

**2013 HOUSE JUDICIARY**

**HB 1136**

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee  
Prairie Room, State Capitol

HB 1136  
January 21, 2013  
Job 17435

Conference Committee

*Kristie Hetmyer*

## Explanation or reason for introduction of bill/resolution:

North Dakota Century Code relating to article 9 of the Uniform Commercial Code.

## Minutes:

Testimony 1,2

**Chairman Koppelman:** Opens.

**Rep Klemin:** In support of HB 1136, amendments two years ago, Article 9. This would indicate to other creditors or lenders that there is already a loan against a specific item for collateral.

**Dana Bohn,** ND Farm Credit Council Executive Director: (Please see testimony 1)

**Marilyn Foss,** ND Bankers Association: In support of HB 1136.

**Berdett Howe:** Please see attachment 2. Clarify what should go on finance paper; example is Robert that goes by Bob. Valid State Drivers License or State issued ID card.

**Chairman Koppelman:** We are trying to clarify the time period, is it 5 years?

**Berdett Howe:** Yes, 41-09-86.

**Rep Klemin:** This won't give you additional time on the financing, correct?

**Berdett Howe:** I need legal help with that one. I do not believe you would get an additional 5 more years. It spreads out the time from 1 year to 5.

**Chairman Koppelman:** Would that mean its invalid?

**Berdett Howe:** It states you lose the effectiveness of the financing statement so it does become totally invalid.

**Jeff Olson:** Supports HB 1136.

**Chairman Koppelman:** Closes.

**Rep Hanson:** Do Pass.

**Rep Maragos:** Second.

**Yes:** 13

**No:** 0

**Absent:** 1

**Carried by:** Rep Hanson

Date: 1-21-13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1136

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Hanson Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman	/		Rep. Lois Delmore		
Vice Chairman Lawrence Klemin	/		Rep. Ben Hanson	/	
Rep. Randy Boehning	/		Rep. Kathy Hogan	/	
Rep. Roger Brabandt	/				
Rep. Karen Karls	/				
Rep. William Kretschmar	/				
Rep. Diane Larson	/				
Rep. Andrew Maragos	/				
Rep. Gary Paur	/				
Rep. Vicky Steiner	/				
Rep. Nathan Toman	/				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Hanson

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1136: Judiciary Committee (Rep. K. Koppelman, Chairman)** recommends **DO PASS**  
(13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1136 was placed on the  
Eleventh order on the calendar.

**2013 SENATE JUDICIARY**

**HB 1136**

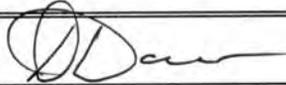
# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee  
Fort Lincoln Room, State Capitol

HB1136  
3/6/2013  
Job #19489

Conference Committee

Committee Clerk Signature



**Minutes:**

*Attached testimony*

## Relating to article 9 of the Uniform Comm. Code

### Senator David Hogue - Chairman

Representative L. Klemin - District 47 - Introduces the bill for Farm Credit Services and the ND Bankers Association.

Berdett Howe from Farm Credit Services in Mandan acts as a liaison between legal counsel, loan officers and customer service representatives in the field. He states they make loans to farmers and ranchers in western ND. He provides the input for how to properly file financing statements under the Uniform Commercial Code. He describes his process when processing loans. He says it has been uniform throughout the U.S. but they have noticed some language that is causing conflict. He gives a handout to the committee (1) and explains the changes. He says now everyone has to amend all of their names in the state wide system to conform to the new regulations going into effect July 1, 2013. All need to use their names that are on the driver's license. He explains the conflicting language. Intent is to clarify and make sure everyone is playing by the same rules.

Dana Bohn - ND Farm Credit Counsel Executive Director - See written testimony (2)

Marilyn Foss - Counsel for ND Bankers Association - In support of this bill.

Jeff Olson - VP of Advocacy and Awareness for the Credit Union Association of ND - In support of this bill.

Jack McDonald - Independent Community Banks of ND - In support of this bill.

Clara Jenkins - Director of Business Systems and Programs for the Secretary of State. In support of this bill but says they would like a continuance on the bill because they are engaged in a software development project that will include the central indexing system which is the vehicle in which all of the liens are filed in the state of ND. She said they will prepare some amendments to present.

Adjourn till later date

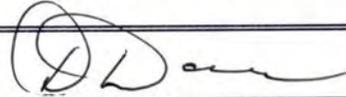
# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee  
Fort Lincoln Room, State Capitol

HB1136  
3/14/2013  
Job #19688

Conference Committee

Committee Clerk Signature



**Minutes:**

Senator David Hogue - Chairman

Committee work

Committee discusses that proponents of this bill have asked for a continuation and information has not been received back from them. Further discussion at a later date.

# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee  
Fort Lincoln Room, State Capitol

HB1136  
4/3/2013  
Job #20817

Conference Committee

Committee Clerk Signature

## Minutes:

*Attached testimony*

Senator David Hogue - Chairman

Committee work

Al Jaeger - Secretary of State - Explains his proposed amendment. See written testimony (1). Amendment 13.0281.01003 (2)

Jim Silrum - Deputy Secretary of State - Mr. Silrum explains the central indexing system. He said it is much the same as when you log into Game and Fish to purchase hunting or fishing licenses online. Senator Grabinger is concerned with raising the price from \$15.00 to \$45.00. Mr. Silrum explains the search is free whether one search or multiple. Senator Sitte asks why they are using social security numbers and not birth dates to which Mr. Silrum replies that this is also for businesses and they do not have birth dates.

Marilyn Foss - ND Bankers Association - In favor. Explains her members are excited to move to a mandated electronic filing system. She says the Secretary of State has told them that the \$45 fee is revenue neutral. Senator Hogue asks if her organization have had talks with IT. Ms. Foss replies they have been assured there would be no additional equipment or software needed.

Terry Tranor - Association of Counties - He asks the committee to consider a change on the bill that would put back subsection 2 on page 3. He explains that this is the only place in the Code where they have the authority for charging for filing documents that are not central indexing system documents.

John Brown - Independent Banks - In support.

Jeff Olson - Credit Unions of the Dakotas - In support.

Dana Bohn - ND Farm Credit Services

Burdett Howe - Farm Credit Services - In support. This new system fits with what they have wanted to see.

Secretary Jaeger says he appreciates the concern with the fee but he needs to bring revenue to maintain the system. This system will greatly enhance services but also generate the fees to cover the cost of the service.

Committee breaks

# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee  
Fort Lincoln Room, State Capitol

HB1136  
4/8/2013  
Job #20980

Conference Committee

Committee Clerk Signature



## Minutes:

Senator David Hogue - Chairman

### Committee work

Senator Hogue explains the bill and the proposed amendment. Amendment is for mandatory filing of financing statements. He also proposes an amendment to change the effective date for the start up in case there are software issues. The committee discusses the \$45 fee and the UCC code. Senator Grabinger would like to see this addressed next session. Senator Armstrong says this makes a more simple way of filing. The committee wonders if a sliding scale wouldn't be better. Senator Armstrong brings up that it isn't always the larger loans sometimes it's the circumstance of the borrower. The committee discusses the date it will be effective and some do not like the idea of giving a longer date. Senator Sitte would like to see the new amendments drafted and be able to read through them. They hold the bill over another day.

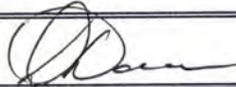
# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee  
Fort Lincoln Room, State Capitol

HB1136  
4/9/2013  
Job #21055

Conference Committee

Committee Clerk Signature



**Minutes:**

Vote

## Senator David Hogue - Chairman

Committee work

Senator Hogue explains his proposed amendment 01006. Senator Nelson relays that she has a problem with the date on the amendment. She would like the words, earlier if, inserted. The committee discusses the start-up date and asks Jim Silrum from the Secretary States office about the date and also the 90 days. Mr. Silrum explains why the date they have in there now is pertinent. He asks for the rational for moving it.

Senator Sitte moves an amendment to amend .01006  
Senator Nelson seconded

Verbal vote - yes  
Motion passes

Senator Armstrong moves his amendment .01004  
Senator Sitte seconded

Verbal vote - yes  
Motion passes

Senator Armstrong moves amendment .1006 as amended  
Senator Sitte

Verbal vote - yes  
Motion passes

Senator Sitte moves do pass as amended on 1136  
Senator Armstrong seconded

Vote 6 yes, 1 no  
Motion passes

Senator Sitte will carry

April 9, 2013

*JB*  
4-9-13  
1 of 30

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1136

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 11-18-01, 11-18-05, 35-13-02, 35-17-04, 35-17-07, 35-17-08, 35-20-15.1, 35-20-16, 35-29-02, 35-29-04, 35-29-05, 35-30-02, 35-30-05, 35-30-06, 35-31-02, 35-31-05, 35-31-06, 35-34-04, 35-34-06, 35-35-03, 35-37-04, 41-09-72, 41-09-73, and 41-09-84, subsection 2 of section 41-09-87, sections 41-09-94 and 41-09-96, subsection 3 of section 41-09-135, sections 41-10-01, 41-10-05, 47-16-03, 54-09-08, 54-09-09, 54-09-10, and 54-09-11, subsection 5 of section 57-34-10, subsection 4 of section 57-36-09.5, section 57-38-49, subsection 4 of section 57-39.2-13, subsection 4 of section 57-40.2-16, subsection 3 of section 57-40.3-07.1, subsection 4 of section 57-43.1-17.4, subsection 4 of section 57-43.2-16.3, subsection 4 of section 57-43.3-22, subsection 2 of section 57-51-11, and subsection 4 of section 57-63-10 of the North Dakota Century Code, relating to filing liens and security interests electronically; to repeal section 57-28-29 of the North Dakota Century Code, relating to filing tax liens; to provide for application; to provide for a report to the legislative assembly; and to provide a contingent effective date.

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

**SECTION 1. AMENDMENT.** Section 11-18-01 of the North Dakota Century Code is amended and reenacted as follows:

**11-18-01. Recorder's duties - Recording and filing instruments - Abstracts.**

The recorder shall:

1. Keep a full and true record, in proper books or other storage media provided for that purpose, of each patent, deed, mortgage, bill of sale, security agreement, judgment, decree, lien, certificate of sale, and other instrument required to be filed or admitted to record, if the person offering the instrument for filing or recording pays to the recorder the fees provided by law for the filing or recording.
2. Endorse upon each instrument filed with the recorder for record or otherwise the date and the hour and minute of the day of the filing or recording.
3. When the instrument is recorded or filed, endorse on the instrument the book and page or document number, the date, and the hour and minute of the date when it was recorded or filed with the recorder.
4. Prepare a security agreement abstract whenever any person requests the agreement and pays the required fee.
5. ~~Furnish upon written or telephonic request to persons the information contained in financing statements filed to perfect a security interest pursuant to chapter 41-09 when the collateral is farm products, and to~~

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~~provide written confirmation of the oral information provided upon receipt of a fee which shall be the same as for recording that instrument.~~

**SECTION 2. AMENDMENT.** Section 11-18-05 of the North Dakota Century Code is amended and reenacted as follows:

**11-18-05. Fees of recorder.**

The recorder shall charge and collect the following fees:

1. For recording an instrument affecting title to real estate:
  - a. Deeds, mortgages, and all other instruments not specifically provided for in this subsection, ten dollars for the first page and three dollars for each additional page. In addition, for all documents recorded under this section that list more than five sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for the first page of each instrument recorded under this subdivision must be placed in the document preservation fund.
    - (1) "Page" means one side of a single legal size sheet of paper not exceeding eight and one-half inches [21.59 centimeters] in width and fourteen inches [35.56 centimeters] in length.
    - (2) The printed, written, or typed words must be considered legible by the recorder before the page will be accepted for recording.
    - (3) Each real estate instrument must have a legal description considered to be adequate by the recorder before such instrument will be accepted for recording.
    - (4) A space of at least four inches by three and one-half inches [10.16 by 8.89 centimeters] square must be provided on the first or last page of each instrument for the recorder's recording information. If recording information can only be placed on the reverse side of an instrument, an additional page charge must be levied.
  - b. Instruments satisfying, releasing, assigning, subordinating, continuing, amending, or extending more than one instrument previously recorded in the county in which recording is requested, ten dollars for the first page and three dollars for each additional page plus three dollars for each such additional document number or book and page. In addition, for all documents recorded under this section which list more than five separate sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for the first page of each instrument recorded under this subdivision must be placed in the document preservation fund.
  - c. Plats, irregular tracts, or annexations, ten dollars for one lot plus ten cents for each additional lot, with the exception of auditor's lots which must be a single charge of seven dollars.

- d. All instruments presented for recording after June 30, 2001, must contain a one-inch [2.54-centimeter] top, bottom, or side margin on each page of the instrument for the placement of computerized recording labels. An instrument that does not conform to this margin requirement may be recorded upon payment of an additional fee of ten dollars.
- 2. For filing any ~~non-central indexing system~~ instrument, ten dollars.
- 3. For making certified copies of any recorded instrument or filed ~~non-central indexing system~~ instrument, the charge is five dollars for the first page and two dollars for each additional page. For making a noncertified copy of any recorded instrument or filed ~~non-central indexing system~~ instrument, a fee of not more than one dollar per instrument page. For providing any electronic data extracted from the recorded instrument, a fee of not more than fifty cents per instrument.
- 4. ~~For filing, indexing, making, or completing any statement, abstract, or certificate under the Uniform Commercial Code central filing database, the computerized central notice system or the computerized statutory liens database, for receiving printouts, and for other services provided through the computerized system, the fee is the same as that provided in sections 41-09-06 and 54-09-11.~~
- 5. The recorder may establish procedures for providing access for duplicating records under the recorder's control. Such records include paper, photostat, microfilm, microfiche, and electronic or computer-generated instruments created by governmental employees.
- 6-5. Duplicate recorders' records stored offsite as a security measure are not accessible for reproduction.

**SECTION 3. AMENDMENT.** Section 35-13-02 of the North Dakota Century Code, as amended by House Bill No. 1340, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

**35-13-02. Lien statement - Contents - When required - Filing.**

- 1. The secretary of state shall prescribe ~~one form~~ an electronic system that can be used to obtain a lien under this section and also be entered in the central indexing system. A person entitled to a lien under this chapter who retains possession of the property made, altered, or repaired is not required to file any statement to perfect the lien. If the possession of the property so made, altered, or repaired is relinquished, the person shall file electronically, within ninety days, or if the property is used for agricultural purposes within one hundred twenty days, or in the exploration for or the production of oil or gas within six months, after the materials are furnished or the labor is completed, in the ~~office of the recorder of the county in which the owner or legal possessor of the property resides~~ central indexing system, a ~~verified written~~ statement showing:
  - a. The labor performed.
  - b. The materials furnished.

- c. The price agreed upon for the labor performed or materials furnished, or, if no price was agreed upon, the reasonable value thereof.
  - d. The name and address of the person for whom the labor was performed or to whom the materials were furnished.
  - e. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the labor was performed or to whom the materials were furnished.
  - f. The name and address of the person claiming the lien.
  - f.g. A description of the property upon which the lien is claimed.
2. A person filing a ~~verified~~-statement shall within thirty days serve notice of the filing, by registered mail, upon the owner or legal possessor of the property. A person entitled to the lien who fails to file a ~~verified~~-statement within the time limited in this section is deemed to have waived the right to a lien.
  3. A lienholder may file electronically an amendment to add or correct the social security number or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~provide a means to amend electronically the repairman's lien that has been filed pursuant to this section. The amendment of the lien does not affect the priority of the lien.

**SECTION 4. AMENDMENT.** Section 35-17-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-17-04. Procedure to obtain lien - Statement filed - Contents - Waiver.**

Any person entitled to an agister's lien, within ninety days after taking possession of the animal, may file electronically in the ~~office of the recorder in any county in this state or in the office of the secretary of state~~central indexing system, a statement signed by the filer containing the following information:

1. The number of and a description of the animals subject to the lien and the legal description as to the location of the animals.
2. The name and address of the person for whom the animals are kept.
3. The name and address of the lienholder.
4. The price agreed upon for keeping the animals and, if no price was agreed upon, the reasonable value of the services.
5. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the animals are kept.

The secretary of state shall ~~prescribe one form that can be used to~~provide a means to obtain electronically a lien under this section or gain protection under the central notice

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system, or both. If the statement is not filed within ninety days as required by this section, the person entitled to the lien under section 35-17-03 waives the lien.

**SECTION 5. AMENDMENT.** Section 35-17-07 of the North Dakota Century Code is amended and reenacted as follows:

**35-17-07. Amendment of lien.**

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used to provide a means to electronically~~ amend or assign the agister's lien that has been filed pursuant to section 35-17-04. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 6. AMENDMENT.** Section 35-17-08 of the North Dakota Century Code is amended and reenacted as follows:

**35-17-08. Fees - Penalty.**

The fee for filing electronically an agister's lien and related documents ~~with the secretary of state or the county recorder in the central notice system~~ is the same as that provided for in section 41-09-96. If a lienholder fails to file electronically a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

**SECTION 7. AMENDMENT.** Section 35-20-15.1 of the North Dakota Century Code is amended and reenacted as follows:

**35-20-15.1. Amendment of lien for unpaid earned property or casualty insurance premiums.**

A lienholder may file an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used to provide a means to amend electronically~~ or assign the unpaid earned property or casualty insurance premium lien that has been filed under section 35-20-15. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 8. AMENDMENT.** Section 35-20-16 of the North Dakota Century Code is amended and reenacted as follows:

**35-20-16. Procedure to obtain unpaid earned property or casualty insurance premium lien - Filing.**

The secretary of state shall ~~prescribe a form that can be used to provide a means to obtain electronically~~ a lien under this section and also be entered in the central indexing system. Any person entitled to an unpaid earned property or casualty insurance premium lien, within ninety days after termination of coverage, shall file in the ~~office of the recorder of the county or counties in which the property covered by the policy is located~~ central indexing system and with any loss payee named in the policy, a verified electronic statement in writing stating all of the following:

1. The name and address of the policyholder.
2. The name and address of the lienholder.
3. The nature and quantity of insurance coverage provided.
4. The amount of unpaid earned premium.
5. A description of the property covered by the insurance and subject to the lien.
6. That a lien is claimed upon the property described.
7. The name of the county or counties where the property is located.
8. The social security number of the debtor, or in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of that person.

**SECTION 9. AMENDMENT.** Section 35-29-02 of the North Dakota Century Code is amended and reenacted as follows:

**35-29-02. Place of filing.**

1. Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens must be filed in accordance with this chapter.
2. Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens must be filed in the office of the recorder of central indexing system and associated to the county in which the real property subject to the liens is situated.
3. Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens must be filed as follows:
  - a. If the person against whose interest the lien applies is a corporation, limited liability company, or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the secretary of state.
  - b. If the person against whose interest the lien applies is a trust that is not covered by subdivision a, in the office of the secretary of state.
  - c. If the person against whose interest the lien applies is the estate of a decedent, in the office of the secretary of state.
  - d. In all other cases, in the office of the recorder of the county where the person against whose interest the lien applies resides at the time of filing of the notice of lien.
4. The secretary of state shall provide a means for the United States to file any documentation according to this chapter.

**SECTION 10. AMENDMENT.** Section 35-29-04 of the North Dakota Century Code is amended and reenacted as follows:

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**35-29-04. Duties of filing officer.**

1. If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subsection 2 is presented to a filing officer who is:
  - a. The secretary of state, ~~the secretary~~ shall cause the notice to be marked, held, and indexed in accordance with the provisions of section 41-09-90 as if the notice were a financing statement within the meaning of title 41; or
  - b. ~~Any other officer described in section 35-29-02, the officer~~ The secretary of state shall endorse thereon the officer's identification and the date and time of receipt and immediately file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the title and address of the official or entity certifying the lien, and the total amount appearing on the notice of lien.
2. If a certificate of release, nonattachment, discharge, or subordination of any lien is presented to the secretary of state for filing, the secretary shall do all of the following:
  - a. Cause a certificate of release or nonattachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of title 41, but the notice of lien to which the certificate relates may not be removed from the files.
  - b. Cause a certificate of discharge or subordination to be marked, held, and indexed as if the certificate were a release of collateral within the meaning of title 41.
3. If a refiled notice of federal lien referred to in subsection 1 or any certificate or notice referred to in subsection 2 is presented for filing to ~~any other filing officer specified in section 35-29-02, the officer~~ secretary of state shall permanently attach the refiled notice or the certificate to the original notice of lien and enter the refiled notice or the certificate with the date of filing in any alphabetical lien index on the line where original notice of lien is entered.
4. ~~Upon request of any~~ Any person, the filing officer shall issue the officer's certificate showing may search the central indexing system to determine whether there is on file, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed under this chapter or chapter 35-28 as it existed prior to enactment of this chapter, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. ~~The fee for a certificate is one dollar and twenty five cents for each notice or certificate reported therein. Upon request, the filing officer shall furnish a copy of any notice of federal lien, or notice or certificate affecting a federal lien, for a fee of one dollar, plus seventy five cents for the second and each succeeding page.~~

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- 5. The secretary of state shall fulfill any of the functions described in this section by electronic means with the same legal effect as if the function had been completed on a physical document.

**SECTION 11. AMENDMENT.** Section 35-29-05 of the North Dakota Century Code is amended and reenacted as follows:

**35-29-05. Fees.**

- 1. The fee for filing and indexing each notice of lien is:
  - a. ~~For a lien on real estate, ten dollars, plus three dollars for the second and each succeeding page.~~
  - b. ~~For a lien on tangible and intangible personal property, ten dollars, plus five dollars to record if filed with a county recorder.~~
  - c. ~~For all other notices, including a certificate of discharge, nonattachment, or subordination, ten dollars, plus ten dollars if filed toward a lien on real estate with a county recorder.~~
  - d. ~~For a nonstandard statement when presented for filing, an additional fee of five dollars plus one dollar per page, and if filed on a real estate lien with a county recorder, an additional ten dollars plus three dollars for the second and each succeeding page.~~
  - e. ~~For a certificate of release, five dollars, which must be paid at the time the lien is filed in the central indexing system is established according to section 41-09-96. Fees to record liens with a county recorder are the same as provided for under section 11-18-05.~~
- 2. The officer may not file or record an instrument under this chapter unless the person offering the instrument for filing or recording has first paid the requisite filing or recording fee.

**SECTION 12. AMENDMENT.** Section 35-30-02 of the North Dakota Century Code is amended and reenacted as follows:

**35-30-02. Procedure to obtain lien.**

- 1. To obtain an agricultural processor's lien, the person entitled to the lien, within ninety days after the processing is completed, shall file electronically a statement signed by the filer in the office of the recorder in any county in this state or in the office of the secretary of state central indexing system. The statement must contain the following information:
  - a. The name and address of the person for whom the processing was done.
  - b. The name and address of the processor.
  - c. A description of the crops or agricultural products and their amount, if known, subject to the lien together with a reasonable description, including the county as to the location where the crops or agricultural products were grown and the year the crop is to be harvested or was harvested.

