

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

SENATE BILL NO. 2249
(Senator Olafson)
(Representative Klemin)

AN ACT to amend and reenact sections 35-20-16, 35-34-04, and 41-09-73, subsection 2 of section 41-09-87, subsection 5 of section 57-34-10, subsection 4 of section 57-36-09.5, section 57-38-49, subsection 4 of section 57-39.2-13, subsection 4 of section 57-40.2-16, subsection 3 of section 57-40.3-07.1, subsection 4 of section 57-43.1-17.4, subsection 4 of section 57-43.2-16.3, subsection 4 of section 57-43.3-22, subsection 2 of section 57-51-11, and subsection 4 of section 57-63-10 of the North Dakota Century Code, relating to the contents of a child support lien filed with the secretary of state, the contents of a vessel lien for the collection of child support, the contents of a financing statement, the filing of a financing statement, a tax lien on a telecommunications carrier, a tax lien for the collection of taxes on tobacco products, a tax lien for the collection of income taxes, a tax lien for the collection of sales tax, a tax lien for the collection of use tax, a tax lien for the collection of motor vehicle excise tax, a tax lien for the collection of motor vehicle fuel tax, a tax lien for the collection of special fuels and importer for use tax; and to declare an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 35-20-16 of the North Dakota Century Code is amended and reenacted as follows:

35-20-16. Procedure to obtain unpaid earned property or casualty insurance premium lien - Filing.

The secretary of state shall prescribe a form that can be used to obtain a lien under this section and also be entered in the central indexing system. Any person entitled to an unpaid earned property or casualty insurance premium lien, within ninety days after termination of coverage, shall file in the office of the recorder of the county or counties in which the property covered by the policy is located and with any loss payee named in the policy, a verified statement in writing stating all of the following:

1. The name and address of the policyholder.
2. The name and address of the lienholder.
3. ~~The social security number of the debtor, or in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of that person.~~
4. The nature and quantity of insurance coverage provided.
- ~~5.4.~~ The amount of unpaid earned premium.
- ~~6.5.~~ A description of the property covered by the insurance and subject to the lien.
- ~~7.6.~~ That a lien is claimed upon the property described.

SECTION 2. AMENDMENT. Section 35-34-04 of the North Dakota Century Code is amended and reenacted as follows:

35-34-04. Vessel lien.

1. In the case of a vessel, the child support agency may establish a lien by filing a notice of lien with the secretary of state if the value of the vessel is estimated to be at least twice the cost of

establishing the lien. The notice must contain a description of the make, model designation, and serial number of the vessel, including its identification or registration number, if any, and the name, ~~social security number~~, and last-known address of the obligor. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.

2. Upon filing of the notice of lien in accordance with this section, the notice of lien must be indexed by the secretary of state in the central indexing system and may be enforced and foreclosed in the same manner as a security agreement under the provisions of title 41.
3. The secretary of state shall remove and destroy the lien notification statement in the same manner as provided for other liens in section 11-18-14 for the recorder.
4. A lien under this section is perfected when notice of the lien is filed with the secretary of state.
5. The child support agency may file an amendment to correct the ~~social security number of the obligor~~, to correct the spelling of the obligor's name, or to correct or change the address of the obligor.

SECTION 3. AMENDMENT. Section 41-09-73 of the North Dakota Century Code is amended and reenacted as follows:

41-09-73. (9-502) Contents of financing statement - Record of mortgage as financing statement - Time of filing financing statement - Amending financing statement.

1. Subject to subsection 2, a financing statement is sufficient only if the statement:
 - a. Provides the name of the debtor;
 - b. Provides the name of the secured party or a representative of the secured party;
 - c. Indicates the collateral covered by the financing statement;
 - d. If it is a financing statement that is to be filed to gain protection under the central notice system, includes a reasonable description of the property, including the county in which the property is located, and any other additional information required by the Food Security Act of 1985 [Pub. L. 99-198; Stat. 1535; 7 U.S.C. 1631], as prescribed by the secretary of state, and, to be sufficient a financing statement must include ~~the social security number or federal tax identification number of the debtor~~; the name and address of the secured party; and unless electronically filed, the signatures of the debtor and secured parties;
 - e. ~~Provides the social security number or federal tax identification number of the debtor;~~
 - f. Provides a mailing address for the secured party; and
 - ~~g.f.~~ Provides a mailing address for the debtor.
2. Except as otherwise provided in subsection 2 of section 41-09-72, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection 1 and also:
 - a. Indicate that it covers this type of collateral;
 - b. Indicate that it is to be filed for record in the real property records;
 - c. Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and

