ recording of the notice of redemption. This sixty-day limitation does not apply to any redemption made within ~~one year after the sale by whomsoever or from whomsoever such redemption is made~~ period, but all persons entitled to redeem in all cases must have the entire statutory redemption period of ~~one year from the day of sale~~ in which to redeem. The property, as often as a redemptioner is so disposed, may be redeemed again from any previous redemptioner within sixty days after the recording of the last notice of redemption.

SECTION 5. AMENDMENT. Section 28-24-05 of the North Dakota Century Code is amended and reenacted as follows:

28-24-05. Redemptioner shall produce production of requisite papers. A redemptioner shall produce to the officer or person from whom the redemptioner seeks to redeem and shall serve with the redemptioner's notice to the sheriff:

1. A copy of the docket of the judgment under which the redemptioner claims the right to redeem, certified by the clerk of the district court of the county where the judgment is docketed, or, if the redemptioner redeems upon a mortgage or other lien, a note of the record ~~thereof~~ of the mortgage or lien certified by the county recorder;
2. A copy of the assignment necessary to establish the redemptioner's claim, verified by the affidavit of the redemptioner or of a subscribing witness ~~thereto~~ to the assignment; and
3. An affidavit by the redemptioner or the redemptioner's agent showing the amount then actually due on the lien.

SECTION 6. AMENDMENT. Section 28-24-06 of the North Dakota Century Code is amended and reenacted as follows:

28-24-06. Redemption by debtor - Recording certificate - Rights of redemption. The debtor may not be required to pay more to effect a redemption than the purchase price, with interest from the day of sale, at the same rate as provided in the original instrument on which the judgment is based, ~~and all taxes and other items paid under sections 28-24-02 and 28-24-07 with interest on those items from the date of payment, at the same rate as provided in the original instrument on which the judgment is based,~~ despite the fact that the debtor seeks to redeem from a redemptioner. If the debtor redeems, the effect of the sale is terminated and the debtor is restored to the estate. On a redemption by the debtor, the person to whom the payment is made shall execute and deliver to the debtor a certificate of redemption acknowledged or proved before an officer authorized to take acknowledgments of conveyances of real property. The certificate must be recorded in the office of the county recorder of the county in which the property is situated and the county recorder shall note that record in the margin of the record of the certificate of sale. If the debtor redeems from a redemptioner who, to effect redemption, has paid liens on the property other than for taxes or assessments, the

redemption is subrogated to all the rights of the former holders of those liens, and the recording of written notice of that redemption is notice of the rights of that redemption in and to all the liens the redemption holds as equitable assignee as fully as if formal written assignments had been recorded.

SECTION 7. AMENDMENT. Section 28-24-07 of the North Dakota Century Code is amended and reenacted as follows:

28-24-07. Protection of premises purchaser during period of redemption. If a sale of real estate is made under execution or upon mortgage foreclosure, the purchaser at the sale or the purchaser's ~~successors~~ successor in interest, in case of the expiration during the period of redemption of any insurance policy on the premises sold, may pay the premium necessary to procure a renewal of that policy, and, if any taxes or assessments become delinquent, or if any installment of interest or principal on any prior or superior mortgage becomes due during that period of redemption, and any utilities or other items to be paid by the purchaser in protection of the title or premises, the purchaser may pay those charges. The amount ~~so~~ paid, with interest at the same rate as provided in the original instrument on which the judgment is based, is part of the sum necessary to be paid for the redemption from the sale. The payments ~~may~~ must be proved by a written notice of additional lien verified by affidavit of the purchaser, ~~or~~ the purchaser's agent or attorney, stating the items and describing the premises. That notice ~~may~~ must be recorded in the office of the county recorder and a copy of the notice served on the sheriff of the county. After that service the sheriff, ~~before permitting a redemption,~~ shall collect the full amount specified in the notice in addition to the amount which would otherwise be due in redemption from the sale, and shall pay over that amount to the purchaser at the sale, or the purchaser's assignee. If the notice is not served on the sheriff and recorded within five days after payment, redemption may be made without paying those amounts.

SECTION 8. AMENDMENT. Section 28-24-10 of the North Dakota Century Code is amended and reenacted as follows:

28-24-10. Notice of additional lien. If any taxes, assessments, insurance premiums, utility charges, or other items are paid by the purchaser or by a redemptioner, or if the purchaser or redemptioner has or ~~acquires~~ acquired any lien other than that on which the sale or redemption was made, written notice of that item must be given to the sheriff and if that notice is not given to the sheriff, the property may be redeemed without paying ~~that tax, assessment,~~ the amount shown in the notice of additional lien, utility, or other item.

SECTION 9. AMENDMENT. Section 28-24-13 of the North Dakota Century Code is amended and reenacted as follows:

28-24-13. Sheriff shall execute deed. If the property is not redeemed according to law, ~~the purchaser or the purchaser's assignee or the redemptioner, as the case may be, is entitled to a sheriff's deed of the property, and~~ the sheriff shall execute and deliver such a sheriff's deed for the property immediately after the time for redemption in each case has expired to the purchaser, purchaser's assignee, or the redemptioner.

SECTION 10. AMENDMENT. Section 28-24-14 of the North Dakota Century Code is amended and reenacted as follows:

28-24-14. Effect of sheriff's deed - Contents. The sheriff's deed is sufficient evidence of the legality of the sale and the proceedings ~~therein~~ contained in the certificate, until the contrary is proved, and vests in the grantee ~~as good and perfect a title in~~ to the premises ~~therein mentioned and described as was vested in the debtor at or after the time when such~~ the real property became liable to the satisfaction of the judgment. ~~Such~~ The deed must recite the execution ~~or executions,~~ or the substance ~~thereof of the execution,~~ and the names of the parties, the amount and date of rendition of the judgment by ~~virtue whereof~~ which the ~~said~~ real property was sold, and must be executed, ~~acknowledged, or proved and recorded as may be provided by law to perfect the~~ a conveyance of real property ~~in other cases.~~

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 Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2222.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 89 Nays 1 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,
at _____ o'clock _____ M.

Secretary of State