

Introduced by

Senator Holmberg

Representative Delmore

1 A BILL for an Act to amend and reenact sections 28-05-09 and 35-27-25 of the North Dakota
2 Century Code, relating to actions for construction liens and miner's liens; and to provide for
3 application.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

7 **28-05-09. When lis pendens not required.**

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

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

12 **35-27-25. Requiring suit to be commenced - Demand - Limitations of action.**

13 Upon written demand by or on behalf of the owner, that person's agent, or contractor,
14 ~~served on the person holding the lien~~delivered to the lienor, suit must be commenced and filed
15 ~~with the clerk of court~~and a lis pendens recorded within thirty days ~~thereafter~~after the date of
16 delivery of the demand or the lien is forfeited. This thirty-day requirement applies regardless of
17 the method of delivery and additional time may not be allowed based on the method of delivery.
18 The demand must contain ~~a provision informing~~inform the person holding the lien~~lienor~~ that if
19 suit is not commenced and a lis pendens recorded within the thirty days required under this
20 section, ~~the person holding the lien forfeits the lien~~ is forfeited. A lien is not valid ~~or,~~ effective as
21 such, nor may be enforced in any case~~enforceable,~~ unless the holder of the lien asserts the
22 ~~same by complaint filed with the clerk of court~~lienor commences an action and records with the
23 county recorder a lis pendens within three years after the date of recording of the lien. If a
24 ~~summons and complaint asserting the validity of the lien is not filed in the office of the clerk of~~

1 court of the county in which the lien is lis pendens is not recorded within the limitations provided
2 by this section, the lien is deemed satisfied and the clerk of court, upon request of any
3 interested person, shall certify to the recorder that no summons and complaint has been filed
4 and the lien is deemed satisfied under this section, who then shall record the verified certificate.

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