- d. The price agreed upon for processing, or if no price was agreed upon, the reasonable value of the processing.
  - e. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the processing was done.
  - f. A description of the processing services and the first date the services were furnished.
2. ~~The secretary of state and the office of the recorder in any county in this state with which a statement signed by the filer under subsection 1 is submitted for filing shall reject the statement unless proof of mailing of notification of the lien to the debtor's last known address by registered or certified mail with return receipt requested is filed with the statement.~~
  3. The secretary of state shall ~~prescribe one form that can be used~~ provide an electronic means to obtain a lien under this section or gain protection under the central notice system, or both. Before a processor's lien is filed, a billing statement for the services performed must include notice to the agricultural producer that if the amount due to the agricultural processor is not satisfied a lien may be filed.

**SECTION 13. AMENDMENT.** Section 35-30-05 of the North Dakota Century Code is amended and reenacted as follows:

**35-30-05. Amendment of lien.**

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~ provide an electronic means to amend or assign the agricultural processor's lien that has been filed pursuant to section 35-30-02. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 14. AMENDMENT.** Section 35-30-06 of the North Dakota Century Code is amended and reenacted as follows:

**35-30-06. Fees - Penalty.**

The fee for filing electronically an agricultural processor's lien and related documents ~~with the secretary of state or the county recorder in the central indexing system~~ is the same as that provided for in section 41-09-96. If a lienholder fails to file a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

**SECTION 15. AMENDMENT.** Section 35-31-02 of the North Dakota Century Code is amended and reenacted as follows:

**35-31-02. Procedure to obtain lien.**

To obtain an agricultural supplier's lien, except an agricultural supplier's lien for furnishing petroleum products, the person entitled to the lien, within one hundred

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twenty days after the supplies are furnished or the services performed, shall file electronically a statement signed by the filer in the office of the recorder of any county in this state or in the office of the secretary of state central notice system. To obtain an agricultural supplier's lien for furnishing and delivering petroleum products, the person entitled to the lien, within one hundred fifty days after the petroleum products are furnished or delivered, shall file electronically a statement signed by the filer in the office of the recorder of any county in the state or in the office of the secretary of state central notice system. The statement must contain the following information:

1. The name and address of the person to whom the supplies were furnished.
2. The name and address of the supplier.
3. A description of the crops, agricultural products, or livestock and their amount or number, if known, subject to the lien together with a reasonable description, including the county as to the location of the crops, agricultural products, or livestock and the year the crop is to be harvested or was harvested.
4. A description and value of the supplies and the first date furnished.
5. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person to whom the supplies were furnished.

The secretary of state shall ~~prescribe one form that can be used~~ provide an electronic means to obtain a lien under this section or gain protection under the central notice system, or both. Before a supplier's lien is filed, a billing statement for the supplies furnished must include notice to the agricultural producer that if the amount due to the agricultural supplier is not satisfied a lien may be filed.

**SECTION 16. AMENDMENT.** Section 35-31-05 of the North Dakota Century Code is amended and reenacted as follows:

**35-31-05. Amendment of lien.**

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~ provide an electronic means to amend or assign the agricultural supplier's lien that has been filed pursuant to section 35-31-02. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 17. AMENDMENT.** Section 35-31-06 of the North Dakota Century Code is amended and reenacted as follows:

**35-31-06. Fees - Penalty.**

The fee for filing an agricultural supplier's lien and related documents ~~with the secretary of state or the county recorder~~ in the central notice system is the same as that provided for in section 41-09-96. If a lienholder fails to file a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

**SECTION 18. AMENDMENT.** Section 35-34-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-34-04. Vessel lien.**

1. In the case of a vessel, the child support agency may file electronically a notice of lien ~~with the secretary of state~~ in the central indexing system if the value of the vessel is estimated to be at least twice the cost of establishing the lien. The notice must contain a description of the make, model designation, and serial number of the vessel, including its identification or registration number, if any, and the name, social security number, and last-known address of the obligor. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.
2. Upon filing of the notice of lien in accordance with this section, the notice of lien must be indexed ~~by the secretary of state~~ in the central indexing system and may be enforced and foreclosed in the same manner as a security agreement under the provisions of title 41.
3. The secretary of state shall remove and destroy the lien notification statement in the same manner as provided for other liens in section 11-18-14 for the recorder.
4. The child support agency may file electronically an amendment to correct the spelling of the obligor's name, to correct the obligor's social security number, or to correct or change the address of the obligor.

**SECTION 19. AMENDMENT.** Section 35-34-06 of the North Dakota Century Code is amended and reenacted as follows:

**35-34-06. Lien on other personal property.**

1. In the case of untitled personal property other than an account maintained in a financial institution, the child support agency may establish a lien on such personal property by filing electronically a notice of lien ~~with the office of the recorder in the county in which the personal property may be found, with the secretary of state,~~ in the central indexing system or with a third party who is in possession of the personal property. The notice must particularly describe the property to be subjected to the lien and the name and last-known address of the obligor. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.
2. The information filed ~~with a recorder or with the secretary of state~~ under this section must be included in the computerized central indexing system maintained by the secretary of state under section 54-09-09 and must be accessible to the public on the same terms and conditions that apply to access other statutory lien information maintained in the computerized central indexing system.

3. Upon filing of the notice of lien in accordance with this section, the lien attaches to and is perfected against all personal property described in the notice.

**SECTION 20. AMENDMENT.** Section 35-35-03 of the North Dakota Century Code is amended and reenacted as follows:

**35-35-03. Filing officer may reject lien - Filing officer to accept notice of invalid lien - Filing officer not liable.**

1. Any filing officer may reject for filing or recording any nonconsensual common-law lien.
2. If a nonconsensual common-law lien has been accepted for filing or recording, the filing officer shall accept for filing any ~~sworn~~ notice of invalid lien ~~signed and submitted~~ electronically by the person against whom such a lien was filed or that person's attorney. The notice must be captioned "Notice of Invalid Lien" and must state the name and address of the person on whose behalf the notice is filed, the name and address of the lien claimant, and a clear reference to the document or documents the person believes constitute a nonconsensual common-law lien. The notice must be filed in such a manner that any search of the records which reveals the lien the notice refers to will also reveal the notice of invalid lien. The filing officer shall mail or deliver electronically a copy of the notice of invalid lien to the lien claimant at the lien claimant's last-known address within one business day.
3. A filing officer, county, or the state may not be held liable for filing a nonconsensual common-law lien, or for filing a ~~sworn~~ notice of invalid lien pursuant to this section.
4. A fee may not be charged for the filing of a notice of invalid lien against a field nonconsensual common-law lien.

**SECTION 21. AMENDMENT.** Section 35-37-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-37-04. Perfection of lien - Verified notice - Effect of instruments - Effective date of lien.**

1. If the proceeds for oil or gas which are required to be paid are not paid to the interest owner when due, the interest owner may perfect the security interest and lien by filing electronically a ~~form~~-UCC-1A in the central indexing system and recording the lien in the real estate records in the office of the county recorder of the county in which the well is located. If the oil and gas owner's lien is not filed within ninety days from the date of production, the security interest is not perfected and does not give the interest owner priority over a perfected security interest in the same oil, gas, or proceeds of the oil or gas.
2. ~~All instruments that are presented to a county recorder for filing in accordance with subsection 1 are effective as financing statements even though the signature of the debtor may not appear on the lien.~~ Liens must be filed electronically in the central indexing system and recorded in the real estate records of the county according to sections 11-18-01 and

11-18-05. Liens may be terminated in the same manner as financing statements.

- 3. Upon perfection by filing, the security interest and lien of the interest owner takes priority over the rights of all persons whose rights or claims arise or attach thereafter to the oil or gas unpaid for, or the proceeds of oil or gas if the oil or gas has been sold, including those that arise or attach between the time the security interest and lien attaches and the time of filing. The security interest and lien created pursuant to this chapter do not have priority over the security interest and lien rights previously created and perfected or an operating agreement or other voluntary agreement for the development and operation of the property.

**SECTION 22. AMENDMENT.** Section 41-09-72 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-72. (9-501) Filing office.**

- 1. Except as otherwise provided in subsection 2, if the local law of this state governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:
  - a. The office designated for the filing or recording of a record of a mortgage on the related real property, if:
    - (1) The collateral is as-extracted collateral or timber to be cut; or
    - (2) The financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or
  - b. The office of the recorder in any county in this state or in the office of the secretary of state, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.
- 2. The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the secretary of state. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.
- 3. The secretary of state shall provide an electronic means for filing any record required or permitted to be filed by this title. This may include use of business-to-business methods using a common data format and must include a web-based application. Any record that is not filed electronically must be rejected.

**SECTION 23. AMENDMENT.** Section 41-09-73 of the North Dakota Century Code is amended and reenacted as follows:

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**41-09-73. (9-502) (Effective through June 30, 2013) Contents of financing statement - Record of mortgage as financing statement - Time of filing financing statement - Amending financing statement.**

1. Subject to subsection 2, a financing statement is sufficient only if the statement:
  - a. Provides the name of the debtor;
  - b. Provides the name of the secured party or a representative of the secured party;
  - c. Indicates the collateral covered by the financing statement;
  - d. If it is a financing statement that is to be filed to gain protection under the central notice system, includes a reasonable description of the property, including the county in which the property is located, and any other additional information required by the Food Security Act of 1985 [Pub. L. 99-198; Stat. 1535; 7 U.S.C. 1631], as prescribed by the secretary of state, and, to be sufficient a financing statement must include the name and address of the secured party; and unless electronically filed, the signatures of the debtor and secured parties;
  - e. Provides a mailing address for the secured party; and
  - f. Provides a mailing address for the debtor.
2. Except as otherwise provided in subsection 2 of section 41-09-72, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection 1 and also:
  - a. Indicate that it covers this type of collateral;
  - b. Indicate that it is to be filed for record in the real property records;
  - c. Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and
  - d. If the debtor does not have an interest of record in the real property, provide the name of a record owner.
3. A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:
  - a. The record indicates the goods or accounts that it covers;
  - b. The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
  - c. The record satisfies the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and

- d. The record is duly recorded.
- 4. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.
- 5. A financing statement filed to gain protection under the central notice system must be amended within three months of a material change to reflect that change. The amended financing statement must be signed by both the debtor and secured party and filed in the same manner as the original financing statement. An electronically filed amendment does not need to be signed.
- 6. Any social security number or federal tax identification number submitted on a financing statement filed pursuant to this chapter as a central indexing filing prior to January 1, 2012, is an exempt record as defined by subsection 5 of section 44-04-17.1 and may not be disclosed as part of any search under section 41-09-94 or 41-09-96 or as part of a copy of the record. After December 31, 2011, a debtor's social security number or federal tax identification number may not be filed pursuant to this chapter in the filing office with the central indexing system and may not be recorded in the real property records.

**(Effective after June 30, 2013) Contents of financing statement - Record of mortgage as financing statement - Time of filing financing statement - Amending financing statement.**

- 1. Subject to subsection 2, a financing statement is sufficient only if the statement:
  - a. Provides the name and social security number or internal revenue service taxpayer identification number of the debtor;
  - b. Provides the name of the secured party or a representative of the secured party;
  - c. Indicates the collateral covered by the financing statement;
  - d. If it is a financing statement that is to be filed to gain protection under the central notice system, includes a reasonable description of the property, including the county in which the property is located, and any other additional information required by the Food Security Act of 1985 [Pub. L. 99-198; Stat. 1535; 7 U.S.C. 1631], as prescribed by the secretary of state, and, to be sufficient a financing statement must include the name and address of the secured party; and unless electronically filed, the signatures of the debtor and secured parties;
  - e. Provides a mailing address for the secured party; and
  - f. Provides a mailing address for the debtor.
- 2. Except as otherwise provided in subsection 2 of section 41-09-72, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection 1 and also:
  - a. Indicate that it covers this type of collateral;

- b. Indicate that it is to be filed for record in the real property records;
  - c. Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and
  - d. If the debtor does not have an interest of record in the real property, provide the name of a record owner.
3. A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:
- a. The record indicates the goods or accounts that it covers;
  - b. The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut; and
  - c. The record satisfies the requirements for a financing statement in this section, but:
    - (1) The record need not indicate that it is to be filed in the real property records; and
    - (2) The record sufficiently provides the name of a debtor who is an individual if the record provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom subdivision d of subsection 1 of section 41-09-74 applies; ~~and~~
  - ~~d. The record is duly recorded.~~
4. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.
5. A financing statement filed to gain protection under the central notice system must be amended within three months of a material change to reflect that change. The amended financing statement must be signed by both the debtor and secured party and filed in the same manner as the original financing statement. An electronically filed amendment does not need to be signed.
6. Any social security number or ~~federal tax~~ internal revenue service taxpayer identification number submitted on a financing statement filed pursuant to this chapter as a central indexing filing ~~prior to January 1, 2012,~~ is an exempt record as defined by subsection 5 of section 44-04-17.1 and may not be disclosed as part of any search under section 41-09-94 or 41-09-96 or as part of a copy of the record. ~~After December 31, 2011, a~~ A debtor's social security number or federal tax internal revenue service taxpayer identification number may not be filed pursuant to this chapter in the filing office with the central indexing system and may not be recorded in the real property records as provided for under section 11-18-23.2.

**SECTION 24. AMENDMENT.** Section 41-09-84 of the North Dakota Century Code is amended and reenacted as follows:

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**41-09-84. (9-513) Termination statement - Remedies - Fees.**

1. If a financing statement covering consumer goods is filed after December 31, 1973, then within one month or within ten days following written demand by the debtor after there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party shall file ~~with each filing officer with whom the financing statement was filed~~ electronically in the central indexing system, a termination statement to the effect that the secured party no longer claims a security interest under the financing statement, which must be identified by file number. In other cases when there is no outstanding secured obligation and no written commitment between the secured party and the debtor to make advances, incur obligations, or otherwise give value, the secured party, unless requested by the debtor in writing to continue the filing, ~~must send to each filing officer with whom the financing statement was filed,~~ shall file electronically a termination statement to the effect that the secured party no longer claims a security interest under the financing statement nor under the central notice system, which shall be identified by file number. If the affected secured party fails to file a termination statement as required by this subsection within sixty days of when the secured obligation is fully satisfied, and the debtor has not requested in writing that the filing be continued, then under section 41-09-120 the secured party is liable to the debtor for one hundred dollars and for any loss caused to the debtor by such failure. The debtor's written request for a filing to be continued may be made at any time and be effective under this section. If the affected secured party fails to file a termination statement within ten days after proper written demand by the debtor, then under section 41-09-120 the secured party is liable to the debtor for one hundred dollars and for any loss caused to the debtor by such failure.
2. Except as otherwise provided in section 41-09-81, upon the filing of a termination statement ~~with the filing office~~, the financing statement to which the termination statement relates ceases to be effective. Except as provided in section 41-09-81, for purposes of subsection 7 of section 41-09-90, subsection 1 of section 41-09-93, and subsection ~~32~~ 32 of section 41-09-94, the electronic filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.
3. The fee for filing and indexing a termination statement, ~~including sending or delivering the financing statement, is five dollars. For any financing statement filed after April 8, 1991, the fee must be paid at the time is included in the fee for filing the financing statement is paid.~~

**SECTION 25. AMENDMENT.** Subsection 2 of section 41-09-87 of the North Dakota Century Code is amended and reenacted as follows:

2. Filing does not occur with respect to a record that a filing office refuses to accept because:

- a. The record is not communicated by a method or medium of communication authorized by the filing office;
- b. An amount equal to or greater than the applicable filing fee is not tendered;
- c. The filing office is unable to index the record because:
  - (1) In the case of an initial financing statement, the record does not provide a name for the debtor;
  - (2) In the case of an amendment or correction statement, the record:
    - (a) Does not identify the initial financing statement as required by section 41-09-83 or 41-09-89, as applicable; or
    - (b) Identifies an initial financing statement whose effectiveness has lapsed under section 41-09-86;
  - (3) In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or
  - (4) In the case of a record filed or recorded in the filing office described in subdivision a of subsection 1 of section 41-09-72, the record does not provide a sufficient description of the real property to which it relates;
- d. In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;
- e. In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:
  - (1) Provide a mailing address for the debtor;
  - (2) Indicate whether the debtor is an individual or an organization; or
  - (3) If the financing statement indicates that the debtor is an organization, provide:
    - (a) A type of organization for the debtor;
    - (b) A jurisdiction of organization for the debtor; or
    - (c) An organizational identification number for the debtor or indicate that the debtor has none;
- f. In the case of an assignment reflected in an initial financing statement under subsection 1 of section 41-09-85 or an amendment filed under

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subsection 2 of section 41-09-85, the record does not provide a name and mailing address for the assignee; ~~or~~

- g. In the case of a continuation statement, the record is not filed within the six-month period prescribed by subsection 4 of section 41-09-86; or
- h. The record does not contain the social security number or the internal revenue service taxpayer identification number of the debtor.

**SECTION 26. AMENDMENT.** Section 41-09-94 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-94. (9-523) Information from filing office - Sale or license of records.**

1. ~~If a~~Any person that files a written record requests may request electronically an acknowledgment of the filing, the filing office a filing. The central indexing system shall send provide to the person detailed information and an image of the record, if not filed electronically, showing the number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90 and the date and time of the filing of the record. ~~However, if the person furnishes a copy of the record to the filing office, the filing office may instead:~~
  - a. ~~Note upon the copy the number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90 and the date and time of the filing of the record; and~~
  - b. ~~Send the copy to the person.~~
2. ~~If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:~~
  - a. ~~The information in the record;~~
  - b. ~~The number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90; and~~
  - c. ~~The date and time of the filing of the record.~~
3. ~~The filing office~~central indexing system shall communicate ~~or otherwise make available in a record~~electronically the following information to any person that requests it:
  - a. Whether there is on file on a date and time specified by the filing office central indexing system, but not a date earlier than three business days before the filing office receives the request, any verified statement of an agricultural lien created under chapter 35-17, 35-30, or 35-31 or any financing statement that:
    - (1) Designates a particular debtor or, if the request so states, designates a particular debtor at the address specified in the request;
    - (2) Has not lapsed under section 41-09-86 with respect to all secured parties of record; and

- (3) Effective January 1, 2002, if the request so states, has lapsed under section 41-09-86 and a record of which is maintained by the filing office central indexing system under subsection 1 of section 41-09-93;
- b. The date and time of filing of each ~~verified statement~~ and each financing statement; and
- c. The information provided in each ~~verified statement~~ and each financing statement.
- 4. ~~In complying with its duty under subsection 3, the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing a written certificate.~~
- 5.3. ~~The filing office~~ a request to the central indexing system cannot be automatically accepted, the secretary of state shall perform the acts required by subsections 1 through 4 at the time and in the manner prescribed by filing office rule, but and 2 not later than two business days after the ~~filing office~~ central indexing system receives the request.
- 6.4. At least weekly, the secretary of state shall offer to sell or license to the public on a nonexclusive basis, in bulk, ~~copies~~ detailed information of all records filed in it ~~under this part, in every medium from time to time filed within the central indexing system.~~

**SECTION 27. AMENDMENT.** Section 41-09-96 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-96. (9-525) Fees.**

- 1. The fee for filing and indexing an original statement under this title is ~~fifteen~~ forty-five dollars ~~plus one dollar per additional page. When a nonstandard statement is presented for filing, an additional fee of five dollars must be paid.~~ An additional fee may not be charged for the same statement to gain protection under the central notice system.
- 2. The fee for filing and indexing an amendment, including continuations, assignments, releases, or correction statements under this title is ~~ten~~ forty-five dollars ~~plus one dollar per additional page.~~ An additional fee may not be charged for the same document to gain protection under the central notice system.
- 3. A fee may not be charged for ~~responding to a~~ central indexing system response to an electronic request for information:
  - a. Information from the filing office central indexing system communicating whether there is on file any financing statement or verified statement naming a particular debtor.
  - b. Information on specific filings on a particular debtor.
  - c. Copies of each filing on a particular debtor.
  - d. Certified copies of filings on a particular debtor.

- 4. ~~The fee for a filing office central indexing response providing information on specific filings on submitted by a particular debtor secured party is seven five hundred dollars per debtor for the first five entries, plus two dollars for each additional five entries or fraction thereafter.~~
- 5. ~~The fee for a filing office providing copies of each filing for a particular debtor is seven dollars per debtor plus two dollars per page for each page over three pages.~~
- 6. ~~The fee for a filing office providing certified copies of filings on a particular debtor is ten dollars plus two dollars per page for attachments.~~
- 7. Any fees collected by the secretary of state pursuant to this chapter and all other filings entered into the central indexing system must be deposited in the general fund in the state treasury, except with the exception of the fees collected under subsection 64 of section 41-09-94, subsection 4 of this section, and a portion of the filing fees specifically identified in section 54-09-11, which must be deposited in the secretary of state's general services operating fund.

**SECTION 28. AMENDMENT.** Subsection 3 of section 41-09-135 of the North Dakota Century Code is amended and reenacted as follows:

- 3. The filing of a continuation statement after this Act takes effect does not continue the effectiveness of the financing statement filed before this Act takes effect. However, upon the timely filing of a continuation statement after this Act takes effect, no later than is required by section 41-09-86, and in accordance with the law of the jurisdiction governing perfection as provided in this chapter as amended by this Act, the effectiveness of a financing statement filed in the same office in that jurisdiction before this Act takes effect continues for the period provided by the law of that jurisdiction.

**SECTION 29. AMENDMENT.** Section 41-10-01 of the North Dakota Century Code is amended and reenacted as follows:

**41-10-01. Definitions.**

As used in this chapter:

- 1. "Authorized", when used with reference to a financing statement record, means that the financing statement record was filed by a person authorized to do so as provided in sections 41-09-80 and 41-09-130.
- 2. "Debtor" means a natural person whose name was provided in a financing statement record as an individual debtor or one of the types of persons listed in section 41-09-76.
- 3. "Filing office" or "filing officer" refers to the appropriate office or officer central indexing system, which must be provided by the secretary of state, where a financing statement record is to be filed electronically as provided by section 41-09-72, including the county recorder, the secretary of state, and other designated filing officers.

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- 4. "Financing statement record" means an initial financing statement, an amendment that adds collateral covered by a financing statement, and an amendment that adds a debtor to a financing statement as such terms are used in this title.

**SECTION 30. AMENDMENT.** Section 41-10-05 of the North Dakota Century Code is amended and reenacted as follows:

**41-10-05. Venue.**

An action under this chapter may be brought in any district court ~~in the county in which the financing statement record is presented for filing or~~ in a county where any of the persons who may bring an action under this chapter reside.

