

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

SENATE BILL NO. 2166
(Senator Holmberg)
(Representative Delmore)

AN ACT to amend and reenact sections 28-05-09 and 35-27-25 of the North Dakota Century Code, relating to actions for construction liens and miner's liens; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

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

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

~~Upon written demand by or on behalf of the owner, that person's agent, or contractor, served on the person holding the lien which has been delivered to the lienor and filed with the county recorder, suit must be commenced and filed with the clerk of court and a lis pendens as provided in chapter 28-05 must be recorded within thirty days thereafter after the date of delivery of the demand or the lien is forfeited. This thirty-day requirement applies regardless of the method of delivery and additional time may not be allowed based on the method of delivery. The demand must contain a provision informing/inform the person holding the lien/lienor that if suit is not commenced and a lis pendens recorded within the thirty days required under this section, the person holding the lien forfeits the lien is forfeited. A lien is not valid or, effective as such, nor may be enforced in any case/enforceable, unless the holder of the lien asserts the same by complaint filed with the clerk of court/lienor commences an action and records with the county recorder a lis pendens within three years after the date of recording of the lien. If a summons and complaint asserting the validity of the lien is not filed in the office of the clerk of court of the county in which the lien is/lis pendens is not recorded within the limitations provided by this section, the lien is deemed satisfied and the clerk of court, upon request of any interested person, shall certify to the recorder that no summons and complaint has been filed and the lien is deemed satisfied under this section, who then shall record the verified certificate.~~

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

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2166.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 92 Nays 0 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,

at _____ o'clock _____ M.

Secretary of State