
JUDICIAL REMEDIES

CHAPTER 211

H. B. No. 757
(Baker and Beede)

WHAT WAGES EXEMPT FROM GARNISHMENT

AN ACT

To amend and reenact section 32-0902 of the North Dakota Revised Code of 1943 pertaining to wages exempt from garnishment.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 32-0902 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

32-0902. WHAT WAGES EXEMPT FROM GARNISHMENT.) The wages or salary of any person who is the head of a family and a resident of this state, to the amount of twenty-seven and one half dollars per week, shall be exempt from garnishment. Every employer shall pay to such person such exempt wages or salary, not to exceed the sum of twenty-seven and one half dollars per week of each week's wages earned by him, when due, upon such wage earner's making and delivering to such employer his affidavit that he is such head of a family and residing with the same in this state, notwithstanding the service of a garnishee summons, and the surplus only of his wages above such exemptions shall be held by the employer to abide the event of the garnishment suit.

Approved March 4, 1953.

CHAPTER 212

S. B. No. 194
(Dewing and Hagen)

RECONVEYANCE OF PROPERTY UNLAWFULLY TAKEN FOR
HIGHWAY PURPOSES

AN ACT

Relating to the taking or acquiring of property for highway purposes; a statement of legislative intent relative thereto; and providing for the reconveyance of estates unlawfully taken or acquired under such proceedings.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DECLARATION OF LEGISLATIVE INTENT.) It is hereby declared to be the intent of the legislative assembly that section 32-1503 of the North Dakota Revised Code of 1943 limits the estate that may be taken or acquired by the state of North Dakota or its political subdivisions for highway purposes to that of an easement. It is further found and declared that in granting conveyances to property for highway purposes it was intended by all parties that only an easement was granted and that the taking or acquiring of an estate greater than an easement for these purposes is without authority, contrary to the intent of section 32-1503 and is null and void.

§ 2. TERMINATION OF ESTATES GREATER THAN AN EASEMENT.) No transfer to the state of North Dakota or any of its political subdivisions of property for highway purposes shall be deemed to include any interest greater than an easement, and where any greater estate shall have been so transferred, the same is hereby reconveyed to the owner from which such land was originally taken, or to the heirs, executors, administrators or assigns of such owner. Such reconveyance shall be subject to any existing contracts or agreements covering such property, and all rights and benefits thereof shall accrue to the grantee.

Approved March 11, 1953.

CHAPTER 213

S. B. No. 137
(Senate Judiciary Committee)

AFFIDAVIT FOR PUBLICATION IN REAL ESTATE
MORTGAGE FORECLOSURE

AN ACT

To amend and reenact section 32-1930 of the North Dakota Revised Code of 1943 relating to the affidavit for publication in actions to foreclose real estate mortgages.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 32-1930 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

32-1930. SERVICE BY PUBLICATION: HOW MADE. Service of the summons may be made by publication if the plaintiff shall file a verified complaint in the office of the clerk of the district court of the county where the action is commenced, setting forth a cause of action in favor of the plaintiff and against the defendants, for the foreclosure of a mortgage or other lien upon real estate, and when the plaintiff shall file in said office an affidavit signed by the plaintiff or his attorney in substance as follows:

State of North Dakota)
County of)ss.

.....being first duly sworn upon oath deposes and says that he is the (attorney for)..... plaintiff in the above entitled action:

Affiant further says that the defendants (naming them)..... appear to have an interest in or lien or encumbrance upon the real estate described in the complaint in this action, that such interest or lien is subject and inferior to the lien of the plaintiff being foreclosed; that plaintiff seeks no personal judgment against the defendants, if any, (naming them).....and seeks only to bar and exclude said defendants from any interest in or lien or encumbrance upon the real estate described in the complaint, save and except the right of redemption as provided by law; that the residences of the defendants, if any, (naming them)..... are not shown upon the records of the office of the register of

deeds, county auditor, or clerk of the district court of.....
 County, that being the county in which the real estate involved
 in this action is situated; that the residences of the defendants,
 if any, (naming them).....are as
 follows:....., that affiant does not know the
 residences of the defendants, if any, (naming them).....
; that the defendants, if any, (naming them).....
 are deceased, and it does not appear by the records in the office
 of the judge of the county court in and for.....
 county, that being the county in which the real estate describ-
 ed in the complaint in the action is situated, that any adminis-
 tration upon the estate of said defendant is now pending: or,
 that the defendants, if any, (naming them).....
 are deceased, and that.....of
 is the duly appointed, qualified, and acting administrator or
 executor, as the case may be, of the estate of said deceased.

Approved March 11, 1953.

CHAPTER 214

S. B. No. 136
 (Senate Judiciary Committee)

MAILING OF SUMMONS AND COMPLAINT IN REAL ESTATE
 MORTGAGE FORECLOSURE ON SERVICE BY PUBLICATION

AN ACT

To amend and reenact section 32-1932 of the North Dakota Revised
 Code of 1943 relating to the mailing of the summons and com-
 plaint in a real estate mortgage foreclosure action where service
 has been made by publication.

*Be It Enacted by the Legislative Assembly of the State of
 North Dakota:*

§ 1. AMENDMENT.) Section 32-1932 of the North Dakota
 Revised Code of 1943 is hereby amended and reenacted to read
 as follows:

32-1932. COPY OF SUMMONS AND COMPLAINT TO BE MAILED.)
 Within thirty days after the first publication of the summons,
 a copy of the summons and complaint must be deposited in
 some post office in this state, postage prepaid, and directed to
 each of the defendants whose residences are shown by the
 affidavit specified in section 32-1930 to be known to the
 person making such affidavit, and to the executor or adminis-
 trator, if any, of deceased defendants. The receipt of the post
 office where such mailing is done shall be received in evidence
 by any court in this state as proof of such mailing.

Approved March 6, 1953.