**SECTION 31. AMENDMENT.** Section 47-16-03 of the North Dakota Century Code is amended and reenacted as follows:

**47-16-03. Filing farm lease containing reservation of title to crop - Waiver of rights on failure to file.**

- 1. When a lease of a farm contains a provision reserving title in the lessor to any part of the crops in excess of the rental share of the lessor until the stated conditions of the lease have been complied with by the lessee, such lease must be filed in the office of the recorder in the county in which the land described therein is located if notice by a real estate recording is sought, and must be filed electronically in the central indexing system if recording in the central notice system is sought, prior to July first in the year in which the crops are raised to render such reservation of title effective as to subsequent purchasers or encumbrancers of any part of the grain over and above the lessor's rental share produced upon the land.
- 2. The failure to file such lease or contract in accordance with this section constitutes a waiver by the lessor of all rights reserved by that person over and above that person's rental share in such crops as against any subsequent purchaser or encumbrancer of the lessee.
- 3. The secretary of state ~~may prescribe a form which shall provide an~~ electronic system that includes the pertinent information from the lease that may be filed in the central notice system. A lessor may file this ~~form with the recorder~~ electronic statement and obtain the same rights under this section as if the lessor had filed the lease.
- 4. The fee required to file and index this notice of lease is:
  - a. As provided in section 11-18-05, if the notice of lease is only a real estate recording;
  - b. As provided in section ~~41-09-06~~ 41-09-96, if the notice of lease is filed only to gain protection under the central notice system; or
  - c. As provided in section 11-18-05, if ~~the notice of lease is both a real estate recording and filed to gain protection under the central notice system. An additional fee may not be charged for the same~~ statement a real estate recording is sought and according to section

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41-09-96 if electronically filed to gain protection under the central notice system.

**SECTION 32. AMENDMENT.** Section 54-09-08 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-08. Secretary of state's general services operating fund.**

The secretary of state's general services operating fund is a special fund in the state treasury. Moneys in the fund are to be used pursuant to legislative appropriations for the provision of services under section 16.1-02-15, subsection ~~64~~ of section 41-09-94, subsection 4 of section 41-09-96, subsection ~~87~~ of section 54-09-04, and sections 10-35-33, 54-09-10, and 54-09-11. At the close of each biennium, the secretary of state shall transfer any unobligated balance remaining in the fund exceeding seventy-five thousand dollars to the general fund.

**SECTION 33. AMENDMENT.** Section 54-09-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-09.**

**Computerized central indexing system - Rules.**

1. The secretary of state shall maintain a computerized central indexing system that contains the information filed ~~with the office of the secretary of state or with any of the offices of the recorder in this state~~ pursuant to sections 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, 35-34-04, 35-34-06, 41-09-72, ~~57-28-29~~, 57-38-49, 57-39.2-13, 57-40.2-16, 57-40.3-07.1, 57-43.1-17.4, 57-43.2-16.3, and 57-51-11. ~~The system must connect each recorder's office to the secretary of state's office through the information technology department.~~ The system must allow access to financing statement information by equipment that conforms to requirements determined by the information technology department. The system must have safeguards to allow access to information that is in the system relating to security interests or liens and to prevent unauthorized alteration or deletion of that information and to allow access to other information in the system as prescribed by the secretary of state.
2. Within two working days of receipt of a financing statement, continuation statement, amendment, or termination statement filed electronically pursuant to chapter 41-09 or a statement filed electronically pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, or 35-31-02, ~~the recorder or secretary of state shall file the information contained in the statement~~ must be filed in the computerized central indexing system. A computer printout of information from the system is prima facie evidence of the existence or nonexistence of the filing of a financing statement or lien. The secretary of state shall ~~prescribe one form~~ provide an electronic means that can be used to perfect a security interest in farm products or gain protection under the central notice system, or both.
3. The secretary of state may adopt rules necessary to implement this section and sections 54-09-10 and 54-09-11.

**SECTION 34. AMENDMENT.** Section 54-09-10 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-10. Secretary of state to compile lists for crops and livestock - Distribution of lists.**

1. From the computerized central indexing system, the secretary of state or a designee shall produce ~~each month one~~ electronically a list for crops and ~~one~~ a list for livestock that each contain the information as filed ~~on the forms~~ pursuant to section 41-09-72. The secretary of state shall also include on the lists the information filed for crops and livestock pursuant to sections 35-17-04, 35-30-02, and 35-31-02. The lists must be in alphabetical order according to the last name of, or in numerical order according to the social security number of, the person engaged in farming operations. The lists may be prepared in categories according to county, regions as designated by the secretary of state, or on a statewide basis. If requested, the lists must be in printed form. Each list must conspicuously note the effective date of the list.
2. The secretary of state shall distribute ~~monthly by mail~~ or deliver electronically the lists prepared pursuant to subsection 1, ~~at least five business days in advance of the effective date of each of the lists.~~ If requested, the secretary of state shall mail or deliver electronically the lists to any person making a request at a fee as provided in section 54-09-11.
3. Upon a verbal request of any person, the secretary of state, ~~or a designee of the secretary of state, or a recorder~~ shall verbally provide information contained on a list generated through the computerized central indexing system if the collateral is crops or livestock. The requesting party may request electronically a certificate ~~from the secretary of state or the recorder and the secretary of state or the recorder shall~~ from the central indexing system to confirm the information given. Direct computer access is equivalent to oral confirmation, and a computer printout constitutes the written confirmation of the secretary of state, if use of this method of confirmation does not cause the central indexing system to lose federal certification. A computer printout from the computerized central indexing system constitutes the certificate of the secretary of state ~~or the recorder~~ as to whether there is on file, on the date and hour stated on the computer printout, a financing statement.

**SECTION 35. AMENDMENT.** Section 54-09-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-11. Fees.**

1. The secretary of state shall establish fees for ~~placing data in the computerized central indexing system; for obtaining computer access to the computerized central indexing system, to the computerized Uniform Commercial Code central filing database, or to the computerized statutory liens database; for receiving printouts; for direct access to all or parts of the central indexing system; for lists sold or licensed under subsection 6 of section 41-09-94; for any other list provided by the secretary of state; for any programming charges specifically incurred to provide information requested by persons which is related to the central indexing system; and for other services provided through the computerized system.~~

- 2. ~~The~~A fee may not be required for furnishing information on a verbal request pursuant to subsection 3 of section 54-09-10 ~~is seven dollars~~, and the fee for furnishing a certificate under subsection 3 of section 54-09-10 is ~~seven~~fifteen dollars.
- 3. The secretary of state shall establish the fee for furnishing lists under ~~subsection 1 of section 54-09-10~~from the central indexing system based on actual costs to produce the lists for distribution.
- 4. Fees collected by the secretary of state under ~~subsections 1 and 3 and this section~~, under subsection 64 of section 41-09-94, and subsection 4 of section 41-09-96, and ten dollars from each filing entered into the central indexing system must be deposited in the secretary of state's general services operating fund. Fees collected by the secretary of state under ~~subsection 2~~ must be deposited in the general fund in the state treasurythis section must be used for the programming and maintenance of the central indexing system.
- 5. The secretary of state ~~may adopt rules regarding what portion of the filing fees and search fees collected by the recorder under section 41-09-96~~ must be submitted to the secretary of state for deposit into the secretary of state's general operating fund to meet the cost of the provision of services required under sections 54-09-09 and 54-09-10shall pay ten dollars to the county recorder of the county of residence for the first debtor listed on each statement filed pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, or 41-09-72. The payment must be made monthly from the general fund in the state treasury.

**SECTION 36. AMENDMENT.** Subsection 5 of section 57-34-10 of the North Dakota Century Code is amended and reenacted as follows:

- 5. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the tax commissioner filing in the central indexing system maintained by the secretary of state a notice of the lien provided for in subsection 4, takes free of, or has priority over, the lien. The tax commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. the next day following the indexing of the notice. The tax commissioner shall index any notice of lien with no payment of fees or costs to the secretary of state.

**SECTION 37. AMENDMENT.** Subsection 4 of section 57-36-09.5 of the North Dakota Century Code is amended and reenacted as follows:

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4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next day following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 38. AMENDMENT.** Section 57-38-49 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-49. Preservation of lien.**

Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the commissioner filing in the central indexing system maintained by the secretary of state a notice of the lien provided for in section 57-38-48, takes free of, or has priority over, the lien. The commissioner shall index in the central indexing system the following data:

1. The name of the taxpayer.
2. The name "State of North Dakota" as claimant.
3. The date and time the notice of lien was indexed.
4. The amount of the lien.
5. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed. The commissioner shall index any notice of lien with no payment of fees or costs to the secretary of state.

**SECTION 39. AMENDMENT.** Subsection 4 of section 57-39.2-13 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.

- c. The date and time the notice of lien was indexed.
- d. The amount of the lien.
- e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 40. AMENDMENT.** Subsection 4 of section 57-40.2-16 of the North Dakota Century Code is amended and reenacted as follows:

- 4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 41. AMENDMENT.** Subsection 3 of section 57-40.3-07.1 of the North Dakota Century Code is amended and reenacted as follows:

- 3. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed. The commissioner is exempt from the payment of fees otherwise provided by law for the indexing or the satisfaction of the lien.

**SECTION 42. AMENDMENT.** Subsection 4 of section 57-43.1-17.4 of the North Dakota Century Code is amended and reenacted as follows:

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4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 43. AMENDMENT.** Subsection 4 of section 57-43.2-16.3 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 44. AMENDMENT.** Subsection 4 of section 57-43.3-22 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.

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- e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 45. AMENDMENT.** Subsection 2 of section 57-51-11 of the North Dakota Century Code is amended and reenacted as follows:

- 2. Any judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in this state, prior to the commissioner filing in the central indexing system maintained by the secretary of state, a notice of the lien provided for in this section, takes free of, or has priority over, the lien. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. of the first day following the indexing of the notice. A notice of lien filed by the commissioner ~~with a recorder~~ before August 1, 1997, may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 46. AMENDMENT.** Subsection 4 of section 57-63-10 of the North Dakota Century Code is amended and reenacted as follows:

- 4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the facility.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number of the facility or the social security number of the owner, officer, or manager of the facility.

The notice of lien is effective as of eight a.m. the next day following the indexing of the notice. A notice of lien filed by the commissioner ~~with the recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

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**SECTION 47. REPEAL.** Section 57-28-29 of the North Dakota Century Code is repealed.

**SECTION 48. APPLICATION.** During the 2013-15 biennium, the secretary of state shall provide an electronic means for the central indexing system to accept an amendment to a statement filed before July 1, 2014, pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, 35-34-04, 41-09-72, 57-38-49, 57-39.2-13, 57-40.2-16, 57-40.3-07.1, 57-43.1-17.4, or 57-43.2-16. Before July 1, 2015, a secured party or lienholder may amend a filing under this section without a fee if the amendment is limited in scope to correcting the name of the debtor as required under section 41-09-135, or adding or correcting the social security or internal revenue service taxpayer identification number of the debtor, or both.

**SECTION 49. SECRETARY OF STATE REPORT TO LEGISLATIVE ASSEMBLY.** The secretary of state shall report to the sixty-fourth legislative assembly regarding the change in filing fees provided under this Act, including a comparison of the revenue collected under the new fee system versus the revenues collected under the previous fee system.

**SECTION 50. CONTINGENT EFFECTIVE DATE.** Sections 1 through 27 and sections 29 through 47 of this Act become effective August 1, 2015, or earlier if the secretary of state makes a report to the legislative management and to the information technology committee certifying that the information technology components of the electronic filing system are ready for implementation of those provisions of this Act, in which case those sections become effective ninety days following the completion of the certificate requirement."

Renumber accordingly

Date: 4-9-13  
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1136

Senate JUDICIARY Committee

Check here for Conference Committee Sitte Amend

Legislative Council Amendment Number amend. 01006 - Sect 3. Remove unless insert earlier if

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By S Sitte Seconded By S Nelson

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue			Senator Carolyn Nelson		
Vice Chairman Margaret Sitte			Senator John Grabinger		
Senator Stanley Lyson					
Senator Spencer Berry					
Senator Kelly Armstrong					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent verbal yes

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 4-9-13  
Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1136

Senate JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number .01004-

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By S. Armstrong Seconded By S. Sitte

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue			Senator Carolyn Nelson		
Vice Chairman Margaret Sitte			Senator John Grabinger		
Senator Stanley Lyson					
Senator Spencer Berry					
Senator Kelly Armstrong					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment Verbal - pass

If the vote is on an amendment, briefly indicate intent:



Date: 4-9-13  
 Roll Call Vote #: 4

**2013 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1136**

Senate JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0281.01008

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By S. Sitte Seconded By S. Armstrong

Senators	Yes	No	Senator	Yes	No
Chairman David Hogue	X		Senator Carolyn Nelson	X	
Vice Chairman Margaret Sitte	X		Senator John Grabinger		X
Senator Stanley Lyson	X				
Senator Spencer Berry	X				
Senator Kelly Armstrong	X				

Total (Yes) 6 No 1

Absent \_\_\_\_\_

Floor Assignment S. Sitte

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1136: Judiciary Committee (Sen. Hogue, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1136 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 11-18-01, 11-18-05, 35-13-02, 35-17-04, 35-17-07, 35-17-08, 35-20-15.1, 35-20-16, 35-29-02, 35-29-04, 35-29-05, 35-30-02, 35-30-05, 35-30-06, 35-31-02, 35-31-05, 35-31-06, 35-34-04, 35-34-06, 35-35-03, 35-37-04, 41-09-72, 41-09-73, and 41-09-84, subsection 2 of section 41-09-87, sections 41-09-94 and 41-09-96, subsection 3 of section 41-09-135, sections 41-10-01, 41-10-05, 47-16-03, 54-09-08, 54-09-09, 54-09-10, and 54-09-11, subsection 5 of section 57-34-10, subsection 4 of section 57-36-09.5, section 57-38-49, subsection 4 of section 57-39.2-13, subsection 4 of section 57-40.2-16, subsection 3 of section 57-40.3-07.1, subsection 4 of section 57-43.1-17.4, subsection 4 of section 57-43.2-16.3, subsection 4 of section 57-43.3-22, subsection 2 of section 57-51-11, and subsection 4 of section 57-63-10 of the North Dakota Century Code, relating to filing liens and security interests electronically; to repeal section 57-28-29 of the North Dakota Century Code, relating to filing tax liens; to provide for application; to provide for a report to the legislative assembly; and to provide a contingent effective date.

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

**SECTION 1. AMENDMENT.** Section 11-18-01 of the North Dakota Century Code is amended and reenacted as follows:

**11-18-01. Recorder's duties - Recording and filing instruments - Abstracts.**

The recorder shall:

1. Keep a full and true record, in proper books or other storage media provided for that purpose, of each patent, deed, mortgage, bill of sale, security agreement, judgment, decree, lien, certificate of sale, and other instrument required to be filed or admitted to record, if the person offering the instrument for filing or recording pays to the recorder the fees provided by law for the filing or recording.
2. Endorse upon each instrument filed with the recorder for record or otherwise the date and the hour and minute of the day of the filing or recording.
3. When the instrument is recorded or filed, endorse on the instrument the book and page or document number, the date, and the hour and minute of the date when it was recorded or filed with the recorder.
4. Prepare a security agreement abstract whenever any person requests the agreement and pays the required fee.
5. ~~Furnish upon written or telephonic request to persons the information contained in financing statements filed to perfect a security interest pursuant to chapter 41-09 when the collateral is farm products, and to provide written confirmation of the oral information provided upon receipt of a fee which shall be the same as for recording that instrument.~~

**SECTION 2. AMENDMENT.** Section 11-18-05 of the North Dakota Century Code is amended and reenacted as follows:

**11-18-05. Fees of recorder.**

The recorder shall charge and collect the following fees:

1. For recording an instrument affecting title to real estate:
  - a. Deeds, mortgages, and all other instruments not specifically provided for in this subsection, ten dollars for the first page and three dollars for each additional page. In addition, for all documents recorded under this section that list more than five sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for the first page of each instrument recorded under this subdivision must be placed in the document preservation fund.
    - (1) "Page" means one side of a single legal size sheet of paper not exceeding eight and one-half inches [21.59 centimeters] in width and fourteen inches [35.56 centimeters] in length.
    - (2) The printed, written, or typed words must be considered legible by the recorder before the page will be accepted for recording.
    - (3) Each real estate instrument must have a legal description considered to be adequate by the recorder before such instrument will be accepted for recording.
    - (4) A space of at least four inches by three and one-half inches [10.16 by 8.89 centimeters] square must be provided on the first or last page of each instrument for the recorder's recording information. If recording information can only be placed on the reverse side of an instrument, an additional page charge must be levied.
  - b. Instruments satisfying, releasing, assigning, subordinating, continuing, amending, or extending more than one instrument previously recorded in the county in which recording is requested, ten dollars for the first page and three dollars for each additional page plus three dollars for each such additional document number or book and page. In addition, for all documents recorded under this section which list more than five separate sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for the first page of each instrument recorded under this subdivision must be placed in the document preservation fund.
  - c. Plats, irregular tracts, or annexations, ten dollars for one lot plus ten cents for each additional lot, with the exception of auditor's lots which must be a single charge of seven dollars.
  - d. All instruments presented for recording after June 30, 2001, must contain a one-inch [2.54-centimeter] top, bottom, or side margin on each page of the instrument for the placement of computerized recording labels. An instrument that does not conform to this margin requirement may be recorded upon payment of an additional fee of ten dollars.
2. For filing any ~~non-central indexing system~~ instrument, ten dollars.
3. For making certified copies of any recorded instrument or filed ~~non-central indexing system~~ instrument, the charge is five dollars for the first page and two dollars for each additional page. For making a

noncertified copy of any recorded instrument or filed ~~non-central indexing system~~ instrument, a fee of not more than one dollar per instrument page. For providing any electronic data extracted from the recorded instrument, a fee of not more than fifty cents per instrument.

4. ~~For filing, indexing, making, or completing any statement, abstract, or certificate under the Uniform Commercial Code central filing database, the computerized central notice system or the computerized statutory liens database, for receiving printouts, and for other services provided through the computerized system, the fee is the same as that provided in sections 41-09-06 and 54-09-11.~~
5. The recorder may establish procedures for providing access for duplicating records under the recorder's control. Such records include paper, photostat, microfilm, microfiche, and electronic or computer-generated instruments created by governmental employees.
- 6.5. Duplicate recorders' records stored offsite as a security measure are not accessible for reproduction.

**SECTION 3. AMENDMENT.** Section 35-13-02 of the North Dakota Century Code, as amended by House Bill No. 1340, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

**35-13-02. Lien statement - Contents - When required - Filing.**

1. The secretary of state shall prescribe ~~one form~~ an electronic system that can be used to obtain a lien under this section and also be entered in the central indexing system. A person entitled to a lien under this chapter who retains possession of the property made, altered, or repaired is not required to file any statement to perfect the lien. If the possession of the property so made, altered, or repaired is relinquished, the person shall file electronically, within ninety days, or if the property is used for agricultural purposes within one hundred twenty days, or in the exploration for or the production of oil or gas within six months, after the materials are furnished or the labor is completed, in the ~~office of the recorder of the county in which the owner or legal possessor of the property resides~~ central indexing system, a ~~verified written statement~~ showing:
  - a. The labor performed.
  - b. The materials furnished.
  - c. The price agreed upon for the labor performed or materials furnished, or, if no price was agreed upon, the reasonable value thereof.
  - d. The name and address of the person for whom the labor was performed or to whom the materials were furnished.
  - e. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the labor was performed or to whom the materials were furnished.
  - f. The name and address of the person claiming the lien.
  - f.g. A description of the property upon which the lien is claimed.

2. A person filing a ~~verified~~-statement shall within thirty days serve notice of the filing, by registered mail, upon the owner or legal possessor of the property. A person entitled to the lien who fails to file a ~~verified~~-statement within the time limited in this section is deemed to have waived the right to a lien.
3. A lienholder may file electronically an amendment to add or correct the social security number or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~ provide a means to amend electronically the repairman's lien that has been filed pursuant to this section. The amendment of the lien does not affect the priority of the lien.

**SECTION 4. AMENDMENT.** Section 35-17-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-17-04. Procedure to obtain lien - Statement filed - Contents - Waiver.**

Any person entitled to an agister's lien, within ninety days after taking possession of the animal, may file electronically in the ~~office of the recorder in any county in this state or in the office of the secretary of state~~ central indexing system, a statement signed by the filer containing the following information:

1. The number of and a description of the animals subject to the lien and the legal description as to the location of the animals.
2. The name and address of the person for whom the animals are kept.
3. The name and address of the lienholder.
4. The price agreed upon for keeping the animals and, if no price was agreed upon, the reasonable value of the services.
5. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the animals are kept.

The secretary of state shall ~~prescribe one form that can be used to~~ provide a means to obtain electronically a lien under this section or gain protection under the central notice system, or both. If the statement is not filed within ninety days as required by this section, the person entitled to the lien under section 35-17-03 waives the lien.

**SECTION 5. AMENDMENT.** Section 35-17-07 of the North Dakota Century Code is amended and reenacted as follows:

**35-17-07. Amendment of lien.**

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used to~~ provide a means to electronically amend or assign the agister's lien that has been filed pursuant to section 35-17-04. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 6. AMENDMENT.** Section 35-17-08 of the North Dakota Century Code is amended and reenacted as follows:

### 35-17-08. Fees - Penalty.

The fee for filing electronically an agister's lien and related documents ~~with the secretary of state or the county recorder in the central notice system~~ is the same as that provided for in section 41-09-96. If a lienholder fails to file electronically a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

**SECTION 7. AMENDMENT.** Section 35-20-15.1 of the North Dakota Century Code is amended and reenacted as follows:

#### **35-20-15.1. Amendment of lien for unpaid earned property or casualty insurance premiums.**

A lienholder may file an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used to provide a means to amend electronically~~ or assign the unpaid earned property or casualty insurance premium lien that has been filed under section 35-20-15. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 8. AMENDMENT.** Section 35-20-16 of the North Dakota Century Code is amended and reenacted as follows:

#### **35-20-16. Procedure to obtain unpaid earned property or casualty insurance premium lien - Filing.**

The secretary of state shall ~~prescribe a form that can be used to provide a means to obtain electronically~~ a lien under this section and also be entered in the central indexing system. Any person entitled to an unpaid earned property or casualty insurance premium lien, within ninety days after termination of coverage, shall file in the ~~office of the recorder of the county or counties in which the property covered by the policy is located~~ central indexing system and with any loss payee named in the policy, ~~a verified an electronic statement in writing~~ stating all of the following:

1. The name and address of the policyholder.
2. The name and address of the lienholder.
3. The nature and quantity of insurance coverage provided.
4. The amount of unpaid earned premium.
5. A description of the property covered by the insurance and subject to the lien.
6. That a lien is claimed upon the property described.
7. The name of the county or counties where the property is located.
8. The social security number of the debtor, or in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of that person.