- d. If the debtor does not have an interest of record in the real property, provide the name of a record owner.
3. A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:
 - a. The record indicates the goods or accounts that it covers;
 - b. The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
 - c. The record satisfies the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and
 - d. The record is duly recorded.
4. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.
5. A financing statement filed to gain protection under the central notice system must be amended within three months of a material change to reflect that change. The amended financing statement must be signed by both the debtor and secured party and filed in the same manner as the original financing statement. An electronically filed amendment does not need to be signed.
6. Any social security number or federal tax identification number submitted ~~under subdivision e of subsection 1 on a financing statement filed pursuant to this chapter as a central indexing filing prior to January 1, 2012,~~ is an exempt record as defined by subsection 5 of section 44-04-17.1 and, ~~for documents submitted after January 1, 2002,~~ may not be disclosed as part of any search under section 41-09-94 or 41-09-96 or as part of a copy of the record. After December 31, 2011, a debtor's social security number or federal tax identification number may not be filed only pursuant to this chapter in the filing office with the central indexing system and may not be recorded in the real property records.

SECTION 4. AMENDMENT. Subsection 2 of section 41-09-87 of the North Dakota Century Code is amended and reenacted as follows:

2. Filing does not occur with respect to a record that a filing office refuses to accept because:
 - a. The record is not communicated by a method or medium of communication authorized by the filing office;
 - b. An amount equal to or greater than the applicable filing fee is not tendered;
 - c. The filing office is unable to index the record because:
 - (1) In the case of an initial financing statement, the record does not provide a name for the debtor;
 - (2) In the case of an amendment or correction statement, the record:
 - (a) Does not identify the initial financing statement as required by section 41-09-83 or 41-09-89, as applicable; or
 - (b) Identifies an initial financing statement whose effectiveness has lapsed under section 41-09-86;

- (3) In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or
- (4) In the case of a record filed or recorded in the filing office described in subdivision a of subsection 1 of section 41-09-72, the record does not provide a sufficient description of the real property to which it relates;
- d. In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;
- e. In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:
 - (1) Provide a mailing address for the debtor;
 - (2) Indicate whether the debtor is an individual or an organization; or
 - (3) If the financing statement indicates that the debtor is an organization, provide:
 - (a) A type of organization for the debtor;
 - (b) A jurisdiction of organization for the debtor; or
 - (c) An organizational identification number for the debtor or indicate that the debtor has none;
- f. In the case of an assignment reflected in an initial financing statement under subsection 1 of section 41-09-85 or an amendment filed under subsection 2 of section 41-09-85, the record does not provide a name and mailing address for the assignee;
- g. In the case of a continuation statement, the record is not filed within the six-month period prescribed by subsection 4 of section 41-09-86; ~~or~~
- ~~h. The record does not contain the social security number or the federal tax identification number of the debtor.~~

SECTION 5. AMENDMENT. Subsection 5 of section 57-34-10 of the North Dakota Century Code is amended and reenacted as follows:

- 5. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the tax commissioner filing in the central indexing system maintained by the secretary of state a notice of the lien provided for in subsection 4, takes free of, or has priority over, the lien. The tax commissioner shall index in the central indexing system the following data:
 - a. The name of the taxpayer.
 - ~~b. The tax identification number or social security number of the taxpayer.~~
 - e. The name "State of North Dakota" as claimant.
 - ~~d.c.~~ The date and time the notice of lien was indexed.
 - ~~e.d.~~ The amount of the lien.

The notice of lien is effective as of eight a.m. the next day following the indexing of the notice. The tax commissioner shall index any notice of lien with no payment of fees or costs to the secretary of state.

SECTION 6. AMENDMENT. Subsection 4 of section 57-36-09.5 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
 - a. The name of the taxpayer.
 - b. ~~The tax identification number or social security number of the taxpayer.~~
 - e. The name "State of North Dakota" as claimant.
 - ~~d.c.~~ The date and time the notice of lien was indexed.
 - e.d. The amount of the lien.

The notice of lien is effective as of eight a.m. next day following the indexing of the notice. Any notice of lien filed by the commissioner with a recorder may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

SECTION 7. AMENDMENT. Section 57-38-49 of the North Dakota Century Code is amended and reenacted as follows:

57-38-49. Preservation of lien.

Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the commissioner filing in the central indexing system maintained by the secretary of state a notice of the lien provided for in section 57-38-48, takes free of, or has priority over, the lien. The commissioner shall index in the central indexing system the following data:

1. The name of the taxpayer.
2. ~~The tax identification number or social security number of the taxpayer.~~
3. The name "State of North Dakota" as claimant.
- 4.3. The date and time the notice of lien was indexed.
- 5.4. The amount of the lien.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner with a recorder may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed. The commissioner shall index any notice of lien with no payment of fees or costs to the secretary of state.

SECTION 8. AMENDMENT. Subsection 4 of section 57-39.2-13 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
 - a. The name of the taxpayer.
 - b. ~~The tax identification number or social security number of the taxpayer.~~
 - e. The name "State of North Dakota" as claimant.

~~d.c.~~ The date and time the notice of lien was indexed.

~~e.d.~~ The amount of the lien.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner with a recorder may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

SECTION 9. AMENDMENT. Subsection 4 of section 57-40.2-16 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:

a. The name of the taxpayer.

~~b. The tax identification number or social security number of the taxpayer.~~

~~e.~~ The name "State of North Dakota" as claimant.

~~d.c.~~ The date and time the notice of lien was indexed.

~~e.d.~~ The amount of the lien.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner with a recorder may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

SECTION 10. AMENDMENT. Subsection 3 of section 57-40.3-07.1 of the North Dakota Century Code is amended and reenacted as follows:

3. The commissioner shall index in the central indexing system the following data:

a. The name of the taxpayer.

~~b. The tax identification number or social security number of the taxpayer.~~

~~e.~~ The name "State of North Dakota" as claimant.

~~d.c.~~ The date and time the notice of lien was indexed.

~~e.d.~~ The amount of the lien.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner with a recorder may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed. The commissioner is exempt from the payment of fees otherwise provided by law for the indexing or the satisfaction of the lien.

SECTION 11. AMENDMENT. Subsection 4 of section 57-43.1-17.4 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:

a. The name of the taxpayer.

~~b. The tax identification number or social security number of the taxpayer.~~

~~e.~~ The name "State of North Dakota" as claimant.

~~d.c.~~ The date and time the notice of lien was indexed.

~~e.d.~~ The amount of the lien.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner with a recorder may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

SECTION 12. AMENDMENT. Subsection 4 of section 57-43.2-16.3 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:

a. The name of the taxpayer.

~~b. The tax identification number or social security number of the taxpayer.~~

~~e.~~ The name "State of North Dakota" as claimant.

~~d.c.~~ The date and time the notice of lien was indexed.

~~e.d.~~ The amount of the lien.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner with a recorder may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

SECTION 13. AMENDMENT. Subsection 4 of section 57-43.3-22 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:

a. The name of the taxpayer.

~~b. The tax identification number or social security number of the taxpayer.~~

~~e.~~ The name "State of North Dakota" as claimant.

~~d.c.~~ The date and time the notice of lien was indexed.

~~e.d.~~ The amount of the lien.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner with a recorder may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

SECTION 14. AMENDMENT. Subsection 2 of section 57-51-11 of the North Dakota Century Code is amended and reenacted as follows:

2. Any judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in this state, prior to the commissioner filing in the central indexing system maintained by the secretary of state, a notice of the lien provided for in this section, takes free of, or has priority over, the lien. The commissioner shall index in the central indexing system the following data:

a. The name of the taxpayer.

- b. ~~The tax identification number or social security number of the taxpayer.~~
- e. The name "State of North Dakota" as claimant.
- ~~d.c.~~ The date and time the notice of lien was indexed.
- ~~e.d.~~ The amount of the lien.

The notice of lien is effective as of eight a.m. of the first day following the indexing of the notice. A notice of lien filed by the commissioner with a recorder before August 1, 1997, may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

SECTION 15. AMENDMENT. Subsection 4 of section 57-63-10 of the North Dakota Century Code is amended and reenacted as follows:

- 4. The commissioner shall index in the central indexing system the following data:
 - a. The name of the facility.
 - b. ~~The tax identification number of the facility or social security number of the owner, officer, or manager of the facility.~~
 - e. The name "State of North Dakota" as claimant.
 - ~~d.c.~~ The date and time the notice of lien was indexed.
 - ~~e.d.~~ The amount of the lien.

The notice of lien is effective as of eight a.m. the next day following the indexing of the notice. A notice of lien filed by the commissioner with the recorder may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

SECTION 16. EFFECTIVE DATE. This Act becomes effective January 1, 2012.

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 Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2249.

Senate Vote: Yeas 45 Nays 0 Absent 2

House Vote: Yeas 93 Nays 0 Absent 1

Secretary of the Senate

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.

Secretary of State