

SENATE BILL NO. 2170

Introduced by

Senators Holmberg, Hogue, Triplett

Representative Delmore

1 A BILL for an Act to amend and reenact section 47-19-41 of the North Dakota Century Code,
2 relating to the effect of recording.

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

4 **SECTION 1. AMENDMENT.** Section 47-19-41 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **47-19-41. Effect of not recording - Priority of first record - Constructive notice -**
7 **Limitation and validation.**

8 ~~Every~~A conveyance of real estate not recorded shall be ~~is~~ void as against any subsequent
9 purchaser in good faith, and for a valuable consideration, of the same real estate, or any part or
10 ~~portion thereof of the same real estate~~, whose conveyance, whether in the form of a warranty
11 deed, or deed of bargain and sale, or deed of quitclaim and release, of the form in common use
12 or otherwise, first is deposited with the proper officer for record and subsequently recorded,
13 ~~whether entitled to record or not~~, or as against an attachment levied ~~thereon~~ on the property or
14 any judgment lawfully obtained, at the suit of any party, against the person in whose name the
15 title to such land appears owner of record, prior to ~~before~~ the recording of such the conveyance.
16 The fact that such the first deposited and recorded conveyance of such subsequent purchaser
17 for a valuable consideration is in the form, or contains the terms, of a deed of a quitclaim and
18 release aforesaid, shall ~~do~~ does not affect the question of good faith of the subsequent
19 purchaser, or be of itself notice to the subsequent purchaser of any unrecorded conveyance of
20 the same real estate or any part thereof of the same real estate. This section shall be ~~legalis~~
21 notice to all who claim under unrecorded instruments that prior recording of later instruments
22 ~~not entitled to be recorded~~ may nullify their right, title interest, to or lien, ~~to, in, or upon~~ on
23 affected real property. ~~No~~An action affecting any right, title to, interest, or lien, ~~to, in, or upon~~ on
24 real property shall ~~may not~~ be commenced or ~~maintained~~ or defense or counterclaim asserted or

Sixty-third
Legislative Assembly

- 1 ~~recognized in court~~ on the ground that a recorded instrument was not entitled to be recorded.
- 2 The record of all instruments whether or not ~~the same were~~ entitled to be recorded shall ~~be is~~
- 3 deemed valid and sufficient as the legal record ~~thereof of the instruments~~. The holder of an
- 4 unrecorded conveyance may not question the good faith of the first recording party unless it can
- 5 be established that the first recording party had actual knowledge of the existence of the
- 6 unrecorded conveyance.