**SECTION 9. AMENDMENT.** Section 35-29-02 of the North Dakota Century Code is amended and reenacted as follows:

**35-29-02. Place of filing.**

1. Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens must be filed in accordance with this chapter.
2. Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens must be filed in the office of the recorder of central indexing system and associated to the county in which the real property subject to the liens is situated.
3. Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens must be filed as follows:
  - a. If the person against whose interest the lien applies is a corporation, limited liability company, or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the secretary of state.
  - b. If the person against whose interest the lien applies is a trust that is not covered by subdivision a, in the office of the secretary of state.
  - c. If the person against whose interest the lien applies is the estate of a decedent, in the office of the secretary of state.
  - d. In all other cases, in the office of the recorder of the county where the person against whose interest the lien applies resides at the time of filing of the notice of lien.
4. The secretary of state shall provide a means for the United States to file any documentation according to this chapter.

**SECTION 10. AMENDMENT.** Section 35-29-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-29-04. Duties of filing officer.**

1. If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subsection 2 is presented to a filing officer who is:
  - a. The secretary of state, ~~the secretary~~ shall cause the notice to be marked, held, and indexed in accordance with the provisions of section 41-09-90 as if the notice were a financing statement within the meaning of title 41; or
  - b. ~~Any other officer described in section 35-29-02, the officer~~ The secretary of state shall endorse thereon the officer's identification and the date and time of receipt and immediately file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the title and address of the official or entity certifying the lien, and the total amount appearing on the notice of lien.
2. If a certificate of release, nonattachment, discharge, or subordination of any lien is presented to the secretary of state for filing, the secretary shall do all of the following:
  - a. Cause a certificate of release or nonattachment to be marked, held, and indexed as if the certificate were a termination statement within

- the meaning of title 41, but the notice of lien to which the certificate relates may not be removed from the files.
- b. Cause a certificate of discharge or subordination to be marked, held, and indexed as if the certificate were a release of collateral within the meaning of title 41.
  3. If a refiled notice of federal lien referred to in subsection 1 or any certificate or notice referred to in subsection 2 is presented for filing to any other filing officer specified in section 35-29-02, the officer secretary of state shall permanently attach the refiled notice or the certificate to the original notice of lien and enter the refiled notice or the certificate with the date of filing in any alphabetical lien index on the line where original notice of lien is entered.
  4. ~~Upon request of any~~Any person, ~~the filing officer shall issue the officer's certificate showing~~ may search the central indexing system to determine whether there is on file, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed under this chapter or chapter 35-28 as it existed prior to enactment of this chapter, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. ~~The fee for a certificate is one dollar and twenty five cents for each notice or certificate reported therein. Upon request, the filing officer shall furnish a copy of any notice of federal lien, or notice or certificate affecting a federal lien, for a fee of one dollar, plus seventy five cents for the second and each succeeding page.~~
  5. The secretary of state shall fulfill any of the functions described in this section by electronic means with the same legal effect as if the function had been completed on a physical document.

**SECTION 11. AMENDMENT.** Section 35-29-05 of the North Dakota Century Code is amended and reenacted as follows:

**35-29-05. Fees.**

1. The fee for filing and indexing each notice of lien is:
  - a. ~~For a lien on real estate, ten dollars, plus three dollars for the second and each succeeding page.~~
  - b. ~~For a lien on tangible and intangible personal property, ten dollars, plus five dollars to record if filed with a county recorder.~~
  - c. ~~For all other notices, including a certificate of discharge, nonattachment, or subordination, ten dollars, plus ten dollars if filed toward a lien on real estate with a county recorder.~~
  - d. ~~For a nonstandard statement when presented for filing, an additional fee of five dollars plus one dollar per page, and if filed on a real estate lien with a county recorder, an additional ten dollars plus three dollars for the second and each succeeding page.~~
  - e. For a certificate of release, five dollars, which must be paid at the time the lien is filed in the central indexing system is established according to section 41-09-96. Fees to record liens with a county recorder are the same as provided for under section 11-18-05.

2. The officer may not file or record an instrument under this chapter unless the person offering the instrument for filing or recording has first paid the requisite filing or recording fee.

**SECTION 12. AMENDMENT.** Section 35-30-02 of the North Dakota Century Code is amended and reenacted as follows:

**35-30-02. Procedure to obtain lien.**

1. To obtain an agricultural processor's lien, the person entitled to the lien, within ninety days after the processing is completed, shall file electronically a statement signed by the filer in the office of the recorder in any county in this state or in the office of the secretary of state central indexing system. The statement must contain the following information:
  - a. The name and address of the person for whom the processing was done.
  - b. The name and address of the processor.
  - c. A description of the crops or agricultural products and their amount, if known, subject to the lien together with a reasonable description, including the county as to the location where the crops or agricultural products were grown and the year the crop is to be harvested or was harvested.
  - d. The price agreed upon for processing, or if no price was agreed upon, the reasonable value of the processing.
  - e. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the processing was done.
  - f. A description of the processing services and the first date the services were furnished.
2. ~~The secretary of state and the office of the recorder in any county in this state with which a statement signed by the filer under subsection 1 is submitted for filing shall reject the statement unless proof of mailing of notification of the lien to the debtor's last known address by registered or certified mail with return receipt requested is filed with the statement.~~
- 3- ~~The secretary of state shall prescribe one form that can be used~~ provide an electronic means to obtain a lien under this section or gain protection under the central notice system, or both. Before a processor's lien is filed, a billing statement for the services performed must include notice to the agricultural producer that if the amount due to the agricultural processor is not satisfied a lien may be filed.

**SECTION 13. AMENDMENT.** Section 35-30-05 of the North Dakota Century Code is amended and reenacted as follows:

**35-30-05. Amendment of lien.**

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~ provide an electronic means to amend or assign the agricultural

processor's lien that has been filed pursuant to section 35-30-02. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 14. AMENDMENT.** Section 35-30-06 of the North Dakota Century Code is amended and reenacted as follows:

**35-30-06. Fees - Penalty.**

The fee for filing electronically an agricultural processor's lien and related documents ~~with the secretary of state or the county recorder in the central indexing system~~ is the same as that provided for in section 41-09-96. If a lienholder fails to file a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

**SECTION 15. AMENDMENT.** Section 35-31-02 of the North Dakota Century Code is amended and reenacted as follows:

**35-31-02. Procedure to obtain lien.**

To obtain an agricultural supplier's lien, except an agricultural supplier's lien for furnishing petroleum products, the person entitled to the lien, within one hundred twenty days after the supplies are furnished or the services performed, shall file electronically a statement ~~signed by the filer in the office of the recorder of any county in this state or in the office of the secretary of state~~ central notice system. To obtain an agricultural supplier's lien for furnishing and delivering petroleum products, the person entitled to the lien, within one hundred fifty days after the petroleum products are furnished or delivered, shall file electronically a statement ~~signed by the filer in the office of the recorder of any county in the state or in the office of the secretary of state~~ central notice system. The statement must contain the following information:

1. The name and address of the person to whom the supplies were furnished.
2. The name and address of the supplier.
3. A description of the crops, agricultural products, or livestock and their amount or number, if known, subject to the lien together with a reasonable description, including the county as to the location of the crops, agricultural products, or livestock and the year the crop is to be harvested or was harvested.
4. A description and value of the supplies and the first date furnished.
5. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person to whom the supplies were furnished.

The secretary of state shall ~~prescribe one form that can be used~~ provide an electronic means to obtain a lien under this section or gain protection under the central notice system, or both. Before a supplier's lien is filed, a billing statement for the supplies furnished must include notice to the agricultural producer that if the amount due to the agricultural supplier is not satisfied a lien may be filed.

**SECTION 16. AMENDMENT.** Section 35-31-05 of the North Dakota Century Code is amended and reenacted as follows:

**35-31-05. Amendment of lien.**

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to

correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~ provide an electronic means to amend or assign the agricultural supplier's lien that has been filed pursuant to section 35-31-02. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 17. AMENDMENT.** Section 35-31-06 of the North Dakota Century Code is amended and reenacted as follows:

**35-31-06. Fees - Penalty.**

The fee for filing an agricultural supplier's lien and related documents ~~with the secretary of state or the county recorder~~ in the central notice system is the same as that provided for in section 41-09-96. If a lienholder fails to file a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

**SECTION 18. AMENDMENT.** Section 35-34-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-34-04. Vessel lien.**

1. In the case of a vessel, the child support agency may file electronically a notice of lien ~~with the secretary of state~~ in the central indexing system if the value of the vessel is estimated to be at least twice the cost of establishing the lien. The notice must contain a description of the make, model designation, and serial number of the vessel, including its identification or registration number, if any, and the name, social security number, and last-known address of the obligor. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.
2. Upon filing of the notice of lien in accordance with this section, the notice of lien must be indexed ~~by the secretary of state~~ in the central indexing system and may be enforced and foreclosed in the same manner as a security agreement under the provisions of title 41.
3. The secretary of state shall remove and destroy the lien notification statement in the same manner as provided for other liens in section 11-18-14 for the recorder.
4. The child support agency may file electronically an amendment to correct the spelling of the obligor's name, to correct the obligor's social security number, or to correct or change the address of the obligor.

**SECTION 19. AMENDMENT.** Section 35-34-06 of the North Dakota Century Code is amended and reenacted as follows:

**35-34-06. Lien on other personal property.**

1. In the case of untitled personal property other than an account maintained in a financial institution, the child support agency may establish a lien on such personal property by filing electronically a notice of lien ~~with the office of the recorder in the county in which the personal property may be found, with the secretary of state,~~ in the central indexing system or with a third party who is in possession of the personal property. The notice must particularly describe the property to be subjected to the lien and the name and last-known address of the obligor. The notice of lien must state that the child support obligation is past due and that a

copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.

2. The information filed ~~with a recorder or with the secretary of state~~ under this section must be included in the computerized central indexing system maintained by the secretary of state under section 54-09-09 and must be accessible to the public on the same terms and conditions that apply to access other statutory lien information maintained in the computerized central indexing system.
3. Upon filing of the notice of lien in accordance with this section, the lien attaches to and is perfected against all personal property described in the notice.

**SECTION 20. AMENDMENT.** Section 35-35-03 of the North Dakota Century Code is amended and reenacted as follows:

**35-35-03. Filing officer may reject lien - Filing officer to accept notice of invalid lien - Filing officer not liable.**

1. Any filing officer may reject for filing or recording any nonconsensual common-law lien.
2. If a nonconsensual common-law lien has been accepted for filing or recording, the filing officer shall accept for filing any ~~sworn~~ notice of invalid lien ~~signed and submitted~~ electronically by the person against whom such a lien was filed or that person's attorney. The notice must be captioned "Notice of Invalid Lien" and must state the name and address of the person on whose behalf the notice is filed, the name and address of the lien claimant, and a clear reference to the document or documents the person believes constitute a nonconsensual common-law lien. The notice must be filed in such a manner that any search of the records which reveals the lien the notice refers to will also reveal the notice of invalid lien. The filing officer shall mail or deliver electronically a copy of the notice of invalid lien to the lien claimant at the lien claimant's last-known address within one business day.
3. A filing officer, county, or the state may not be held liable for filing a nonconsensual common-law lien, or for filing a ~~sworn~~ notice of invalid lien pursuant to this section.
4. A fee may not be charged for the filing of a notice of invalid lien against a field nonconsensual common-law lien.

**SECTION 21. AMENDMENT.** Section 35-37-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-37-04. Perfection of lien - Verified notice - Effect of instruments - Effective date of lien.**

1. If the proceeds for oil or gas which are required to be paid are not paid to the interest owner when due, the interest owner may perfect the security interest and lien by filing electronically a form-UCC-1A in the central indexing system and recording the lien in the real estate records in the office of the county recorder of the county in which the well is located. If the oil and gas owner's lien is not filed within ninety days from the date of production, the security interest is not perfected and does not give the interest owner priority over a perfected security interest in the same oil, gas, or proceeds of the oil or gas.

2. ~~All instruments that are presented to a county recorder for filing in accordance with subsection 1 are effective as financing statements even though the signature of the debtor may not appear on the lien.~~ Liens must be filed electronically in the central indexing system and recorded in the real estate records of the county according to sections 11-18-01 and 11-18-05. Liens may be terminated in the same manner as financing statements.
3. Upon perfection by filing, the security interest and lien of the interest owner takes priority over the rights of all persons whose rights or claims arise or attach thereafter to the oil or gas unpaid for, or the proceeds of oil or gas if the oil or gas has been sold, including those that arise or attach between the time the security interest and lien attaches and the time of filing. The security interest and lien created pursuant to this chapter do not have priority over the security interest and lien rights previously created and perfected or an operating agreement or other voluntary agreement for the development and operation of the property.

**SECTION 22. AMENDMENT.** Section 41-09-72 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-72. (9-501) Filing office.**

1. Except as otherwise provided in subsection 2, if the local law of this state governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:
  - a. The office designated for the filing or recording of a record of a mortgage on the related real property, if:
    - (1) The collateral is as-extracted collateral or timber to be cut; or
    - (2) The financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or
  - b. The office of the recorder in any county in this state or in the office of the secretary of state, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.
2. The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the secretary of state. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.
3. The secretary of state shall provide an electronic means for filing any record required or permitted to be filed by this title. This may include use of business-to-business methods using a common data format and must include a web-based application. Any record that is not filed electronically must be rejected.

**SECTION 23. AMENDMENT.** Section 41-09-73 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-73. (9-502) (Effective through June 30, 2013) Contents of financing statement - Record of mortgage as financing statement - Time of filing financing statement - Amending financing statement.**

1. Subject to subsection 2, a financing statement is sufficient only if the statement:
  - a. Provides the name of the debtor;
  - b. Provides the name of the secured party or a representative of the secured party;
  - c. Indicates the collateral covered by the financing statement;
  - d. If it is a financing statement that is to be filed to gain protection under the central notice system, includes a reasonable description of the property, including the county in which the property is located, and any other additional information required by the Food Security Act of 1985 [Pub. L. 99-198; Stat. 1535; 7 U.S.C. 1631], as prescribed by the secretary of state, and, to be sufficient a financing statement must include the name and address of the secured party; and unless electronically filed, the signatures of the debtor and secured parties;
  - e. Provides a mailing address for the secured party; and
  - f. Provides a mailing address for the debtor.
2. Except as otherwise provided in subsection 2 of section 41-09-72, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection 1 and also:
  - a. Indicate that it covers this type of collateral;
  - b. Indicate that it is to be filed for record in the real property records;
  - c. Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and
  - d. If the debtor does not have an interest of record in the real property, provide the name of a record owner.
3. A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:
  - a. The record indicates the goods or accounts that it covers;
  - b. The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
  - c. The record satisfies the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and
  - d. The record is duly recorded.

4. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.
5. A financing statement filed to gain protection under the central notice system must be amended within three months of a material change to reflect that change. The amended financing statement must be signed by both the debtor and secured party and filed in the same manner as the original financing statement. An electronically filed amendment does not need to be signed.
6. Any social security number or federal tax identification number submitted on a financing statement filed pursuant to this chapter as a central indexing filing prior to January 1, 2012, is an exempt record as defined by subsection 5 of section 44-04-17.1 and may not be disclosed as part of any search under section 41-09-94 or 41-09-96 or as part of a copy of the record. After December 31, 2011, a debtor's social security number or federal tax identification number may not be filed pursuant to this chapter in the filing office with the central indexing system and may not be recorded in the real property records.

**(Effective after June 30, 2013) Contents of financing statement - Record of mortgage as financing statement - Time of filing financing statement - Amending financing statement.**

1. Subject to subsection 2, a financing statement is sufficient only if the statement:
  - a. Provides the name and social security number or internal revenue service taxpayer identification number of the debtor;
  - b. Provides the name of the secured party or a representative of the secured party;
  - c. Indicates the collateral covered by the financing statement;
  - d. If it is a financing statement that is to be filed to gain protection under the central notice system, includes a reasonable description of the property, including the county in which the property is located, and any other additional information required by the Food Security Act of 1985 [Pub. L. 99-198; Stat. 1535; 7 U.S.C. 1631], as prescribed by the secretary of state, and, to be sufficient a financing statement must include the name and address of the secured party; and unless electronically filed, the signatures of the debtor and secured parties;
  - e. Provides a mailing address for the secured party; and
  - f. Provides a mailing address for the debtor.
2. Except as otherwise provided in subsection 2 of section 41-09-72, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection 1 and also:
  - a. Indicate that it covers this type of collateral;
  - b. Indicate that it is to be filed for record in the real property records;
  - c. Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and

- d. If the debtor does not have an interest of record in the real property, provide the name of a record owner.
3. A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:
  - a. The record indicates the goods or accounts that it covers;
  - b. The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut; and
  - c. The record satisfies the requirements for a financing statement in this section, but:
    - (1) The record need not indicate that it is to be filed in the real property records; and
    - (2) The record sufficiently provides the name of a debtor who is an individual if the record provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom subdivision d of subsection 1 of section 41-09-74 applies; and
  - d. ~~The record is duly recorded.~~
4. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.
5. A financing statement filed to gain protection under the central notice system must be amended within three months of a material change to reflect that change. The amended financing statement must be signed by both the debtor and secured party and filed in the same manner as the original financing statement. An electronically filed amendment does not need to be signed.
6. Any social security number or ~~federal tax~~ internal revenue service taxpayer identification number submitted on a financing statement filed pursuant to this chapter as a central indexing filing ~~prior to January 1, 2012,~~ is an exempt record as defined by subsection 5 of section 44-04-17.1 and may not be disclosed as part of any search under section 41-09-94 or 41-09-96 or as part of a copy of the record. ~~After December 31, 2011, a~~ debtor's social security number or ~~federal tax~~ internal revenue service taxpayer identification number ~~may not be filed pursuant to this chapter in the filing office with the central indexing system and may not be recorded in the real property records as provided for under section 11-18-23.2.~~

**SECTION 24. AMENDMENT.** Section 41-09-84 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-84. (9-513) Termination statement - Remedies - Fees.**

1. If a financing statement covering consumer goods is filed after December 31, 1973, then within one month or within ten days following written demand by the debtor after there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party shall file ~~with each filing officer with whom the financing statement was filed~~ electronically in the central

indexing system, a termination statement to the effect that the secured party no longer claims a security interest under the financing statement, which must be identified by file number. In other cases when there is no outstanding secured obligation and no written commitment between the secured party and the debtor to make advances, incur obligations, or otherwise give value, the secured party, unless requested by the debtor in writing to continue the filing, ~~must send to each filing officer with whom the financing statement was filed, shall file electronically~~ a termination statement to the effect that the secured party no longer claims a security interest under the financing statement nor under the central notice system, which shall be identified by file number. If the affected secured party fails to file a termination statement as required by this subsection within sixty days of when the secured obligation is fully satisfied, and the debtor has not requested in writing that the filing be continued, then under section 41-09-120 the secured party is liable to the debtor for one hundred dollars and for any loss caused to the debtor by such failure. The debtor's written request for a filing to be continued may be made at any time and be effective under this section. If the affected secured party fails to file a termination statement within ten days after proper written demand by the debtor, then under section 41-09-120 the secured party is liable to the debtor for one hundred dollars and for any loss caused to the debtor by such failure.

2. Except as otherwise provided in section 41-09-81, upon the filing of a termination statement ~~with the filing office~~, the financing statement to which the termination statement relates ceases to be effective. Except as provided in section 41-09-81, for purposes of subsection 7 of section 41-09-90, subsection 1 of section 41-09-93, and subsection 32 of section 41-09-94, the electronic filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.
3. The fee for filing and indexing a termination statement, ~~including sending or delivering the financing statement, is five dollars. For any financing statement filed after April 8, 1991, the fee must be paid at the time is included in~~ the fee for filing the financing statement ~~is paid~~.

**SECTION 25. AMENDMENT.** Subsection 2 of section 41-09-87 of the North Dakota Century Code is amended and reenacted as follows:

2. Filing does not occur with respect to a record that a filing office refuses to accept because:
  - a. The record is not communicated by a method or medium of communication authorized by the filing office;
  - b. An amount equal to or greater than the applicable filing fee is not tendered;
  - c. The filing office is unable to index the record because:
    - (1) In the case of an initial financing statement, the record does not provide a name for the debtor;
    - (2) In the case of an amendment or correction statement, the record:
      - (a) Does not identify the initial financing statement as required by section 41-09-83 or 41-09-89, as applicable; or

- (b) Identifies an initial financing statement whose effectiveness has lapsed under section 41-09-86;
- (3) In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or
- (4) In the case of a record filed or recorded in the filing office described in subdivision a of subsection 1 of section 41-09-72, the record does not provide a sufficient description of the real property to which it relates;
- d. In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;
- e. In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:
  - (1) Provide a mailing address for the debtor;
  - (2) Indicate whether the debtor is an individual or an organization; or
  - (3) If the financing statement indicates that the debtor is an organization, provide:
    - (a) A type of organization for the debtor;
    - (b) A jurisdiction of organization for the debtor; or
    - (c) An organizational identification number for the debtor or indicate that the debtor has none;
- f. In the case of an assignment reflected in an initial financing statement under subsection 1 of section 41-09-85 or an amendment filed under subsection 2 of section 41-09-85, the record does not provide a name and mailing address for the assignee; ~~or~~
- g. In the case of a continuation statement, the record is not filed within the six-month period prescribed by subsection 4 of section 41-09-86; or
- h. The record does not contain the social security number or the internal revenue service taxpayer identification number of the debtor.

