

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

SENATE BILL NO. 2169
(Senators Holmberg, Hogue)
(Representative Delmore)

AN ACT to amend and reenact sections 47-19.1-01, 47-19.1-02, 47-19.1-03, and 47-19.1-07 of the North Dakota Century Code, relating to what constitutes marketable title.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-19.1-01 of the North Dakota Century Code is amended and reenacted as follows:

47-19.1-01. What constitutes marketable title.

Any person ~~having the legal capacity to own real estate in this state, who~~that has an unbroken chain of title to any interest in real estate ~~by that person and that person's immediate or remote grantors under a deed of conveyance which or other title transaction that has been recorded~~of record for a period of twenty years or longer, and is in possession of ~~such real estate~~the interest, shall ~~be~~is deemed to have a marketable record title to ~~such~~the interest, subject ~~only~~solely to ~~such~~the claims thereto ~~and~~or defects of title ~~as that~~ are not extinguished or barred by the application of ~~the provisions of this chapter, instruments which that~~ have been recorded less than twenty years, and any encumbrances of record not barred by the statute of limitations.

SECTION 2. AMENDMENT. Section 47-19.1-02 of the North Dakota Century Code is amended and reenacted as follows:

47-19.1-02. Definitions.

As used in this chapter:

1. A person ~~shall be~~is deemed to have the unbroken chain of title to an interest in real estate when the ~~official public records of the county wherein such land is situated~~recorder disclose a conveyance or other title transaction ~~dated and recorded~~of record twenty years or more ~~prior thereto, which conveyance or other title transaction purports to create such~~the interest in that person or that person's immediate or remote grantors, with nothing appearing of record purporting to divest that person and that person's immediate or remote grantors of such purported interest.
2. Title transaction means any transaction affecting title to real estate, including title by will or descent from any person who held title of record at ~~the date of that person's death, title by a decree or order of any court, title by tax deed or by trustee's, referee's, guardian's, executor's, master's in chancery, or sheriff's deed, as well as by direct conveyance~~ or reservation.

SECTION 3. AMENDMENT. Section 47-19.1-03 of the North Dakota Century Code is amended and reenacted as follows:

47-19.1-03. Notice of adverse claim of interest filed.

~~Such marketable~~Marketable title shall ~~be~~is held by ~~such~~a person and shall ~~be~~be taken by that person's successors in interest free and clear of all interest, claims, or any charges whatever, the existence of which depends ~~in whole or in part~~ upon any act, transaction, event, or omission that occurred twenty years or more ~~prior thereto~~before the present date, whether such claim or charge ~~be~~is evidenced by a recorded instrument or otherwise, and all ~~such~~ interests, claims, and charges affecting ~~such~~the interest in real estate shall ~~be~~be barred and not enforceable at law or equity, unless any

~~person making such~~ makes an adverse claim or asserting such interest or charge, shall, on or before twenty years from the date of recording of deed ~~of the conveyance or other title transaction~~ under which title is claimed, ~~or within one year from the effective date of this section, whichever event is the latest in point of time, file for record and records a verified notice in writing, duly verified by oath, setting forth the nature of the person's adverse claim, interest, or charge; and no. A disability nor~~ lack of knowledge of any kind on the part of anyone shall operate to may not extend the time for filing such claims ~~the notice after the expiration of the twenty years from the recording of such deed of conveyance or one year after the effective date of this section, whichever event is the latest in point of time.~~

SECTION 4. AMENDMENT. Section 47-19.1-07 of the North Dakota Century Code is amended and reenacted as follows:

47-19.1-07. Evidence of possession recorded.

For the purpose of this chapter, the fact of possession of an interest in real estate referred to in section 47-19.1-01 may be shown of record by one or more affidavits ~~which shall contain~~ containing the legal description of the real estate referred to and ~~showing that the record titleholder person is upon the date thereof in possession of such the interest in real estate.~~ showing that the record titleholder person is upon the date thereof in possession of such the interest in real estate. The recorder shall record ~~such the~~ affidavits in the miscellaneous records of the recorder's county and index the same against the real estate. ~~No such affidavits~~ An affidavit of possession shall ~~may not~~ be filed as to any real estate before the expiration of twenty years from the recording of deed ~~of the conveyance or other title transaction~~ under which title is claimed, ~~or before one year after the effective date of this section, whichever event is the latest in point of time, as to any real estate as to which a claim under the provisions of section 47-19.1-05 shall have been filed.~~ The holder of an interest in severed minerals is deemed in possession of the minerals if that person has used the minerals as defined in section 38-18.1-03 and the use is stated in the affidavit of possession provided for in this section.

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. 2169.

Senate Vote: Yeas 45 Nays 0 Absent 2

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