

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2166

Introduced by

Senator Holmberg

Representative Delmore

1 A BILL for an Act to amend and reenact sections 28-05-09 and 35-27-25 of the North Dakota
2 Century Code, relating to actions for construction liens and miner's liens; and to provide for
3 application.

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

5 **SECTION 1. AMENDMENT.** Section 28-05-09 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **28-05-09. When lis pendens not required.**

8 A notice of the pendency of an action in a district court is not required if the action is for the
9 foreclosure of a mortgage ~~or for the enforcement of a construction lien or miner's lien.~~

10 **SECTION 2. AMENDMENT.** Section 35-27-25 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **35-27-25. Requiring suit to be commenced - Demand - Limitations of action.**

13 Upon written demand by or on behalf of the owner, that person's agent, or contractor,
14 served on the person holding the lien which has been delivered to the lienor and filed with the
15 county recorder, suit must be commenced and filed with the clerk of court and a lis pendens
16 recorded within thirty days thereafter after the date of delivery of the demand or the lien is
17 forfeited. This thirty-day requirement applies regardless of the method of delivery and additional
18 time may not be allowed based on the method of delivery. The demand must contain a provision
19 informing/inform the person holding the lien/lienor that if suit is not commenced and a lis pendens
20 recorded within the thirty days required under this section, the person holding the lien forfeits
21 the lien is forfeited. A lien is not valid ~~or, effective as such, nor may be enforced in any~~
22 ~~ease/enforceable,~~ unless the holder of the lien asserts the same by complaint filed with the clerk
23 of court/lienor commences an action and records with the county recorder a lis pendens within
24 three years after the date of recording of the lien. If a summons and complaint asserting the

1 ~~validity of the lien is not filed in the office of the clerk of court of the county in which the lien is~~
2 ~~pendens is not~~ recorded within the limitations provided by this section, the lien is deemed
3 satisfied and the clerk of court, upon request of any interested person, shall certify to the
4 recorder that no summons and complaint has been filed and the lien is deemed satisfied under
5 this section, who then shall record the verified certificate.

6 **SECTION 3. APPLICATION.** Section 2 of this Act applies to construction liens of record on
7 the effective date of this Act. Section 2 of this Act does not extend the time for enforcement of
8 any lien of record or any right to record a lien.