**SECTION 26. AMENDMENT.** Section 41-09-94 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-94. (9-523) Information from filing office - Sale or license of records.**

- 1. If aAny person that files a written record requestsmay request electronically an acknowledgment of the filing, the filing officea filing. The central indexing system shall sendprovide to the person detailed information and an image of the record, if not filed electronically, showing

- the number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90 and the date and time of the filing of the record. However, if the person furnishes a copy of the record to the filing office, the filing office may instead:
- a. Note upon the copy the number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90 and the date and time of the filing of the record; and
  - b. Send the copy to the person.
2. If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:
- a. The information in the record;
  - b. The number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90; and
  - c. The date and time of the filing of the record.
3. The filing office central indexing system shall communicate or otherwise make available in a record electronically the following information to any person that requests it:
- a. Whether there is on file on a date and time specified by the filing office central indexing system, but not a date earlier than three business days before the filing office receives the request, any verified statement of an agricultural lien created under chapter 35-17, 35-30, or 35-31 or any financing statement that:
    - (1) Designates a particular debtor or, if the request so states, designates a particular debtor at the address specified in the request;
    - (2) Has not lapsed under section 41-09-86 with respect to all secured parties of record; and
    - (3) Effective January 1, 2002, if the request so states, has lapsed under section 41-09-86 and a record of which is maintained by the filing office central indexing system under subsection 1 of section 41-09-93;
  - b. The date and time of filing of each verified statement and each financing statement; and
  - c. The information provided in each verified statement and each financing statement.
4. In complying with its duty under subsection 3, the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing a written certificate.
- 5.3. The filing office if a request to the central indexing system cannot be automatically accepted, the secretary of state shall perform the acts required by subsections 1 through 4 at the time and in the manner prescribed by filing office rule, but and 2 not later than two business days after the filing office central indexing system receives the request.
- 6.4. At least weekly, the secretary of state shall offer to sell or license to the public on a nonexclusive basis, in bulk, copies detailed information of all

~~records filed in it under this part, in every medium from time to time filed within the central indexing system.~~

**SECTION 27. AMENDMENT.** Section 41-09-96 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-96. (9-525) Fees.**

1. ~~The fee for filing and indexing an original statement under this title is fifteenforty-five dollars plus one dollar per additional page. When a nonstandard statement is presented for filing, an additional fee of five dollars must be paid. An additional fee may not be charged for the same statement to gain protection under the central notice system.~~
2. ~~The fee for filing and indexing an amendment, including continuations, assignments, releases, or correction statements under this title is tenforty-five dollars plus one dollar per additional page. An additional fee may not be charged for the same document to gain protection under the central notice system.~~
3. ~~A fee may not be charged for responding to a central indexing system response to an electronic request for information:~~
  - a. Information from the filing officecentral indexing system communicating whether there is on file any financing statement or ~~verified~~ statement naming a particular debtor.
  - b. Information on specific filings on a particular debtor.
  - c. Copies of each filing on a particular debtor.
  - d. Certified copies of filings on a particular debtor.
4. ~~The fee for a filing officecentral indexing response providing information on specific filings onsubmitted by a particular debtorsecured party is sevenfive hundred dollars per debtor for the first five entries, plus two dollars for each additional five entries or fraction thereafter.~~
5. ~~The fee for a filing office providing copies of each filing for a particular debtor is seven dollars per debtor plus two dollars per page for each page over three pages.~~
6. ~~The fee for a filing office providing certified copies of filings on a particular debtor is ten dollars plus two dollars per page for attachments.~~
7. ~~Any fees collected by the secretary of state pursuant to this chapter and all other filings entered into the central indexing system must be deposited in the general fund in the state treasury, exceptwith the exception of the fees collected under subsection 64 of section 41-09-94, subsection 4 of this section, and a portion of the filing fees specifically identified in section 54-09-11, which must be deposited in the secretary of state's general services operating fund.~~

**SECTION 28. AMENDMENT.** Subsection 3 of section 41-09-135 of the North Dakota Century Code is amended and reenacted as follows:

3. ~~The filing of a continuation statement after this Act takes effect does not continue the effectiveness of the financing statement filed before this Act takes effect. However, upon the timely filing of a continuation statement after this Act takes effect, no later than is required by section 41-09-86, and in accordance with the law of the jurisdiction governing perfection as~~

provided in this chapter as amended by this Act, the effectiveness of a financing statement filed in the same office in that jurisdiction before this Act takes effect continues for the period provided by the law of that jurisdiction.

**SECTION 29. AMENDMENT.** Section 41-10-01 of the North Dakota Century Code is amended and reenacted as follows:

**41-10-01. Definitions.**

As used in this chapter:

1. "Authorized", when used with reference to a financing statement record, means that the financing statement record was filed by a person authorized to do so as provided in sections 41-09-80 and 41-09-130.
2. "Debtor" means a natural person whose name was provided in a financing statement record as an individual debtor or one of the types of persons listed in section 41-09-76.
3. "Filing office" or "filing officer" refers to the ~~appropriate office or officer~~ central indexing system, which must be provided by the secretary of state, where a financing statement record is to be filed electronically as provided by section 41-09-72, including the county recorder, the secretary of state, and other designated filing officers.
4. "Financing statement record" means an initial financing statement, an amendment that adds collateral covered by a financing statement, and an amendment that adds a debtor to a financing statement as such terms are used in this title.

**SECTION 30. AMENDMENT.** Section 41-10-05 of the North Dakota Century Code is amended and reenacted as follows:

**41-10-05. Venue.**

An action under this chapter may be brought in any district court ~~in the county in which the financing statement record is presented for filing or in a county~~ where any of the persons who may bring an action under this chapter reside.

**SECTION 31. AMENDMENT.** Section 47-16-03 of the North Dakota Century Code is amended and reenacted as follows:

**47-16-03. Filing farm lease containing reservation of title to crop - Waiver of rights on failure to file.**

1. When a lease of a farm contains a provision reserving title in the lessor to any part of the crops in excess of the rental share of the lessor until the stated conditions of the lease have been complied with by the lessee, such lease must be filed in the office of the recorder in the county in which the land described therein is located if notice by a real estate recording is sought, and must be filed electronically in the central indexing system if recording in the central notice system is sought, prior to July first in the year in which the crops are raised to render such reservation of title effective as to subsequent purchasers or encumbrancers of any part of the grain over and above the lessor's rental share produced upon the land.
2. The failure to file such lease or contract in accordance with this section constitutes a waiver by the lessor of all rights reserved by that person

over and above that person's rental share in such crops as against any subsequent purchaser or encumbrancer of the lessee.

3. The secretary of state may ~~prescribe a form which shall provide an~~ electronic system that includes the pertinent information from the lease that may be filed in the central notice system. A lessor may file this ~~form~~ with the recorder electronic statement and obtain the same rights under this section as if the lessor had filed the lease.
4. The fee required to file and index this notice of lease is:
  - a. As provided in section 11-18-05, if the notice of lease is only a real estate recording;
  - b. As provided in section ~~41-09-06~~ 41-09-96, if the notice of lease is filed only to gain protection under the central notice system; or
  - c. As provided in section 11-18-05, if ~~the notice of lease is both a real estate recording and filed to gain protection under the central notice system. An additional fee may not be charged for the same~~ statement a real estate recording is sought and according to section 41-09-96 if electronically filed to gain protection under the central notice system.

**SECTION 32. AMENDMENT.** Section 54-09-08 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-08. Secretary of state's general services operating fund.**

The secretary of state's general services operating fund is a special fund in the state treasury. Moneys in the fund are to be used pursuant to legislative appropriations for the provision of services under section 16.1-02-15, subsection ~~64~~ of section 41-09-94, subsection 4 of section 41-09-96, subsection 87 of section 54-09-04, and sections 10-35-33, 54-09-10, and 54-09-11. At the close of each biennium, the secretary of state shall transfer any unobligated balance remaining in the fund exceeding seventy-five thousand dollars to the general fund.

**SECTION 33. AMENDMENT.** Section 54-09-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-09.**

**Computerized central indexing system - Rules.**

1. The secretary of state shall maintain a computerized central indexing system that contains the information filed ~~with the office of the secretary of state or with any of the offices of the recorder in this state pursuant to~~ sections 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, 35-34-04, 35-34-06, 41-09-72, ~~57-28-29, 57-38-49, 57-39.2-13, 57-40.2-16, 57-40.3-07.1, 57-43.1-17.4, 57-43.2-16.3, and 57-51-11.~~ The system must connect each recorder's office to the secretary of state's office through the information technology department. The system must allow access to financing statement information by equipment that conforms to requirements determined by the information technology department. The system must have safeguards to allow access to information that is in the system relating to security interests or liens and to prevent unauthorized alteration or deletion of that information and to allow access to other information in the system as prescribed by the secretary of state.
2. Within two working days of receipt of a financing statement, continuation statement, amendment, or termination statement filed electronically

pursuant to chapter 41-09 or a statement filed electronically pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, or 35-31-02, the ~~recorder or secretary of state shall file the information contained in the statement~~ must be filed in the computerized central indexing system. A computer printout of information from the system is prima facie evidence of the existence or nonexistence of the filing of a financing statement or lien. The secretary of state shall ~~prescribe one form~~ provide an electronic means that can be used to perfect a security interest in farm products or gain protection under the central notice system, or both.

3. The secretary of state may adopt rules necessary to implement this section and sections 54-09-10 and 54-09-11.

**SECTION 34. AMENDMENT.** Section 54-09-10 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-10. Secretary of state to compile lists for crops and livestock - Distribution of lists.**

1. From the computerized central indexing system, the secretary of state or a designee shall produce ~~each month one~~ electronically a list for crops and ~~one~~ list for livestock that each contain the information as filed ~~on the forms~~ pursuant to section 41-09-72. The secretary of state shall also include on the lists the information filed for crops and livestock pursuant to sections 35-17-04, 35-30-02, and 35-31-02. The lists must be in alphabetical order according to the last name of, or in numerical order according to the social security number of, the person engaged in farming operations. The lists may be prepared in categories according to county, regions as designated by the secretary of state, or on a statewide basis. If requested, the lists must be in printed form. Each list must conspicuously note the effective date of the list.
2. The secretary of state shall distribute ~~monthly~~ by mail or deliver electronically the lists prepared pursuant to subsection 1, ~~at least five business days in advance of the effective date of each of the lists.~~ If requested, the secretary of state shall mail or deliver electronically the lists to any person making a request at a fee as provided in section 54-09-11.
3. Upon a verbal request of any person, the secretary of state, or a designee of the secretary of state, ~~or a recorder~~ shall verbally provide information contained on a list generated through the computerized central indexing system if the collateral is crops or livestock. The requesting party may request electronically a certificate ~~from the secretary of state or the recorder and the secretary of state or the recorder shall from the central indexing system~~ to confirm the information given. Direct computer access is equivalent to oral confirmation, and a computer printout constitutes the written confirmation of the secretary of state, if use of this method of confirmation does not cause the central indexing system to lose federal certification. A computer printout from the computerized central indexing system constitutes the certificate of the secretary of state ~~or the recorder~~ as to whether there is on file, on the date and hour stated on the computer printout, a financing statement.

**SECTION 35. AMENDMENT.** Section 54-09-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-11. Fees.**

1. The secretary of state shall establish fees for ~~placing data in the computerized central indexing system; for obtaining computer access to~~

~~the computerized central indexing system, to the computerized Uniform Commercial Code central filing database, or to the computerized statutory liens database; for receiving printouts; for direct access to all or parts of the central indexing system; for lists sold or licensed under subsection 6 of section 41-09-94; for any other list provided by the secretary of state; for any programming charges specifically incurred to provide information requested by persons which is related to the central indexing system; and for other services provided through the computerized system.~~

2. ~~The~~ A fee may not be required for furnishing information on a verbal request pursuant to subsection 3 of section 54-09-10 ~~is seven dollars, and the fee for furnishing a certificate under subsection 3 of section 54-09-10 is seven~~ fifteen dollars.
3. ~~The secretary of state shall establish the fee for furnishing lists under subsection 1 of section 54-09-10~~ from the central indexing system based on actual costs to produce the lists for distribution.
4. Fees collected by the secretary of state under ~~subsections 1 and 3 and this section, under subsection 64 of section 41-09-94, and subsection 4 of section 41-09-96, and ten dollars from each filing entered into the central indexing system~~ must be deposited in the secretary of state's general services operating fund. Fees collected by the secretary of state under subsection 2 must be deposited in the general fund in the state treasury this section must be used for the programming and maintenance of the central indexing system.
5. ~~The secretary of state may adopt rules regarding what portion of the filing fees and search fees collected by the recorder under section 41-09-96 must be submitted to the secretary of state for deposit into the secretary of state's general operating fund to meet the cost of the provision of services required under sections 54-09-09 and 54-09-10~~ shall pay ten dollars to the county recorder of the county of residence for the first debtor listed on each statement filed pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, or 41-09-72. The payment must be made monthly from the general fund in the state treasury.

**SECTION 36. AMENDMENT.** Subsection 5 of section 57-34-10 of the North Dakota Century Code is amended and reenacted as follows:

5. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the tax commissioner filing in the central indexing system maintained by the secretary of state a notice of the lien provided for in subsection 4, takes free of, or has priority over, the lien. The tax commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. the next day following the indexing of the notice. The tax commissioner shall index any notice of lien with no payment of fees or costs to the secretary of state.

**SECTION 37. AMENDMENT.** Subsection 4 of section 57-36-09.5 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next day following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 38. AMENDMENT.** Section 57-38-49 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-49. Preservation of lien.**

Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the commissioner filing in the central indexing system maintained by the secretary of state a notice of the lien provided for in section 57-38-48, takes free of, or has priority over, the lien. The commissioner shall index in the central indexing system the following data:

1. The name of the taxpayer.
2. The name "State of North Dakota" as claimant.
3. The date and time the notice of lien was indexed.
4. The amount of the lien.
5. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed. The commissioner shall index any notice of lien with no payment of fees or costs to the secretary of state.

**SECTION 39. AMENDMENT.** Subsection 4 of section 57-39.2-13 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.

- b. The name "State of North Dakota" as claimant.
- c. The date and time the notice of lien was indexed.
- d. The amount of the lien.
- e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 40. AMENDMENT.** Subsection 4 of section 57-40.2-16 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 41. AMENDMENT.** Subsection 3 of section 57-40.3-07.1 of the North Dakota Century Code is amended and reenacted as follows:

3. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed. The commissioner is exempt from the payment of fees otherwise provided by law for the indexing or the satisfaction of the lien.

**SECTION 42. AMENDMENT.** Subsection 4 of section 57-43.1-17.4 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 43. AMENDMENT.** Subsection 4 of section 57-43.2-16.3 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 44. AMENDMENT.** Subsection 4 of section 57-43.3-22 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 45. AMENDMENT.** Subsection 2 of section 57-51-11 of the North Dakota Century Code is amended and reenacted as follows:

2. Any judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in this state, prior to the commissioner filing in the central indexing system maintained by the secretary of state, a notice of the lien provided for in this section, takes free of, or has priority over, the lien. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. of the first day following the indexing of the notice. A notice of lien filed by the commissioner ~~with a recorder~~ before August 1, 1997, may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 46. AMENDMENT.** Subsection 4 of section 57-63-10 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the facility.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number of the facility or the social security number of the owner, officer, or manager of the facility.

The notice of lien is effective as of eight a.m. the next day following the indexing of the notice. A notice of lien filed by the commissioner ~~with the recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 47. REPEAL.** Section 57-28-29 of the North Dakota Century Code is repealed.

**SECTION 48. APPLICATION.** During the 2013-15 biennium, the secretary of state shall provide an electronic means for the central indexing system to accept an amendment to a statement filed before July 1, 2014, pursuant to section 35-13-02,

35-17-04, 35-20-16, 35-30-02, 35-31-02, 35-34-04, 41-09-72, 57-38-49, 57-39.2-13, 57-40.2-16, 57-40.3-07.1, 57-43.1-17.4, or 57-43.2-16. Before July 1, 2015, a secured party or lienholder may amend a filing under this section without a fee if the amendment is limited in scope to correcting the name of the debtor as required under section 41-09-135, or adding or correcting the social security or internal revenue service taxpayer identification number of the debtor, or both.

**SECTION 49. SECRETARY OF STATE REPORT TO LEGISLATIVE ASSEMBLY.** The secretary of state shall report to the sixty-fourth legislative assembly regarding the change in filing fees provided under this Act, including a comparison of the revenue collected under the new fee system versus the revenues collected under the previous fee system.

**SECTION 50. CONTINGENT EFFECTIVE DATE.** Sections 1 through 27 and sections 29 through 47 of this Act become effective August 1, 2015, or earlier if the secretary of state makes a report to the legislative management and to the information technology committee certifying that the information technology components of the electronic filing system are ready for implementation of those provisions of this Act, in which case those sections become effective ninety days following the completion of the certificate requirement."

Renumber accordingly

**2013 CONFERENCE COMMITTEE**

**HB 1136**

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee  
Prairie Room, State Capitol

HB 1136  
JOB: #21217  
Date: April 17, 2013

Conference Committee

*LeMae Kuehn*

## Explanation or reason for introduction of bill/resolution:

(Conference Committee)

North Dakota Century Code relating to article 9 of the Uniform Commercial Code.

## Minutes:

Testimony #1 and proposed amendments in # 1, 2

**Rep. Larry Klemin:** Opens Conference Committee on HB 1136.

We have two sets of amendments. We have the bill as amended in the Senate which the House did not concur with. Then we have additional amendments that are incorporated in what was handed out.

**Al Jaeger, Secretary of State:** Handout #1. (Time on tape 2:30 to 14:29) This bill did get quite a bit of venting in the Senate Judiciary Committee. This bill started out relating to Article 9, Secured Transactions. The action taken by the Senate is related to the same topic.

**Rep. Larry Klemin:** In order to use this system, does the user need to have the software?

**Al Jaeger:** They can go online. Lenders will not have to redo their system. They will not have to do double entry.

**Rep. Larry Klemin:** The upfront fee according to what is on the bottom of the second sheet, there is a \$50 fee to sign up to use the system?

**Al Jaeger:** All those fees will all be eliminated even the handwritten ones at the bottom of the page.

On page 3 of the testimony, I have added technical changes. This page is included in the 30-page amendment you received.

**Rep. Larry Klemin:** On the amendments attached to your handout, the 45 to 40, is that a fee?

**Al Jaeger:** Yes, that is the upfront fee. The \$30 is a continuation--once the document is filed at the end of its time.

**Rep. Larry Klemin:** The upfront fee is \$40 under this amendment. It will be the same for an individual and a bank?

**Al Jaeger:** Correct. There are no charges for searching or the number of pages. It is one fee.

**Rep. Larry Klemin:** The filing fee right now is what?

**Al Jaeger:** On the second page it is \$15 plus so many dollars per page. When you go into searches it is so much per search. The lenders have a subscription. That is what is written in at the bottom. That goes away also.

**Rep. Larry Klemin:** Would anyone be able to file a paper form if we adopt these amendments?

**Al Jaeger:** With the internet it can be accessed from any location.

(20:54)

**Rep. Bill Kretschmar:** I am looking at the second page of the fees. It says Real Estate Recording-File with County Recorders Only. When I go down to my county and file a deed they charge me \$10. You have \$28 on here.

**Al Jaeger:** That is when the UCC document ties into the real estate. The one thing the recorder's representative made very sure of is that this bill did not change anything of their normal recording duties. This is a combination filing. Under the new system they won't have the combination filings any more. The normal recorder fees would apply to the recording of that deed.

**Rep. Larry Klemin:** Would the new fee for filing in the County Recorder's Office of a UCC one be \$40?

**Al Jaeger:** The only way the recording will be done is electronically. There won't be any recording per se in the county recorder's office. You will not take a piece of paper into a county recorder. Everyone will be filing online electronically.

**Rep. Larry Klemin:** Individuals don't file as often as banks. How would an individual be benefitted for the increased fee?

**Al Jaeger:** They would have immediate 24/7 notice. They would have a record of their secured transaction. They would have the ability to do searches.

**Rep. Larry Klemin:** I could do a search from my law office with no cost?

**Al Jaeger:** Yes.

**Rep. Larry Klemin:** If I was a lawyer in Delaware, I could search online for no charge?

**Al Jaeger:** Yes. The only charge is when you file and then it is \$40.

Conference Committee will be recessed.

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee  
Prairie Room, State Capitol

HB 1136  
JOB #21285  
Date April 18, 2013

Conference Committee

*DeMar Kuehn*

## Explanation or reason for introduction of bill/resolution:

(Conference Committee)

North Dakota Century Code relating to article 9 of the Uniform Commercial Code.

## Minutes:

Handout #1

**Rep. Larry Klemin:** Reopens Conference Committee on HB 1136.

**Al Jaeger, Secretary of State:** Yesterday I presented testimony that said the bill makes three changes. Because of the different sections of the Century Code that are involved, it becomes long. The bill established mandated electronic filing for all liens into the Central Indexing System. It establishes the Social Security Number and Federal Identification Number as a unique identifier which is required for all filings into the Central Indexing System. It also establishes one upfront fee. The difference with the fee and the one-page amendment is that the Senate had that at \$45 and the amendment had it at \$40. Explained Handout #1. Section 27 is the bill Rep. Klemin introduced.

(5:57)

**Rep. Larry Klemin:** On the amendments page 21 shows it on the original bill as Section 28

**Al Jaeger:** Section 28 is your bill as it started out.

**Al Jaeger:** Continued explanation of Handout #1.

We first discussed this with the Senate on March 6. On April 3 there was another hearing. Section 49 and 50 were added by the Senate in committee work. The two state-wide banking associations, the agricultural lending community, and the credit unions all spoke in favor. Ann Johnsrud, County Recorder in McKenzie County and Legislative Committee Chair for the County Recorders' Association, reviewed the bill drafts and amendments.

The bill does require that the lien be filed in the county of the residence of the debtor.

Continued explaining Handout #1, page 3.

The fee schedule is changing and there has been some concern about that. What is different from what the Senate did is that we are recommending the \$45 fee be dropped to \$40.

**Rep. Larry Klemin:** Page 12, subsection 4 it says "field." Should it say "file"?

**Al Jaeger:** That is a typo and it can be changed.

**Rep. Larry Klemin:** Page 14, Section 23 of the amendments. We are amending current law that is effective through June 30, 2013. This is not going to become effective until 2015 or earlier. How is it that we are amending a section that runs out on June 30, 2013?

**Al Jaeger:** Nothing is changed on page 14 and 15. That is current law and wouldn't be impacted by this bill.

**Rep. Larry Klemin:** On page 15 and 16 it says "Effective after June 30, 2013." Subdivision 1e and 1f are deleted. There are more changes on page 16. Are all of those changes going to be effective after June 30, 2013 regardless of the 2015 effective date at the end of these amendments?

(18:54)

**Jim Silrum, Deputy Secretary of State:** The changes that are a part of this bill, except for Section 28 that was a part of the original bill, will only go into effect when the new system is put into place.

**Rep. Larry Klemin:** We go to Section 50, effective date August 1, 2015 or earlier. Then we go back to page 15 and it says effective after June 30, 2015. That sounds like on August 1, 2015 we have a retroactive effective date of June 30, 2013.

**Jim Silrum:** The thought was that if the program does not happen to be ready by August 1, 2015, there will be another legislative session prior to that. A change would be made at that next session. Our plan is to have our system up and going by July 1, 2014.

**Sen. Hogue:** We added Section 49 and 50. The effective date language was based on our concern that we are going to a mandatory electronic filing and it is based on an assumption that the software will be competent to handle these filings. The safety valve is that for some reason we can't get this system to work, it will not be effective until it is functioning as intended. So we put it out to August 15, 2015.

**Rep. Larry Klemin:** The way the amendments read right now, I can't tell what's effective July 1, 2013 and what is effective August 1, 2015.

**Jim Silrum:** In our consultation with Legislative Council for drafting purposes of this amendment, essentially what would happen is until the new system is ready and implemented, 90 days after that date, the changes suggested in Sections 1 through 27 & 29 through 47 would go into effect at that time. So on August 1, 2013, none of the changes proposed in Sections 1-27 & 29-47 are going to appear in the law. The moment the system would be ready for use, the changes would be the law.

**Rep. Larry Klemin:** To use an example, on page 15, subsection 1e, provides mailing addresses for the secured party. That will remain in effect beginning July 1, 2013 and will only be removed when this whole thing becomes effective August 1, 2015.

Starting on page 20, Section 27, subsection 1 has a \$40 fee, subsection 2 has a \$40 fee, subsection 3 has a \$30 fee, and subsection 4 there is a \$500 fee. What is the \$500 fee?

