

**Sixty-second Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 4, 2011**

HOUSE BILL NO. 1328  
(Representatives Steiner, Kingsbury, Owens)  
(Senators Andrist, Sitte, Dotzenrod)

AN ACT to amend and reenact sections 35-17-04, 35-29-05, 35-30-02, 35-31-02, and 47-16-03 of the North Dakota Century Code, relating to the procedure for filing an agister's lien, the fees for filing federal tax liens, the procedure to file a processor's lien, the procedure to file an agricultural supplier's lien in the office of the secretary of state or a county recorder, and the procedure to file a landlord's lien in the office of a county recorder.

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

**SECTION 1. AMENDMENT.** Section 35-17-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-17-04. Procedure to obtain lien - Statement filed - Contents - Waiver.**

Any person entitled to an agister's lien, within ninety days after taking possession of the animal, may file in the office of the recorder in any county in this state or in the office of the secretary of state, a verified statement signed by the filer containing the following information:

1. The number of and a description of the animals subject to the lien and the legal description as to the location of the animals.
2. The name and address of the person for whom the animals are kept.
3. The name and address of the lienholder.
4. The price agreed upon for keeping the animals and, if no price was agreed upon, the reasonable value of the services.
5. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the animals are kept.

The secretary of state shall prescribe one form that can be used to obtain a lien under this section or gain protection under the central notice system, or both. If the statement is not filed within ninety days as required by this section, the person entitled to the lien under section 35-17-03 waives the lien.

**SECTION 2. AMENDMENT.** Section 35-29-05 of the North Dakota Century Code is amended and reenacted as follows:

**35-29-05. Fees.**

1. The fee for filing and indexing each notice of lien is:
  - a. For a lien on real estate, five~~ten~~ dollars, plus two~~three~~ dollars for the second and each succeeding page.
  - b. For a lien on tangible and intangible personal property, ten dollars, plus five dollars to record if filed with a county recorder.
  - c. For all other notices, including a certificate of discharge, nonattachment, or subordination, ten dollars, plus ten dollars if filed toward a lien on real estate with a county recorder.

- d. For a nonstandard statement when presented for filing, an additional fee of five dollars plus one dollar per page, and if filed on a real estate lien with a county recorder, an additional ten dollars plus three dollars for the second and each succeeding page.
  - e. ~~For all other notices, including a certificate of release or nonattachment, five dollars,~~ which must be paid at the time the lien is filed.
2. The officer may not file or record an instrument under this chapter unless the person offering the instrument for filing or recording has first paid the requisite filing or recording fee.

**SECTION 3. AMENDMENT.** Section 35-30-02 of the North Dakota Century Code is amended and reenacted as follows:

**35-30-02. Procedure to obtain lien.**

1. To obtain an agricultural processor's lien, the person entitled to the lien, within ninety days after the processing is completed, shall file a ~~verified statement~~ signed by the filer in the office of the recorder in any county in this state or in the office of the secretary of state. The statement must contain the following information:
  - a. The name and address of the person for whom the processing was done.
  - b. The name and address of the processor.
  - c. A description of the crops or agricultural products and their amount, if known, subject to the lien together with a reasonable description, including the county as to the location where the crops or agricultural products were grown and the year the crop is to be harvested or was harvested.
  - d. The price agreed upon for processing, or if no price was agreed upon, the reasonable value of the processing.
  - e. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the processing was done.
  - f. A description of the processing services and the first date the services were furnished.
2. The secretary of state and the office of the recorder in any county in this state with which a ~~verified statement~~ signed by the filer under subsection 1 is submitted for filing shall reject the statement unless proof of mailing of notification of the lien to the debtor's last-known address by registered or certified mail with return receipt requested is filed with the statement.
3. The secretary of state shall prescribe one form that can be used to obtain a lien under this section or gain protection under the central notice system, or both. Before a processor's lien is filed, a billing statement for the services performed must include notice to the agricultural producer that if the amount due to the agricultural processor is not satisfied a lien may be filed.

**SECTION 4. AMENDMENT.** Section 35-31-02 of the North Dakota Century Code is amended and reenacted as follows:

**35-31-02. Procedure to obtain lien.**

To obtain an agricultural supplier's lien, except an agricultural supplier's lien for furnishing petroleum products, the person entitled to the lien, within one hundred twenty days after the supplies are furnished or the services performed, shall file a ~~verified statement~~ signed by the filer in the office of the recorder of any county in this state or in the office of the secretary of state. To obtain an agricultural supplier's lien for furnishing and delivering petroleum products, the person entitled to the lien, within one hundred fifty days after the petroleum products are furnished or delivered, shall file a ~~verified statement~~ signed by

the filer in the office of the recorder of any county in the state or in the office of the secretary of state. The statement must contain the following information:

1. The name and address of the person to whom the supplies were furnished.
2. The name and address of the supplier.
3. A description of the crops, agricultural products, or livestock and their amount or number, if known, subject to the lien together with a reasonable description, including the county as to the location of the crops, agricultural products, or livestock and the year the crop is to be harvested or was harvested.
4. A description and value of the supplies and the first date furnished.
5. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person to whom the supplies were furnished.

The secretary of state shall prescribe one form that can be used to obtain a lien under this section or gain protection under the central notice system, or both. Before a supplier's lien is filed, a billing statement for the supplies furnished must include notice to the agricultural producer that if the amount due to the agricultural supplier is not satisfied a lien may be filed.

**SECTION 5. AMENDMENT.** Section 47-16-03 of the North Dakota Century Code is amended and reenacted as follows:

**47-16-03. Filing farm lease containing reservation of title to crop - Waiver of rights on failure to file.**

1. When a lease of a farm contains a provision reserving title in the lessor to any part of the crops in excess of the rental share of the lessor until the stated conditions of the lease have been complied with by the lessee, such lease must be filed in the office of the recorder in the county in which the land described therein is located prior to July first in the year in which the crops are raised to render such reservation of title effective as to subsequent purchasers or encumbrancers of any part of the grain over and above the lessor's rental share produced upon the land.
2. The failure to file such lease or contract in accordance with this section constitutes a waiver by the lessor of all rights reserved by that person over and above that person's rental share in such crops as against any subsequent purchaser or encumbrancer of the lessee.
3. The secretary of state may prescribe a form which includes the pertinent information from the lease that may be filed in the central notice system. A lessor may file this form with the recorder and obtain the same rights under this section as if the lessor had filed the lease.
4. The fee required to file and index this notice of lease is:
  - a. As provided in section 11-18-05 if the notice of lease is only a real estate recording;
  - b. As provided in section 41-09-06 if the notice of lease is filed only to gain protection under the central notice system; or
  - c. As provided in section 11-18-05, if the notice of lease is both a real estate recording and filed to gain protection under the central notice system. An additional fee may not be charged for the same statement to gain protection under the central notice system.

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Speaker of the House

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President of the Senate

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Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1328.

House Vote:    Yeas 84            Nays 8            Absent 2

Senate Vote:    Yeas 46            Nays 0            Absent 1

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2011.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2011.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2011,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State