

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

SENATE BILL NO. 2170
(Senators Holmberg, Hogue, Triplett)
(Representative Delmore)

AN ACT to amend and reenact section 47-19-41 of the North Dakota Century Code, relating to the effect of recording.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-19-41 of the North Dakota Century Code is amended and reenacted as follows:

47-19-41. Effect of not recording - Priority of first record - Constructive notice - Limitation and validation.

~~Every~~An unrecorded conveyance of real estate ~~not recorded shall be~~is void as against any subsequent purchaser in good faith, and for a valuable consideration, of the same real estate, or any part ~~or portion thereof of the same real estate, whose conveyance, regardless of whether recorded~~ in the form of a warranty deed, ~~or deed of bargain and sale, or deed of quitclaim and release, or~~ or the form in common use ~~or otherwise, first is deposited with the proper officer for record and subsequently recorded, whether entitled to record or not, or as against an attachment levied thereon on the property or any judgment lawfully obtained, at the suit of any party, against the person in whose name the title to such land appears~~owner of record, ~~prior to~~before the recording of ~~such~~the conveyance. The fact that ~~such~~the first deposited and recorded conveyance of ~~such subsequent purchaser for a valuable consideration is in the form, or contains the terms, of a deed of~~ is a quitclaim and release aforesaid, ~~shall~~deed does not affect the question of good faith of the subsequent purchaser, or be of itself notice ~~to the subsequent purchaser of any unrecorded conveyance of the same real estate or any part thereof of the same real estate.~~ This section ~~shall be~~legal notice to all who claim under unrecorded instruments that prior recording of later instruments ~~not entitled to be recorded~~ may nullify their right, title interest, to or lien, ~~to, in, or upon~~ on affected real property. ~~No~~An action affecting any right, title to, interest, or lien, ~~to, in, or upon~~ on real property shall ~~may not~~ be commenced ~~or maintained or defense or counterclaim asserted or recognized in court~~ on the ground that a recorded instrument was not entitled to be recorded. The record of all instruments whether or not ~~the same were~~ entitled to be recorded ~~shall be~~is deemed valid and sufficient as the legal record ~~thereof of the instruments.~~ The holder of an unrecorded conveyance may not question the good faith of the first recording party unless it can be established that the first recording party had actual knowledge of the existence of the unrecorded conveyance.

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. 2170.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 93 Nays 0 Absent 1

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