(26:15)

**Jim Silrum:** There is a search of the system known as a secured party search. A secured party search would be to find all of those filings that are associated to a particular lending group such as Wells Fargo. That is a large search. Under the current system, a search like that can cost the lender about \$1500. Even though searches will be free, it was recommended to us from the Information Technology Department that if we allow for unlimited use of secured party searches that could drag the system down and cripple it. It was suggested that if a secured party wants to find all of the liens that they have in the Central Indexing System, they could do that but there would be a cost to that. It is one third of the cost of what it would be today. It is primarily a fee in place when needed. A secured party knows how many filings they have in the system. One implement dealer may want to do a secured party search on another implement dealer.

**Rep. Larry Klemin:** Could it be \$500 or \$7 for the first five entries plus \$2 for each additional entry whichever is less?

**Al Jaeger:** This is a search that might be done by an institution to make sure they have all their records in order. The \$1500 fee is not an uncommon fee. What this does is if you are going to search for everything, there is one flat fee. Most lenders will know their own inventory. But they want to see how many loans that another bank might have.

**Rep. Larry Klemin:** This assumes that lenders have their records in order. What if there is an insolvent bank someplace in the country. The party taking over the bank wants to do searches nationwide to find out what they may have. They request a search for North Dakota and turn up one or two entries. It will cost them \$500.

**Jim Silrum:** That is a cost of doing business. This is something we have now and we don't want the system bogged down because of a casual user. If you really want to know this, you need to pay for it.

**Rep. Larry Klemin:** On Section 48 application, how does this affect the original bill which is now Section 28? Under the original bill these lenders making the name changes are going to have to pay fees amending their filings. Under Section 48 it reads like they don't have to pay a fee for amending filings.

**Jim Silrum:** You are correct. Under this amendment, for a one-year grace period there would be an opportunity to amend the name or add the Social Security number at no cost to the lenders. That is one of the reasons we can have this system ready to go by March of 2014. But we have set July 1 of 2014 as a date that we want to launch this because we want to make sure we have it right. Starting July 1 through the end of the biennium, lenders would have the opportunity to change a name according to what is on the individual's driver's license or add a Social Security number at no cost to the lender.

**Rep. Bill Kretschmar:** As I understand this is not for real estate. That is still with the County Recorder? Correct?

**Al Jaeger:** Yes.

**Rep. Bill Kretschmar:** The bill has nothing to do with civil judgments. They get filed in the court system?

**Al Jaeger:** Yes.

**Rep. Larry Klemin:** Does that include state and federal tax liens?

**Al Jaeger:** Yes.

We don't charge other state agencies but do charge federal government.

**Rep. Larry Klemin:** The one page of amendments attached to your handout yesterday, are all those included in the ones we just went over.

**Al Jaeger:** Yes.

**Rep. Larry Klemin:** (Asked for comments from the lenders present. None given.)

**Rep. Larry Klemin:** Moved that the Senate recede from its amendments as printed on pages 1397-1422 of the House Journal and pages 1263-1288 of the Senate Journal and further amend HB 1136.

**Rep. Bill Kretschmar:** Seconded the motion.

**Roll call vote** was taken with 6 Yes and 0 No. Motion is carried.

**FISCAL NOTE**  
**Requested by Legislative Council**  
**04/19/2013**

Amendment to: HB 1136

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill mandates the electronic filing of lien documents into the Secretary of State's central indexing system for UCC and other related secured transactions.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill mandates the electronic filing of lien documents into the Secretary of State's central filing system. This bill is designed to be revenue neutral based on current revenue and expenditures. It establishes a single simplified upfront fee for a filing rather than a variety of filing fees depending on the number of pages, searches, attachments, etc. It enhances the services provided to secured parties and debtors.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Similar to what is received under the current fee schedule, but in a much more simple manner because of having only one fee rather than over 35 different fees and subscriptions.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The bill mandates the electronic filing of lien documents into the Secretary of State's central filing system. This bill is designed to be revenue neutral based on current revenue and expenditures. It establishes a single simplified upfront fee for a filing rather than a variety of filing fees depending on the number of pages, searches, attachments, etc. It enhances the services provided to secured parties and debtors.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

No appropriations are need because the bill is revenue neutral and current appropriations will support the operational functions and the agency already has the appropriation to develop the software.

**Name:** Al Jaeger

**Agency:** Secretary of State

**Telephone:** 701-328-2900

**Date Prepared:** 04/20/2013

**FISCAL NOTE**  
**Requested by Legislative Council**  
**04/10/2013**

Amendment to: HB 1136

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The bill mandates the electronic filing of lien documents into the Secretary of State's central indexing system for UCC and other related secured transactions.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill mandates the electronic filing of lien documents into the Secretary of State's central filing system. This bill is designed to be revenue neutral based on current revenue and expenditures. It establishes a single simplified upfront fee for a filing rather than a variety of filing fees depending on the number of pages, searches, attachments, etc. It enhances the services provided to secured parties and debtors.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

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- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The bill mandates the electronic filing of lien documents into the Secretary of State's central filing system. This bill is designed to be revenue neutral based on current revenue and expenditures. It establishes a single simplified upfront fee for a filing rather than a variety of filing fees depending on the number of pages, searches, attachments, etc. It enhances the services provided to secured parties and debtors.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

No appropriations are need because the bill is revenue neutral and current appropriations support the operational functions.

**Name:** Al Jaeger

**Agency:** Secretary of State

**Telephone:** 701-328-2900

**Date Prepared:** 04/10/2013

10/30/13  
JMK

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1136

That the Senate recede from its amendments as printed on pages 1397-1422 of the House Journal and pages 1263-1288 of the Senate Journal and that House Bill No. 1136 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 11-18-01, 11-18-05, 35-13-02, 35-17-04, 35-17-07, 35-17-08, 35-20-15.1, 35-20-16, 35-29-02, 35-29-04, 35-29-05, 35-30-02, 35-30-05, 35-30-06, 35-31-02, 35-31-05, 35-31-06, 35-34-04, 35-34-06, 35-35-03, 35-37-04, 41-09-72, 41-09-73, and 41-09-84, subsection 2 of section 41-09-87, sections 41-09-94 and 41-09-96, subsection 3 of section 41-09-135, sections 41-10-01, 41-10-05, 47-16-03, 54-09-08, 54-09-09, 54-09-10, and 54-09-11, subsection 5 of section 57-34-10, subsection 4 of section 57-36-09.5, section 57-38-49, subsection 4 of section 57-39.2-13, subsection 4 of section 57-40.2-16, subsection 3 of section 57-40.3-07.1, subsection 4 of section 57-43.1-17.4, subsection 4 of section 57-43.2-16.3, subsection 4 of section 57-43.3-22, subsection 2 of section 57-51-11, and subsection 4 of section 57-63-10 of the North Dakota Century Code, relating to filing liens and security interests electronically; to repeal section 57-28-29 of the North Dakota Century Code, relating to filing tax liens; to provide for application; to provide for a report to the legislative assembly; and to provide a contingent effective date.

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

**SECTION 1. AMENDMENT.** Section 11-18-01 of the North Dakota Century Code is amended and reenacted as follows:

**11-18-01. Recorder's duties - Recording and filing instruments - Abstracts.**

The recorder shall:

1. Keep a full and true record, in proper books or other storage media provided for that purpose, of each patent, deed, mortgage, bill of sale, security agreement, judgment, decree, lien, certificate of sale, and other instrument required to be filed or admitted to record, if the person offering the instrument for filing or recording pays to the recorder the fees provided by law for the filing or recording.
2. Endorse upon each instrument filed with the recorder for record or otherwise the date and the hour and minute of the day of the filing or recording.
3. When the instrument is recorded or filed, endorse on the instrument the book and page or document number, the date, and the hour and minute of the date when it was recorded or filed with the recorder.
4. Prepare a security agreement abstract whenever any person requests the agreement and pays the required fee.

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5. ~~Furnish upon written or telephonic request to persons the information contained in financing statements filed to perfect a security interest pursuant to chapter 41-09 when the collateral is farm products, and to provide written confirmation of the oral information provided upon receipt of a fee which shall be the same as for recording that instrument.~~

**SECTION 2. AMENDMENT.** Section 11-18-05 of the North Dakota Century Code is amended and reenacted as follows:

**11-18-05. Fees of recorder.**

The recorder shall charge and collect the following fees:

1. For recording an instrument affecting title to real estate:
  - a. Deeds, mortgages, and all other instruments not specifically provided for in this subsection, ten dollars for the first page and three dollars for each additional page. In addition, for all documents recorded under this section that list more than five sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for the first page of each instrument recorded under this subdivision must be placed in the document preservation fund.
    - (1) "Page" means one side of a single legal size sheet of paper not exceeding eight and one-half inches [21.59 centimeters] in width and fourteen inches [35.56 centimeters] in length.
    - (2) The printed, written, or typed words must be considered legible by the recorder before the page will be accepted for recording.
    - (3) Each real estate instrument must have a legal description considered to be adequate by the recorder before such instrument will be accepted for recording.
    - (4) A space of at least four inches by three and one-half inches [10.16 by 8.89 centimeters] square must be provided on the first or last page of each instrument for the recorder's recording information. If recording information can only be placed on the reverse side of an instrument, an additional page charge must be levied.
  - b. Instruments satisfying, releasing, assigning, subordinating, continuing, amending, or extending more than one instrument previously recorded in the county in which recording is requested, ten dollars for the first page and three dollars for each additional page plus three dollars for each such additional document number or book and page. In addition, for all documents recorded under this section which list more than five separate sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for the first page of each instrument recorded under this subdivision must be placed in the document preservation fund.

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- c. Plats, irregular tracts, or annexations, ten dollars for one lot plus ten cents for each additional lot, with the exception of auditor's lots which must be a single charge of seven dollars.
  - d. All instruments presented for recording after June 30, 2001, must contain a one-inch [2.54-centimeter] top, bottom, or side margin on each page of the instrument for the placement of computerized recording labels. An instrument that does not conform to this margin requirement may be recorded upon payment of an additional fee of ten dollars.
2. For filing any ~~non-central indexing system~~ instrument, ten dollars.
  3. For making certified copies of any recorded instrument or filed ~~non-central indexing system~~ instrument, the charge is five dollars for the first page and two dollars for each additional page. For making a noncertified copy of any recorded instrument or filed ~~non-central indexing system~~ instrument, a fee of not more than one dollar per instrument page. For providing any electronic data extracted from the recorded instrument, a fee of not more than fifty cents per instrument.
  4. ~~For filing, indexing, making, or completing any statement, abstract, or certificate under the Uniform Commercial Code central filing database, the computerized central notice system or the computerized statutory liens database, for receiving printouts, and for other services provided through the computerized system, the fee is the same as that provided in sections 41-09-96 and 54-09-11.~~
  5. The recorder may establish procedures for providing access for duplicating records under the recorder's control. Such records include paper, photostat, microfilm, microfiche, and electronic or computer-generated instruments created by governmental employees.
  - 6.5. Duplicate recorders' records stored offsite as a security measure are not accessible for reproduction.

**SECTION 3. AMENDMENT.** Section 35-13-02 of the North Dakota Century Code, as amended by House Bill No. 1340, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

**35-13-02. Lien statement - Contents - When required - Filing.**

1. The secretary of state shall prescribe ~~one form~~ an electronic system that can be used to obtain a lien under this section and also be entered in the central indexing system. A person entitled to a lien under this chapter who retains possession of the property made, altered, or repaired is not required to file any statement to perfect the lien. If the possession of the property so made, altered, or repaired is relinquished, the person shall file electronically, within ninety days, or if the property is used for agricultural purposes within one hundred twenty days, or in the exploration for or the production of oil or gas within six months, after the materials are furnished or the labor is completed, in the ~~office of the recorder of the county in which the owner or legal possessor of the property resides~~ central indexing system, a ~~verified written statement~~ showing:

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- a. The labor performed.
  - b. The materials furnished.
  - c. The price agreed upon for the labor performed or materials furnished, or, if no price was agreed upon, the reasonable value thereof.
  - d. The name and address of the person for whom the labor was performed or to whom the materials were furnished.
  - e. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the labor was performed or to whom the materials were furnished.
  - f. The name and address of the person claiming the lien.
  - f.g. A description of the property upon which the lien is claimed.
2. A person filing a ~~verified~~-statement shall within thirty days serve notice of the filing, by registered mail, upon the owner or legal possessor of the property. A person entitled to the lien who fails to file a ~~verified~~-statement within the time limited in this section is deemed to have waived the right to a lien.
  3. A lienholder may file electronically an amendment to add or correct the social security number or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~provide a means to amend electronically the repairman's lien that has been filed pursuant to this section. The amendment of the lien does not affect the priority of the lien.

**SECTION 4. AMENDMENT.** Section 35-17-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-17-04. Procedure to obtain lien - Statement filed - Contents - Waiver.**

Any person entitled to an agister's lien, within ninety days after taking possession of the animal, may file electronically in the ~~office of the recorder in any county in this state or in the office of the secretary of state~~central indexing system, a statement ~~signed by the filer~~ containing the following information:

1. The number of and a description of the animals subject to the lien and the legal description as to the location of the animals.
2. The name and address of the person for whom the animals are kept.
3. The name and address of the lienholder.
4. The price agreed upon for keeping the animals and, if no price was agreed upon, the reasonable value of the services.
5. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the animals are kept.

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The secretary of state shall ~~prescribe one form that can be used~~ provide a means to obtain electronically a lien under this section or gain protection under the central notice system, or both. If the statement is not filed within ninety days as required by this section, the person entitled to the lien under section 35-17-03 waives the lien.

**SECTION 5. AMENDMENT.** Section 35-17-07 of the North Dakota Century Code is amended and reenacted as follows:

**35-17-07. Amendment of lien.**

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~ to provide a means to electronically amend or assign the agister's lien that has been filed pursuant to section 35-17-04. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 6. AMENDMENT.** Section 35-17-08 of the North Dakota Century Code is amended and reenacted as follows:

**35-17-08. Fees - Penalty.**

The fee for filing electronically an agister's lien and related documents ~~with the secretary of state or the county recorder in the central notice system~~ is the same as that provided for in section 41-09-96. If a lienholder fails to file electronically a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

**SECTION 7. AMENDMENT.** Section 35-20-15.1 of the North Dakota Century Code is amended and reenacted as follows:

**35-20-15.1. Amendment of lien for unpaid earned property or casualty insurance premiums.**

A lienholder may file an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~ provide a means to amend electronically or assign the unpaid earned property or casualty insurance premium lien that has been filed under section 35-20-15. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 8. AMENDMENT.** Section 35-20-16 of the North Dakota Century Code is amended and reenacted as follows:

**35-20-16. Procedure to obtain unpaid earned property or casualty insurance premium lien - Filing.**

The secretary of state shall ~~prescribe a form that can be used~~ provide a means to obtain electronically a lien under this section and also be entered in the central indexing system. Any person entitled to an unpaid earned property or casualty insurance premium lien, within ninety days after termination of coverage, shall file in the ~~office of the recorder of the county or counties in which the property covered by the~~

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policy is located central indexing system and with any loss payee named in the policy, a verified an electronic statement in writing stating all of the following:

1. The name and address of the policyholder.
2. The name and address of the lienholder.
3. The nature and quantity of insurance coverage provided.
4. The amount of unpaid earned premium.
5. A description of the property covered by the insurance and subject to the lien.
6. That a lien is claimed upon the property described.
7. The name of the county or counties where the property is located.
8. The social security number of the debtor, or in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of that person.

**SECTION 9. AMENDMENT.** Section 35-29-02 of the North Dakota Century Code is amended and reenacted as follows:

**35-29-02. Place of filing.**

1. Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens must be filed in accordance with this chapter.
2. Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens must be filed in the office of the recorder of central indexing system and associated to the county in which the real property subject to the liens is situated.
3. Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens must be filed as follows:
  - a. If the person against whose interest the lien applies is a corporation, limited liability company, or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the secretary of state.
  - b. If the person against whose interest the lien applies is a trust that is not covered by subdivision a, in the office of the secretary of state.
  - c. If the person against whose interest the lien applies is the estate of a decedent, in the office of the secretary of state.
  - d. In all other cases, in the office of the recorder of the county where the person against whose interest the lien applies resides at the time of filing of the notice of lien.

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- 4. The secretary of state shall provide a means for the United States to file any documentation according to this chapter.

**SECTION 10. AMENDMENT.** Section 35-29-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-29-04. Duties of filing officer.**

- 1. If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subsection 2 is presented ~~to a filing officer who is:~~
  - a. The secretary of state, ~~the secretary~~ shall cause the notice to be marked, held, and indexed in accordance with the provisions of section 41-09-90 as if the notice were a financing statement within the meaning of title 41; or
  - b. ~~Any other officer described in section 35-29-02, the officer~~The secretary of state shall endorse thereon the officer's identification and the date and time of receipt and immediately file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the title and address of the official or entity certifying the lien, and the total amount appearing on the notice of lien.
- 2. If a certificate of release, nonattachment, discharge, or subordination of any lien is presented to the secretary of state for filing, the secretary shall do all of the following:
  - a. Cause a certificate of release or nonattachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of title 41, but the notice of lien to which the certificate relates may not be removed from the files.
  - b. Cause a certificate of discharge or subordination to be marked, held, and indexed as if the certificate were a release of collateral within the meaning of title 41.
- 3. If a refiled notice of federal lien referred to in subsection 1 or any certificate or notice referred to in subsection 2 is presented for filing ~~to any other filing officer specified in section 35-29-02, the officer~~secretary of state shall permanently attach the refiled notice or the certificate to the original notice of lien and enter the refiled notice or the certificate with the date of filing in any alphabetical lien index on the line where original notice of lien is entered.
- 4. ~~Upon request of any~~Any person, ~~the filing officer shall issue the officer's certificate showing~~ may search the central indexing system to determine whether there is on file, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed under this chapter or chapter 35-28 as it existed prior to enactment of this chapter, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. ~~The fee for a certificate is one dollar and twenty five cents for each notice or certificate reported therein.~~ Upon request, the filing officer shall furnish a copy of any notice of federal

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~~lien, or notice or certificate affecting a federal lien, for a fee of one dollar, plus seventy five cents for the second and each succeeding page.~~

- 5. The secretary of state shall fulfill any of the functions described in this section by electronic means with the same legal effect as if the function had been completed on a physical document.

**SECTION 11. AMENDMENT.** Section 35-29-05 of the North Dakota Century Code is amended and reenacted as follows:

**35-29-05. Fees.**

- 1. The fee for filing and indexing each notice of lien is:
  - a. ~~For a lien on real estate, ten dollars, plus three dollars for the second and each succeeding page.~~
  - b. ~~For a lien on tangible and intangible personal property, ten dollars, plus five dollars to record if filed with a county recorder.~~
  - c. ~~For all other notices, including a certificate of discharge, nonattachment, or subordination, ten dollars, plus ten dollars if filed toward a lien on real estate with a county recorder.~~
  - d. ~~For a nonstandard statement when presented for filing, an additional fee of five dollars plus one dollar per page, and if filed on a real estate lien with a county recorder, an additional ten dollars plus three dollars for the second and each succeeding page.~~
  - e. For a certificate of release, five dollars, which must be paid at the time the lien is filed in the central indexing system is established according to section 41-09-96. Fees to record liens with a county recorder are the same as provided for under section 11-18-05.
- 2. The officer may not file or record an instrument under this chapter unless the person offering the instrument for filing or recording has first paid the requisite filing or recording fee.

**SECTION 12. AMENDMENT.** Section 35-30-02 of the North Dakota Century Code is amended and reenacted as follows:

**35-30-02. Procedure to obtain lien.**

- 1. To obtain an agricultural processor's lien, the person entitled to the lien, within ninety days after the processing is completed, shall file electronically a statement signed by the filer in the office of the recorder in any county in this state or in the office of the secretary of state central indexing system. The statement must contain the following information:
  - a. The name and address of the person for whom the processing was done.
  - b. The name and address of the processor.
  - c. A description of the crops or agricultural products and their amount, if known, subject to the lien together with a reasonable description, including the county as to the location where the crops or agricultural

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products were grown and the year the crop is to be harvested or was harvested.

- d. The price agreed upon for processing, or if no price was agreed upon, the reasonable value of the processing.
  - e. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the processing was done.
  - f. A description of the processing services and the first date the services were furnished.
2. ~~The secretary of state and the office of the recorder in any county in this state with which a statement signed by the filer under subsection 1 is submitted for filing shall reject the statement unless proof of mailing of notification of the lien to the debtor's last known address by registered or certified mail with return receipt requested is filed with the statement.~~
  3. The secretary of state shall ~~prescribe one form that can be used~~ provide an electronic means to obtain a lien under this section or gain protection under the central notice system, or both. Before a processor's lien is filed, a billing statement for the services performed must include notice to the agricultural producer that if the amount due to the agricultural processor is not satisfied a lien may be filed.

**SECTION 13. AMENDMENT.** Section 35-30-05 of the North Dakota Century Code is amended and reenacted as follows:

**35-30-05. Amendment of lien.**

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~ provide an electronic means to amend or assign the agricultural processor's lien that has been filed pursuant to section 35-30-02. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 14. AMENDMENT.** Section 35-30-06 of the North Dakota Century Code is amended and reenacted as follows:

**35-30-06. Fees - Penalty.**

The fee for filing electronically an agricultural processor's lien and related documents ~~with the secretary of state or the county recorder in the central indexing system~~ is the same as that provided for in section 41-09-96. If a lienholder fails to file a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

**SECTION 15. AMENDMENT.** Section 35-31-02 of the North Dakota Century Code is amended and reenacted as follows:

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### 35-31-02. Procedure to obtain lien.

To obtain an agricultural supplier's lien, except an agricultural supplier's lien for furnishing petroleum products, the person entitled to the lien, within one hundred twenty days after the supplies are furnished or the services performed, shall file electronically a statement ~~signed by the filer in the office of the recorder of any county in this state or in the office of the secretary of state~~ central notice system. To obtain an agricultural supplier's lien for furnishing and delivering petroleum products, the person entitled to the lien, within one hundred fifty days after the petroleum products are furnished or delivered, shall file electronically a statement ~~signed by the filer in the office of the recorder of any county in the state or in the office of the secretary of state~~ central notice system. The statement must contain the following information:

1. The name and address of the person to whom the supplies were furnished.
2. The name and address of the supplier.
3. A description of the crops, agricultural products, or livestock and their amount or number, if known, subject to the lien together with a reasonable description, including the county as to the location of the crops, agricultural products, or livestock and the year the crop is to be harvested or was harvested.
4. A description and value of the supplies and the first date furnished.
5. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person to whom the supplies were furnished.

The secretary of state shall ~~prescribe one form that can be used~~ provide an electronic means to obtain a lien under this section or gain protection under the central notice system, or both. Before a supplier's lien is filed, a billing statement for the supplies furnished must include notice to the agricultural producer that if the amount due to the agricultural supplier is not satisfied a lien may be filed.

