

March 21, 2013

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2128

Page 1, line 2, replace the first "section" with "sections"

Page 1, line 2, after "24-01-25" insert ", 35-22-16, 35-22-17, 35-22-18, and 35-22-19"

Page 1, line 3, remove "to repeal section 35-22-19 of"

Page 1, line 4, remove "the North Dakota Century Code, relating to a failure to record in a foreclosure;"

Page 1, line 11, after "seven" insert "twenty dollars for twenty lots or fewer and"

Page 1, line 11, after "dollars" insert "for more than twenty lots"

Page 1, line 15, remove the overstrike over "No fees"

Page 1, line 15, remove "The county auditor"

Page 1, line 15, remove the overstrike over "~~be charged or collected by the county auditor~~"

Page 1, line 15, remove "not charge or"

Page 1, line 16, remove "collect from the state of North Dakota"

Page 1, after line 18, insert:

SECTION 3. AMENDMENT. Section 35-22-16 of the North Dakota Century Code is amended and reenacted as follows:

35-22-16. Affidavit of publication recorded - Effect of in evidence.

The affidavit of publication must be recorded ~~at length by~~ in the office of the recorder of the county in which the real property is situated in a record kept for mortgages. The original affidavit, the record thereof, and certified copies of the record are prima facie evidence of the facts contained in the record.

SECTION 4. AMENDMENT. Section 35-22-17 of the North Dakota Century Code is amended and reenacted as follows:

35-22-17. Recorder to mail ~~copy~~ Copy of affidavit of publication to be mailed.

~~The recorder, within~~ Within ten days after the filing of the affidavit of publication of the notice of mortgage foreclosure in any foreclosure of a real estate mortgage by advertisement, ~~shall send, by registered or certified mail,~~ a copy of the affidavit of publication must be mailed by certified mail to the record title owner and to every subsequent mortgagee whose mortgage appears on record, addressed to the person at the post office shown of record in the recorder's office. If no post-office address appears of record ~~and it is unknown to the recorder,~~ the copy must be addressed to the post office located nearest to the land described in the certificate of sale.

SECTION 5. AMENDMENT. Section 35-22-18 of the North Dakota Century Code is amended and reenacted as follows:

35-22-18. Recorder to make affidavit~~Recorder to make affidavit~~**Affidavit of mailing - Recordation.**

~~The recorder shall make an~~An affidavit setting forth the time and manner of the mailing of the copy of the affidavit of publication, the description of the land, and the name and post-office address of the person or persons to whom the affidavit of publication was mailed,~~and shall attach thereto the registry receipt or receipts, and the affidavit and registry receipt or receipts must be filed and recorded in the recorder's office.~~

SECTION 6. AMENDMENT. Section 35-22-19 of the North Dakota Century Code is amended and reenacted as follows:

35-22-19. Failure of recorder to mail notices - Liability.

~~The failure of the recorder to comply with the provisions of sections 35-22-17 and 35-22-18 in no way invalidates the foreclosure proceedings nor affects the title to the property involved, but such failure renders the recorder~~state liable in a civil action to the person entitled to a copy of the affidavit of publication herein described for any damage sustained by the person by reason of such failure."

Page 1, line 21, replace "individual or entity" with "person"

Page 2, remove line 1

Renumber accordingly