

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

Sixty-third  
Legislative Assembly

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