**SECTION 16. AMENDMENT.** Section 35-31-05 of the North Dakota Century Code is amended and reenacted as follows:

#### 35-31-05. Amendment of lien.

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~ provide an electronic means to amend or assign the agricultural supplier's lien that has been filed pursuant to section 35-31-02. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 17. AMENDMENT.** Section 35-31-06 of the North Dakota Century Code is amended and reenacted as follows:

#### 35-31-06. Fees - Penalty.

The fee for filing an agricultural supplier's lien and related documents ~~with the secretary of state or the county recorder~~ in the central notice system is the same as that

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provided for in section 41-09-96. If a lienholder fails to file a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

**SECTION 18. AMENDMENT.** Section 35-34-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-34-04. Vessel lien.**

1. In the case of a vessel, the child support agency may file electronically a notice of lien ~~with the secretary of state in the central indexing system~~ if the value of the vessel is estimated to be at least twice the cost of establishing the lien. The notice must contain a description of the make, model designation, and serial number of the vessel, including its identification or registration number, if any, and the name, social security number, and last-known address of the obligor. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.
2. Upon filing of the notice of lien in accordance with this section, the notice of lien must be indexed ~~by the secretary of state~~ in the central indexing system and may be enforced and foreclosed in the same manner as a security agreement under the provisions of title 41.
3. The secretary of state shall remove and destroy the lien notification statement in the same manner as provided for other liens in section 11-18-14 for the recorder.
4. The child support agency may file electronically an amendment to correct the spelling of the obligor's name, to correct the obligor's social security number, or to correct or change the address of the obligor.

**SECTION 19. AMENDMENT.** Section 35-34-06 of the North Dakota Century Code is amended and reenacted as follows:

**35-34-06. Lien on other personal property.**

1. In the case of untitled personal property other than an account maintained in a financial institution, the child support agency may establish a lien on such personal property by filing electronically a notice of lien ~~with the office of the recorder in the county in which the personal property may be found, with the secretary of state, in the central indexing system~~ or with a third party who is in possession of the personal property. The notice must particularly describe the property to be subjected to the lien and the name and last-known address of the obligor. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.
2. The information filed ~~with a recorder or with the secretary of state~~ under this section must be included in the computerized central indexing system maintained by the secretary of state under section 54-09-09 and must be accessible to the public on the same terms and conditions that apply to

access other statutory lien information maintained in the computerized central indexing system.

3. Upon filing of the notice of lien in accordance with this section, the lien attaches to and is perfected against all personal property described in the notice.

**SECTION 20. AMENDMENT.** Section 35-35-03 of the North Dakota Century Code is amended and reenacted as follows:

**35-35-03. Filing officer may reject lien - Filing officer to accept notice of invalid lien - Filing officer not liable.**

1. Any filing officer may reject for filing or recording any nonconsensual common-law lien.
2. If a nonconsensual common-law lien has been accepted for filing or recording, the filing officer shall accept for filing any ~~sworn~~ notice of invalid lien ~~signed and submitted~~ electronically by the person against whom such a lien was filed or that person's attorney. The notice must be captioned "Notice of Invalid Lien" and must state the name and address of the person on whose behalf the notice is filed, the name and address of the lien claimant, and a clear reference to the document or documents the person believes constitute a nonconsensual common-law lien. The notice must be filed in such a manner that any search of the records which reveals the lien the notice refers to will also reveal the notice of invalid lien. The filing officer shall mail or deliver electronically a copy of the notice of invalid lien to the lien claimant at the lien claimant's last-known address within one business day.
3. A filing officer, county, or the state may not be held liable for filing a nonconsensual common-law lien, or for filing a ~~sworn~~ notice of invalid lien pursuant to this section.
4. A fee may not be charged for the filing of a notice of invalid lien against a filed nonconsensual common-law lien.

**SECTION 21. AMENDMENT.** Section 35-37-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-37-04. Perfection of lien - Verified notice - Effect of instruments - Effective date of lien.**

1. If the proceeds for oil or gas which are required to be paid are not paid to the interest owner when due, the interest owner may perfect the security interest and lien by filing electronically a ~~form~~-UCC-1A in the central indexing system and recording the lien in the real estate records in the office of the county recorder of the county in which the well is located. If the oil and gas owner's lien is not filed within ninety days from the date of production, the security interest is not perfected and does not give the interest owner priority over a perfected security interest in the same oil, gas, or proceeds of the oil or gas.
2. ~~All instruments that are presented to a county recorder for filing in accordance with subsection 1 are effective as financing statements even~~

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though the signature of the debtor may not appear on the lien. Liens must be filed electronically in the central indexing system and recorded in the real estate records of the county according to sections 11-18-01 and 11-18-05. Liens may be terminated in the same manner as financing statements.

- 3. Upon perfection by filing, the security interest and lien of the interest owner takes priority over the rights of all persons whose rights or claims arise or attach thereafter to the oil or gas unpaid for, or the proceeds of oil or gas if the oil or gas has been sold, including those that arise or attach between the time the security interest and lien attaches and the time of filing. The security interest and lien created pursuant to this chapter do not have priority over the security interest and lien rights previously created and perfected or an operating agreement or other voluntary agreement for the development and operation of the property.

**SECTION 22. AMENDMENT.** Section 41-09-72 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-72. (9-501) Filing office.**

- 1. Except as otherwise provided in subsection 2, if the local law of this state governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:
  - a. The office designated for the filing or recording of a record of a mortgage on the related real property, if:
    - (1) The collateral is as-extracted collateral or timber to be cut; or
    - (2) The financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or
  - b. The office of the recorder in any county in this state or in the office of the secretary of state, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.
- 2. The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the secretary of state. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.
- 3. The secretary of state shall provide an electronic means for filing any record required or permitted to be filed by this title. This may include use of business-to-business methods using a common data format and must include a web-based application. Any record that is not filed electronically must be rejected.

**SECTION 23. AMENDMENT.** Section 41-09-73 of the North Dakota Century Code is amended and reenacted as follows:

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**41-09-73. (9-502) (Effective through June 30, 2013) Contents of financing statement - Record of mortgage as financing statement - Time of filing financing statement - Amending financing statement.**

1. Subject to subsection 2, a financing statement is sufficient only if the statement:
  - a. Provides the name of the debtor;
  - b. Provides the name of the secured party or a representative of the secured party;
  - c. Indicates the collateral covered by the financing statement;
  - d. If it is a financing statement that is to be filed to gain protection under the central notice system, includes a reasonable description of the property, including the county in which the property is located, and any other additional information required by the Food Security Act of 1985 [Pub. L. 99-198; Stat. 1535; 7 U.S.C. 1631], as prescribed by the secretary of state, and, to be sufficient a financing statement must include the name and address of the secured party; and unless electronically filed, the signatures of the debtor and secured parties;
  - e. Provides a mailing address for the secured party; and
  - f. Provides a mailing address for the debtor.
2. Except as otherwise provided in subsection 2 of section 41-09-72, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection 1 and also:
  - a. Indicate that it covers this type of collateral;
  - b. Indicate that it is to be filed for record in the real property records;
  - c. Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and
  - d. If the debtor does not have an interest of record in the real property, provide the name of a record owner.
3. A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:
  - a. The record indicates the goods or accounts that it covers;
  - b. The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
  - c. The record satisfies the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and

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- d. The record is duly recorded.
4. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.
5. A financing statement filed to gain protection under the central notice system must be amended within three months of a material change to reflect that change. The amended financing statement must be signed by both the debtor and secured party and filed in the same manner as the original financing statement. An electronically filed amendment does not need to be signed.
6. Any social security number or federal tax identification number submitted on a financing statement filed pursuant to this chapter as a central indexing filing prior to January 1, 2012, is an exempt record as defined by subsection 5 of section 44-04-17.1 and may not be disclosed as part of any search under section 41-09-94 or 41-09-96 or as part of a copy of the record. After December 31, 2011, a debtor's social security number or federal tax identification number may not be filed pursuant to this chapter in the filing office with the central indexing system and may not be recorded in the real property records.

**(Effective after June 30, 2013) Contents of financing statement - Record of mortgage as financing statement - Time of filing financing statement - Amending financing statement.**

1. Subject to subsection 2, a financing statement is sufficient only if the statement:
  - a. Provides the name of the debtor;
  - b. Provides the name of the secured party or a representative of the secured party;
  - c. Indicates the collateral covered by the financing statement; and
  - d. If it is a financing statement that is to be filed to gain protection under the central notice system, includes a reasonable description of the property, including the county in which the property is located, and any other additional information required by the Food Security Act of 1985 [Pub. L. 99-198; Stat. 1535; 7 U.S.C. 1631], as prescribed by the secretary of state, and, to be sufficient a financing statement must include the name and address of the secured party; and unless electronically filed, the signatures of the debtor and secured parties;
  - e. ~~Provides a mailing address for the secured party; and~~
  - f. ~~Provides a mailing address for the debtor.~~
2. Except as otherwise provided in subsection 2 of section 41-09-72, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection 1 and also:
  - a. Indicate that it covers this type of collateral;
  - b. Indicate that it is to be filed for record in the real property records;

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- c. Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and
    - d. If the debtor does not have an interest of record in the real property, provide the name of a record owner.
  3. A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:
    - a. The record indicates the goods or accounts that it covers;
    - b. The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
    - c. The record satisfies the requirements for a financing statement in this section, but:
      - (1) The record need not indicate that it is to be filed in the real property records; and
      - (2) The record sufficiently provides the name of a debtor who is an individual if the record provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom subdivision d of subsection 1 of section 41-09-74 applies; and
      - (3) The mortgage may not include a social security number or internal revenue service taxpayer identification number; and
    - d. The record is duly recorded.
  4. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.
  5. A financing statement filed to gain protection under the central notice system must be amended within three months of a material change to reflect that change. The amended financing statement must be signed by both the debtor and secured party and filed in the same manner as the original financing statement. An electronically filed amendment does not need to be signed.
  6. Any social security number or ~~federal tax~~internal revenue service taxpayer identification number submitted on a financing statement filed pursuant to this chapter as a central indexing filing ~~prior to January 1, 2012,~~ is an exempt record as defined by subsection 5 of section 44-04-17.1 and may not be disclosed as part of any search under section 41-09-94 or 41-09-96 or as part of a copy of the record. ~~After December 31, 2011, a~~ debtor's social security number or ~~federal tax~~internal revenue service taxpayer identification number ~~may not be filed pursuant to this chapter in the filing office with the central indexing system and may not be recorded in the real property records as provided for under section 11-18-23.2.~~

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**SECTION 24. AMENDMENT.** Section 41-09-84 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-84. (9-513) Termination statement - Remedies - Fees.**

1. If a financing statement covering consumer goods is filed after December 31, 1973, then within one month or within ten days following written demand by the debtor after there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party shall file ~~with each filing officer with whom the financing statement was filed~~ electronically in the central indexing system, a termination statement to the effect that the secured party no longer claims a security interest under the financing statement, which must be identified by file number. In other cases when there is no outstanding secured obligation and no written commitment between the secured party and the debtor to make advances, incur obligations, or otherwise give value, the secured party, unless requested by the debtor in writing to continue the filing, ~~must send to each filing officer with whom the financing statement was filed,~~ shall file electronically a termination statement to the effect that the secured party no longer claims a security interest under the financing statement nor under the central notice system, which shall be identified by file number. If the affected secured party fails to file a termination statement as required by this subsection within sixty days of when the secured obligation is fully satisfied, and the debtor has not requested in writing that the filing be continued, then under section 41-09-120 the secured party is liable to the debtor for one hundred dollars and for any loss caused to the debtor by such failure. The debtor's written request for a filing to be continued may be made at any time and be effective under this section. If the affected secured party fails to file a termination statement within ten days after proper written demand by the debtor, then under section 41-09-120 the secured party is liable to the debtor for one hundred dollars and for any loss caused to the debtor by such failure.
  
2. Except as otherwise provided in section 41-09-81, upon the filing of a termination statement ~~with the filing office~~, the financing statement to which the termination statement relates ceases to be effective. Except as provided in section 41-09-81, for purposes of subsection 7 of section 41-09-90, subsection 1 of section 41-09-93, and subsection ~~3~~ 2 of section 41-09-94, the electronic filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.
  
3. The fee for filing and indexing a termination statement, ~~including sending or delivering the financing statement, is five dollars. For any financing statement filed after April 8, 1991, the fee must be paid at the time is included in the fee for filing the financing statement is paid.~~

**SECTION 25. AMENDMENT.** Subsection 2 of section 41-09-87 of the North Dakota Century Code is amended and reenacted as follows:

2. Filing does not occur with respect to a record that a filing office refuses to accept because:

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- a. The record is not communicated by a method or medium of communication authorized by the filing office;
- b. An amount equal to or greater than the applicable filing fee is not tendered;
- c. The filing office is unable to index the record because:
  - (1) In the case of an initial financing statement, the record does not provide a name for the debtor;
  - (2) In the case of an amendment or correction statement, the record:
    - (a) Does not identify the initial financing statement as required by section 41-09-83 or 41-09-89, as applicable; or
    - (b) Identifies an initial financing statement whose effectiveness has lapsed under section 41-09-86;
  - (3) In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or
  - (4) In the case of a record filed or recorded in the filing office described in subdivision a of subsection 1 of section 41-09-72, the record does not provide a sufficient description of the real property to which it relates;
- d. In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;
- e. In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:
  - (1) Provide a mailing address for the debtor;
  - (2) Indicate whether the debtor is an individual or an organization; or
  - (3) If the financing statement indicates that the debtor is an organization, provide:
    - (a) A type of organization for the debtor;
    - (b) A jurisdiction of organization for the debtor; or
    - (c) An organizational identification number for the debtor or indicate that the debtor has none;
- f. In the case of an assignment reflected in an initial financing statement under subsection 1 of section 41-09-85 or an amendment filed under

subsection 2 of section 41-09-85, the record does not provide a name and mailing address for the assignee; or

- g. In the case of a continuation statement, the record is not filed within the six-month period prescribed by subsection 4 of section 41-09-86; or
- h. The record does not contain the social security number or the internal revenue service taxpayer identification number of the debtor.

**SECTION 26. AMENDMENT.** Section 41-09-94 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-94. (9-523) Information from filing office - Sale or license of records.**

1. ~~If a~~Any person that files a written record request ~~may request~~ electronically an acknowledgment of the filing, ~~the filing office a filing.~~ The central indexing system shall send~~provide~~ to the person detailed information and an image of the record, if not filed electronically, showing the number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90 and the date and time of the filing of the record. ~~However, if the person furnishes a copy of the record to the filing office, the filing office may instead:~~
  - a. ~~Note upon the copy the number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90 and the date and time of the filing of the record; and~~
  - b. ~~Send the copy to the person.~~
2. ~~If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:~~
  - a. ~~The information in the record;~~
  - b. ~~The number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90; and~~
  - e. ~~The date and time of the filing of the record.~~
3. ~~The filing office~~central indexing system shall communicate ~~or otherwise make available in a record~~electronically the following information to any person that requests it:
  - a. Whether there is on file on a date and time specified by the ~~filing office~~central indexing system, ~~but not a date earlier than three business days before the filing office receives the request, any verified statement of an agricultural lien created under chapter 35-17, 35-30, or 35-31 or any financing statement that:~~
    - (1) Designates a particular debtor or, if the request so states, designates a particular debtor at the address specified in the request;
    - (2) Has not lapsed under section 41-09-86 with respect to all secured parties of record; and

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- (3) Effective January 1, 2002, if the request so states, has lapsed under section 41-09-86 and a record of which is maintained by the filing office central indexing system under subsection 1 of section 41-09-93;
- b. The date and time of filing of each verified-statement and each financing statement; and
- c. The information provided in each verified-statement and each financing statement.
- 4. ~~In complying with its duty under subsection 3, the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing a written certificate.~~
- 5.3. ~~The filing office if a request to the central indexing system cannot be automatically accepted, the secretary of state shall perform the acts required by subsections 1 through 4 at the time and in the manner prescribed by filing office rule, but and 2 not later than two business days after the filing office central indexing system receives the request.~~
- 6.4. At least weekly, the secretary of state shall offer to sell or license to the public on a nonexclusive basis, in bulk, copies detailed information of all records filed in it under this part, in every medium from time to time filed within the central indexing system.

**SECTION 27. AMENDMENT.** Section 41-09-96 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-96. (9-525) Fees.**

- 1. The fee for filing and indexing an original statement under this title is fifteen forty dollars ~~plus one dollar per additional page. When a nonstandard statement is presented for filing, an additional fee of five dollars must be paid.~~ An additional fee may not be charged for the same statement to gain protection under the central notice system.
- 2. The fee for filing and indexing an amendment, ~~including continuations, assignments, releases, or correction statements~~ under this title is ~~ten forty~~ dollars ~~plus one dollar per additional page.~~ An additional fee may not be charged for the same document to gain protection under the central notice system.
- 3. The fee for filing and indexing a continuation under this title is thirty dollars. An additional fee may not be charged for the same document to gain protection under the central notice system.
- 4. A fee may not be charged for responding to a central indexing system response to an electronic request for information:
  - a. Information from the filing office central indexing system communicating whether there is on file any financing statement or verified-statement naming a particular debtor.
  - b. Information on specific filings on a particular debtor.

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c. Copies of each filing on a particular debtor.

d. Certified copies of filings on a particular debtor.

4.5. ~~The fee for a filing office~~central indexing response providing information on specific filings ~~on submitted by a particular debtor~~secured party is ~~seven~~five ~~hundred~~ dollars per debtor for the first five entries, plus two dollars for each additional five entries or fraction thereafter.

5. ~~The fee for a filing office providing copies of each filing for a particular debtor is seven dollars per debtor plus two dollars per page for each page over three pages.~~

6. ~~The fee for a filing office providing certified copies of filings on a particular debtor is ten dollars plus two dollars per page for attachments.~~

7.6. Any fees collected by the secretary of state pursuant to this chapter and all other filings entered into the central indexing system must be deposited in the general fund in the state treasury, ~~except~~with the exception of the fees collected under subsection 64 of section 41-09-94, subsection 4 of this section, and a portion of the filing fees specifically identified in section 54-09-11, which must be deposited in the secretary of state's general services operating fund.

**SECTION 28. AMENDMENT.** Subsection 3 of section 41-09-135 of the North Dakota Century Code is amended and reenacted as follows:

3. The filing of a continuation statement after this Act takes effect does not continue the effectiveness of the financing statement filed before this Act takes effect. However, upon the timely filing of a continuation statement after this Act takes effect, no later than is required by section 41-09-86, and in accordance with the law of the jurisdiction governing perfection as provided in this chapter as amended by this Act, the effectiveness of a financing statement filed in the same office in that jurisdiction before this Act takes effect continues for the period provided by the law of that jurisdiction.

**SECTION 29. AMENDMENT.** Section 41-10-01 of the North Dakota Century Code is amended and reenacted as follows:

**41-10-01. Definitions.**

As used in this chapter:

1. "Authorized", when used with reference to a financing statement record, means that the financing statement record was filed by a person authorized to do so as provided in sections 41-09-80 and 41-09-130.
2. "Debtor" means a natural person whose name was provided in a financing statement record as an individual debtor or one of the types of persons listed in section 41-09-76.
3. "Filing office" or "filing officer" refers to the ~~appropriate office or officer~~central indexing system, which must be provided by the secretary of state, where a financing statement record is to be filed electronically as

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provided by section 41-09-72, ~~including the county recorder, the secretary of state, and other designated filing officers.~~

- 4. "Financing statement record" means an initial financing statement, an amendment that adds collateral covered by a financing statement, and an amendment that adds a debtor to a financing statement as such terms are used in this title.

**SECTION 30. AMENDMENT.** Section 41-10-05 of the North Dakota Century Code is amended and reenacted as follows:

**41-10-05. Venue.**

An action under this chapter may be brought in any district court ~~in the county in which the financing statement record is presented for filing or~~ in a county where any of the persons who may bring an action under this chapter reside.

**SECTION 31. AMENDMENT.** Section 47-16-03 of the North Dakota Century Code is amended and reenacted as follows:

**47-16-03. Filing farm lease containing reservation of title to crop - Waiver of rights on failure to file.**

- 1. When a lease of a farm contains a provision reserving title in the lessor to any part of the crops in excess of the rental share of the lessor until the stated conditions of the lease have been complied with by the lessee, such lease must be filed in the office of the recorder in the county in which the land described therein is located if notice by a real estate recording is sought, and must be filed electronically in the central indexing system if recording in the central notice system is sought, prior to July first in the year in which the crops are raised to render such reservation of title effective as to subsequent purchasers or encumbrancers of any part of the grain over and above the lessor's rental share produced upon the land.
- 2. The failure to file such lease or contract in accordance with this section constitutes a waiver by the lessor of all rights reserved by that person over and above that person's rental share in such crops as against any subsequent purchaser or encumbrancer of the lessee.
- 3. The secretary of state ~~may prescribe a form which shall provide an~~ electronic system that includes the pertinent information from the lease that may be filed in the central notice system. A lessor may file this ~~form with the recorder~~ electronic statement and obtain the same rights under this section as if the lessor had filed the lease.
- 4. The fee required to file and index this notice of lease is:
  - a. As provided in section 11-18-05, if the notice of lease is only a real estate recording;
  - b. As provided in section ~~41-09-06~~ 41-09-96, if the notice of lease is filed only to gain protection under the central notice system; or
  - c. As provided in section 11-18-05, if ~~the notice of lease is both a real estate recording and filed to gain protection under the central notice~~

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system. An additional fee may not be charged for the same statement a real estate recording is sought and according to section 41-09-96 if electronically filed to gain protection under the central notice system.

**SECTION 32. AMENDMENT.** Section 54-09-08 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-08. Secretary of state's general services operating fund.**

The secretary of state's general services operating fund is a special fund in the state treasury. Moneys in the fund are to be used pursuant to legislative appropriations for the provision of services under section 16.1-02-15, subsection ~~64~~ of section 41-09-94, subsection 4 of section 41-09-96, subsection ~~87~~ of section 54-09-04, and sections 10-35-33, 54-09-10, and 54-09-11. At the close of each biennium, the secretary of state shall transfer any unobligated balance remaining in the fund exceeding seventy-five thousand dollars to the general fund.

**SECTION 33. AMENDMENT.** Section 54-09-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-09.**

**Computerized central indexing system - Rules.**

1. The secretary of state shall maintain a computerized central indexing system that contains the information filed ~~with the office of the secretary of state or with any of the offices of the recorder in this state~~ pursuant to sections 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, 35-34-04, 35-34-06, 41-09-72, ~~57-28-29~~, 57-38-49, 57-39.2-13, 57-40.2-16, 57-40.3-07.1, 57-43.1-17.4, 57-43.2-16.3, and 57-51-11. ~~The system must connect each recorder's office to the secretary of state's office through the information technology department.~~ The system must allow access to financing statement information by equipment that conforms to requirements determined by the information technology department. The system must have safeguards to allow access to information that is in the system relating to security interests or liens and to prevent unauthorized alteration or deletion of that information and to allow access to other information in the system as prescribed by the secretary of state.
2. Within two working days of receipt of a financing statement, continuation statement, amendment, or termination statement filed electronically pursuant to chapter 41-09 or a statement filed electronically pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, or 35-31-02, the recorder ~~or secretary of state shall file the information contained in the statement~~ must be filed in the computerized central indexing system. A computer printout of information from the system is prima facie evidence of the existence or nonexistence of the filing of a financing statement or lien. The secretary of state shall ~~prescribe one form~~ provide an electronic means that can be used to perfect a security interest in farm products or gain protection under the central notice system, or both.
3. The secretary of state may adopt rules necessary to implement this section and sections 54-09-10 and 54-09-11.

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**SECTION 34. AMENDMENT.** Section 54-09-10 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-10. Secretary of state to compile lists for crops and livestock - Distribution of lists.**

1. From the computerized central indexing system, the secretary of state or a designee shall produce ~~each month one~~ electronically a list for crops and ~~one~~ a list for livestock that each contain the information as filed ~~on the forms~~ pursuant to section 41-09-72. The secretary of state shall also include on the lists the information filed for crops and livestock pursuant to sections 35-17-04, 35-30-02, and 35-31-02. The lists must be in alphabetical order according to the last name of, or in numerical order according to the social security number of, the person engaged in farming operations. The lists may be prepared in categories according to county, regions as designated by the secretary of state, or on a statewide basis. If requested, the lists must be in printed form. Each list must conspicuously note the effective date of the list.
2. The secretary of state shall distribute ~~monthly by mail~~ or deliver electronically the lists prepared pursuant to subsection 1, ~~at least five business days in advance of the effective date of each of the lists.~~ If requested, the secretary of state shall mail or deliver electronically the lists to any person making a request at a fee as provided in section 54-09-11.
3. Upon a verbal request of any person, the secretary of state, ~~or a recorder~~ shall verbally provide information contained on a list generated through the computerized central indexing system if the collateral is crops or livestock. The requesting party may request electronically a certificate from ~~the secretary of state or the recorder and the secretary of state or the recorder shall~~ the central indexing system to confirm the information given. Direct computer access is equivalent to oral confirmation, and a computer printout constitutes the written confirmation of the secretary of state, if use of this method of confirmation does not cause the central indexing system to lose federal certification. A computer printout from the computerized central indexing system constitutes the certificate of the secretary of state ~~or the recorder~~ as to whether there is on file, on the date and hour stated on the computer printout, a financing statement.

**SECTION 35. AMENDMENT.** Section 54-09-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-11. Fees.**

1. The secretary of state shall establish fees for ~~placing data in the computerized central indexing system; for obtaining computer access to the computerized central indexing system, to the computerized Uniform Commercial Code central filing database, or to the computerized statutory liens database; for receiving printouts; for direct access to all or parts of the central indexing system; for lists sold or licensed under subsection 6 of section 41-09-94; for any other list provided by the secretary of state; for any programming charges specifically incurred to provide information~~

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requested by persons which is related to the central indexing system; and for other services provided through the computerized system.

2. ~~The~~ A fee may not be required for furnishing information on a verbal request pursuant to subsection 3 of section 54-09-10 ~~is seven dollars~~, and the fee for furnishing a certificate under subsection 3 of section 54-09-10 is sevenfifteen dollars.
3. The secretary of state shall establish the fee for furnishing lists under ~~subsection 1 of section 54-09-10~~ from the central indexing system based on actual costs to produce the lists for distribution.
4. Fees collected by the secretary of state under ~~subsections 1 and 3 and this section~~, under subsection ~~6~~ 4 of section 41-09-94, and subsection 4 of section 41-09-96, and ten dollars from each filing entered into the central indexing system must be deposited in the secretary of state's general services operating fund. Fees collected by the secretary of state under ~~subsection 2~~ must be deposited in the general fund in the state treasury this section must be used for the programming and maintenance of the central indexing system.
5. The secretary of state may ~~adopt rules regarding what portion of the filing fees and search fees collected by the recorder under section 41-09-96~~ must be submitted to the secretary of state for deposit into the secretary of state's general operating fund to meet the cost of the provision of services required under sections 54-09-09 and 54-09-10 shall pay ten dollars to the county recorder of the county of residence for the first debtor listed on each statement filed pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, or 41-09-72. The payment must be made monthly from the general fund in the state treasury.

**SECTION 36. AMENDMENT.** Subsection 5 of section 57-34-10 of the North Dakota Century Code is amended and reenacted as follows:

5. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the tax commissioner filing in the central indexing system maintained by the secretary of state a notice of the lien provided for in subsection 4, takes free of, or has priority over, the lien. The tax commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. the next day following the indexing of the notice. The tax commissioner shall index any notice of lien with no payment of fees or costs to the secretary of state.

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**SECTION 37. AMENDMENT.** Subsection 4 of section 57-36-09.5 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next day following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 38. AMENDMENT.** Section 57-38-49 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-49. Preservation of lien.**

Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the commissioner filing in the central indexing system maintained by the secretary of state a notice of the lien provided for in section 57-38-48, takes free of, or has priority over, the lien. The commissioner shall index in the central indexing system the following data:

1. The name of the taxpayer.
2. The name "State of North Dakota" as claimant.
3. The date and time the notice of lien was indexed.
4. The amount of the lien.
5. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed. The commissioner shall index any notice of lien with no payment of fees or costs to the secretary of state.

**SECTION 39. AMENDMENT.** Subsection 4 of section 57-39.2-13 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.

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- b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 40. AMENDMENT.** Subsection 4 of section 57-40.2-16 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 41. AMENDMENT.** Subsection 3 of section 57-40.3-07.1 of the North Dakota Century Code is amended and reenacted as follows:

3. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed. The commissioner is exempt from the payment of fees otherwise provided by law for the indexing or the satisfaction of the lien.

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**SECTION 42. AMENDMENT.** Subsection 4 of section 57-43.1-17.4 of the North Dakota Century Code is amended and reenacted as follows:

- 4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 43. AMENDMENT.** Subsection 4 of section 57-43.2-16.3 of the North Dakota Century Code is amended and reenacted as follows:

- 4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 44. AMENDMENT.** Subsection 4 of section 57-43.3-22 of the North Dakota Century Code is amended and reenacted as follows:

- 4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.

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- e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 45. AMENDMENT.** Subsection 2 of section 57-51-11 of the North Dakota Century Code is amended and reenacted as follows:

- 2. Any judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in this state, prior to the commissioner filing in the central indexing system maintained by the secretary of state, a notice of the lien provided for in this section, takes free of, or has priority over, the lien. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. of the first day following the indexing of the notice. A notice of lien filed by the commissioner ~~with a recorder~~ before August 1, 1997, may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 46. AMENDMENT.** Subsection 4 of section 57-63-10 of the North Dakota Century Code is amended and reenacted as follows:

- 4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the facility.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number of the facility or the social security number of the owner, officer, or manager of the facility.

The notice of lien is effective as of eight a.m. the next day following the indexing of the notice. A notice of lien filed by the commissioner ~~with the recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

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**SECTION 47. REPEAL.** Section 57-28-29 of the North Dakota Century Code is repealed.

**SECTION 48. APPLICATION.** During the 2013-15 biennium, the secretary of state shall provide an electronic means for the central indexing system to accept an amendment to a statement filed before July 1, 2014, pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, 35-34-04, 41-09-72, 57-38-49, 57-39.2-13, 57-40.2-16, 57-40.3-07.1, 57-43.1-17.4, or 57-43.2-16. Before July 1, 2015, a secured party or lienholder may amend a filing under this section without a fee if the amendment is limited in scope to correcting the name of the debtor as required under section 41-09-135, or adding or correcting the social security or internal revenue service taxpayer identification number of the debtor, or both.

**SECTION 49. SECRETARY OF STATE REPORT TO LEGISLATIVE ASSEMBLY.** The secretary of state shall report to the sixty-fourth legislative assembly regarding the change in filing fees provided under this Act, including a comparison of the revenue collected under the new fee system versus the revenues collected under the previous fee system.

**SECTION 50. CONTINGENT EFFECTIVE DATE.** Sections 1 through 27 and sections 29 through 47 of this Act become effective August 1, 2015, or earlier if the secretary of state makes a report to the legislative management and to the information technology committee certifying that the information technology components of the electronic filing system are ready for implementation of those provisions of this Act, in which case those sections become effective ninety days following the completion of the certificate requirement."

Renumber accordingly



# 2013 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Judiciary

Bill/Resolution No. HB 1136 as (re) engrossed

Date: April 18, 2013

Roll Call Vote #: 1

**Action Taken**

- HOUSE accede to Senate amendments
- HOUSE accede to Senate amendments and further amend
- SENATE recede from Senate amendments
- SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) 1263 - 1288

Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar

Motion Made by: Rep. Klemin Seconded by: Rep. Kretschmar

Representatives				Yes	No		Senators						Yes	No
Rep. Klemin	X			X			Sen. Hogue	X			X			
Rep. Kretschmar	X			X			Sen. Armstrong	X			X			
Rep. Hanson	X			X			Sen. Grabinger	X			X			

Vote Count      Yes: 6      No: 0      Absent: 0

House Carrier Rep. Klemin      Senate Carrier Sen. Hogue

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**REPORT OF CONFERENCE COMMITTEE**

**HB 1136:** Your conference committee (Sens. Hogue, Armstrong, Grabinger and Reps. Klemm, Kretschmar, Hanson) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1397-1422, adopt amendments as follows, and place HB 1136 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1397-1422 of the House Journal and pages 1263-1288 of the Senate Journal and that House Bill No. 1136 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 11-18-01, 11-18-05, 35-13-02, 35-17-04, 35-17-07, 35-17-08, 35-20-15.1, 35-20-16, 35-29-02, 35-29-04, 35-29-05, 35-30-02, 35-30-05, 35-30-06, 35-31-02, 35-31-05, 35-31-06, 35-34-04, 35-34-06, 35-35-03, 35-37-04, 41-09-72, 41-09-73, and 41-09-84, subsection 2 of section 41-09-87, sections 41-09-94 and 41-09-96, subsection 3 of section 41-09-135, sections 41-10-01, 41-10-05, 47-16-03, 54-09-08, 54-09-09, 54-09-10, and 54-09-11, subsection 5 of section 57-34-10, subsection 4 of section 57-36-09.5, section 57-38-49, subsection 4 of section 57-39.2-13, subsection 4 of section 57-40.2-16, subsection 3 of section 57-40.3-07.1, subsection 4 of section 57-43.1-17.4, subsection 4 of section 57-43.2-16.3, subsection 4 of section 57-43.3-22, subsection 2 of section 57-51-11, and subsection 4 of section 57-63-10 of the North Dakota Century Code, relating to filing liens and security interests electronically; to repeal section 57-28-29 of the North Dakota Century Code, relating to filing tax liens; to provide for application; to provide for a report to the legislative assembly; and to provide a contingent effective date.

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

**SECTION 1. AMENDMENT.** Section 11-18-01 of the North Dakota Century Code is amended and reenacted as follows:

**11-18-01. Recorder's duties - Recording and filing instruments - Abstracts.**

The recorder shall:

1. Keep a full and true record, in proper books or other storage media provided for that purpose, of each patent, deed, mortgage, bill of sale, security agreement, judgment, decree, lien, certificate of sale, and other instrument required to be filed or admitted to record, if the person offering the instrument for filing or recording pays to the recorder the fees provided by law for the filing or recording.
2. Endorse upon each instrument filed with the recorder for record or otherwise the date and the hour and minute of the day of the filing or recording.
3. When the instrument is recorded or filed, endorse on the instrument the book and page or document number, the date, and the hour and minute of the date when it was recorded or filed with the recorder.
4. Prepare a security agreement abstract whenever any person requests the agreement and pays the required fee.
5. ~~Furnish upon written or telephonic request to persons the information contained in financing statements filed to perfect a security interest pursuant to chapter 41-09 when the collateral is farm products, and to provide written confirmation of the oral information provided upon receipt of a fee which shall be the same as for recording that instrument.~~

**SECTION 2. AMENDMENT.** Section 11-18-05 of the North Dakota Century Code is amended and reenacted as follows:

**11-18-05. Fees of recorder.**

The recorder shall charge and collect the following fees:

1. For recording an instrument affecting title to real estate:
  - a. Deeds, mortgages, and all other instruments not specifically provided for in this subsection, ten dollars for the first page and three dollars for each additional page. In addition, for all documents recorded under this section that list more than five sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for the first page of each instrument recorded under this subdivision must be placed in the document preservation fund.
    - (1) "Page" means one side of a single legal size sheet of paper not exceeding eight and one-half inches [21.59 centimeters] in width and fourteen inches [35.56 centimeters] in length.
    - (2) The printed, written, or typed words must be considered legible by the recorder before the page will be accepted for recording.
    - (3) Each real estate instrument must have a legal description considered to be adequate by the recorder before such instrument will be accepted for recording.
    - (4) A space of at least four inches by three and one-half inches [10.16 by 8.89 centimeters] square must be provided on the first or last page of each instrument for the recorder's recording information. If recording information can only be placed on the reverse side of an instrument, an additional page charge must be levied.
  - b. Instruments satisfying, releasing, assigning, subordinating, continuing, amending, or extending more than one instrument previously recorded in the county in which recording is requested, ten dollars for the first page and three dollars for each additional page plus three dollars for each such additional document number or book and page. In addition, for all documents recorded under this section which list more than five separate sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for the first page of each instrument recorded under this subdivision must be placed in the document preservation fund.
  - c. Plats, irregular tracts, or annexations, ten dollars for one lot plus ten cents for each additional lot, with the exception of auditor's lots which must be a single charge of seven dollars.
  - d. All instruments presented for recording after June 30, 2001, must contain a one-inch [2.54-centimeter] top, bottom, or side margin on each page of the instrument for the placement of computerized recording labels. An instrument that does not conform to this margin requirement may be recorded upon payment of an additional fee of ten dollars.
2. For filing any ~~non-central indexing system~~ instrument, ten dollars.

3. For making certified copies of any recorded instrument or filed ~~non-central indexing system~~ instrument, the charge is five dollars for the first page and two dollars for each additional page. For making a noncertified copy of any recorded instrument or filed ~~non-central indexing system~~ instrument, a fee of not more than one dollar per instrument page. For providing any electronic data extracted from the recorded instrument, a fee of not more than fifty cents per instrument.
4. ~~For filing, indexing, making, or completing any statement, abstract, or certificate under the Uniform Commercial Code central filing database, the computerized central notice system or the computerized statutory liens database, for receiving printouts, and for other services provided through the computerized system, the fee is the same as that provided in sections 41-09-96 and 54-09-11.~~
5. The recorder may establish procedures for providing access for duplicating records under the recorder's control. Such records include paper, photostat, microfilm, microfiche, and electronic or computer-generated instruments created by governmental employees.
- 6.5. Duplicate recorders' records stored offsite as a security measure are not accessible for reproduction.

**SECTION 3. AMENDMENT.** Section 35-13-02 of the North Dakota Century Code, as amended by House Bill No. 1340, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

**35-13-02. Lien statement - Contents - When required - Filing.**

1. The secretary of state shall prescribe ~~one form~~ an electronic system that can be used to obtain a lien under this section and also be entered in the central indexing system. A person entitled to a lien under this chapter who retains possession of the property made, altered, or repaired is not required to file any statement to perfect the lien. If the possession of the property so made, altered, or repaired is relinquished, the person shall file electronically, within ninety days, or if the property is used for agricultural purposes within one hundred twenty days, or in the exploration for or the production of oil or gas within six months, after the materials are furnished or the labor is completed, in the ~~office of the recorder of the county in which the owner or legal possessor of the property resides~~ central indexing system, a ~~verified written statement~~ showing:
  - a. The labor performed.
  - b. The materials furnished.
  - c. The price agreed upon for the labor performed or materials furnished, or, if no price was agreed upon, the reasonable value thereof.
  - d. The name and address of the person for whom the labor was performed or to whom the materials were furnished.
  - e. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the labor was performed or to whom the materials were furnished.
  - f. The name and address of the person claiming the lien.

f.g. A description of the property upon which the lien is claimed.

2. A person filing a verified-statement shall within thirty days serve notice of the filing, by registered mail, upon the owner or legal possessor of the property. A person entitled to the lien who fails to file a verified-statement within the time limited in this section is deemed to have waived the right to a lien.
3. A lienholder may file electronically an amendment to add or correct the social security number or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~ provide a means to amend electronically the repairman's lien that has been filed pursuant to this section. The amendment of the lien does not affect the priority of the lien.

**SECTION 4. AMENDMENT.** Section 35-17-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-17-04. Procedure to obtain lien - Statement filed - Contents - Waiver.**

Any person entitled to an agister's lien, within ninety days after taking possession of the animal, may file electronically in the ~~office of the recorder in any county in this state or in the office of the secretary of state~~ central indexing system, a statement ~~signed by the filer~~ containing the following information:

1. The number of and a description of the animals subject to the lien and the legal description as to the location of the animals.
2. The name and address of the person for whom the animals are kept.
3. The name and address of the lienholder.
4. The price agreed upon for keeping the animals and, if no price was agreed upon, the reasonable value of the services.
5. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the animals are kept.

The secretary of state shall ~~prescribe one form that can be used~~ provide a means to obtain electronically a lien under this section or gain protection under the central notice system, or both. If the statement is not filed within ninety days as required by this section, the person entitled to the lien under section 35-17-03 waives the lien.

**SECTION 5. AMENDMENT.** Section 35-17-07 of the North Dakota Century Code is amended and reenacted as follows:

**35-17-07. Amendment of lien.**

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used to~~ provide a means to electronically amend or assign the agister's lien that has been filed pursuant to section 35-17-04. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 6. AMENDMENT.** Section 35-17-08 of the North Dakota Century Code is amended and reenacted as follows:

### 35-17-08. Fees - Penalty.

The fee for filing electronically an agister's lien and related documents ~~with the secretary of state or the county recorder in the central notice system~~ is the same as that provided for in section 41-09-96. If a lienholder fails to file electronically a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

**SECTION 7. AMENDMENT.** Section 35-20-15.1 of the North Dakota Century Code is amended and reenacted as follows:

#### **35-20-15.1. Amendment of lien for unpaid earned property or casualty insurance premiums.**

A lienholder may file an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~ provide a means to amend electronically or assign the unpaid earned property or casualty insurance premium lien that has been filed under section 35-20-15. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 8. AMENDMENT.** Section 35-20-16 of the North Dakota Century Code is amended and reenacted as follows:

#### **35-20-16. Procedure to obtain unpaid earned property or casualty insurance premium lien - Filing.**

The secretary of state shall ~~prescribe a form that can be used~~ provide a means to obtain electronically a lien under this section and also be entered in the central indexing system. Any person entitled to an unpaid earned property or casualty insurance premium lien, within ninety days after termination of coverage, shall file in the ~~office of the recorder of the county or counties in which the property covered by the policy is located~~ central indexing system and with any loss payee named in the policy, a ~~verified~~ an electronic statement ~~in writing~~ stating all of the following:

1. The name and address of the policyholder.
2. The name and address of the lienholder.
3. The nature and quantity of insurance coverage provided.
4. The amount of unpaid earned premium.
5. A description of the property covered by the insurance and subject to the lien.
6. That a lien is claimed upon the property described.
7. The name of the county or counties where the property is located.
8. The social security number of the debtor, or in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of that person.

**SECTION 9. AMENDMENT.** Section 35-29-02 of the North Dakota Century Code is amended and reenacted as follows:

**35-29-02. Place of filing.**

1. Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens must be filed in accordance with this chapter.
2. Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens must be filed in the office of the recorder of central indexing system and associated to the county in which the real property subject to the liens is situated.
3. Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens must be filed as follows:
  - a. If the person against whose interest the lien applies is a corporation, limited liability company, or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the secretary of state.
  - b. If the person against whose interest the lien applies is a trust that is not covered by subdivision a, in the office of the secretary of state.
  - c. If the person against whose interest the lien applies is the estate of a decedent, in the office of the secretary of state.
  - d. In all other cases, in the office of the recorder of the county where the person against whose interest the lien applies resides at the time of filing of the notice of lien.
4. The secretary of state shall provide a means for the United States to file any documentation according to this chapter.

**SECTION 10. AMENDMENT.** Section 35-29-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-29-04. Duties of filing officer.**

1. If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subsection 2 is presented ~~to a filing officer who is:~~
  - a. The secretary of state, ~~the secretary~~ shall cause the notice to be marked, held, and indexed in accordance with the provisions of section 41-09-90 as if the notice were a financing statement within the meaning of title 41; or
  - b. ~~Any other officer described in section 35-29-02, the officer~~The secretary of state shall endorse thereon the officer's identification and the date and time of receipt and immediately file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the title and address of the official or entity certifying the lien, and the total amount appearing on the notice of lien.
2. If a certificate of release, nonattachment, discharge, or subordination of any lien is presented to the secretary of state for filing, the secretary shall do all of the following:
  - a. Cause a certificate of release or nonattachment to be marked, held, and indexed as if the certificate were a termination statement within

- the meaning of title 41, but the notice of lien to which the certificate relates may not be removed from the files.
- b. Cause a certificate of discharge or subordination to be marked, held, and indexed as if the certificate were a release of collateral within the meaning of title 41.
  3. If a refiled notice of federal lien referred to in subsection 1 or any certificate or notice referred to in subsection 2 is presented for filing ~~to any other filing officer specified in section 35-29-02, the officer~~secretary of state shall permanently attach the refiled notice or the certificate to the original notice of lien and enter the refiled notice or the certificate with the date of filing in any alphabetical lien index on the line where original notice of lien is entered.
  4. ~~Upon request of any~~Any person, ~~the filing officer shall issue the officer's certificate showing~~may search the central indexing system to determine whether there is on file, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed under this chapter or chapter 35-28 as it existed prior to enactment of this chapter, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. ~~The fee for a certificate is one dollar and twenty five cents for each notice or certificate reported therein. Upon request, the filing officer shall furnish a copy of any notice of federal lien, or notice or certificate affecting a federal lien, for a fee of one dollar, plus seventy five cents for the second and each succeeding page.~~
  5. The secretary of state shall fulfill any of the functions described in this section by electronic means with the same legal effect as if the function had been completed on a physical document.

**SECTION 11. AMENDMENT.** Section 35-29-05 of the North Dakota Century Code is amended and reenacted as follows:

**35-29-05. Fees.**

1. The fee for filing and indexing each notice of lien is:
  - a. ~~For a lien on real estate, ten dollars, plus three dollars for the second and each succeeding page.~~
  - b. ~~For a lien on tangible and intangible personal property, ten dollars, plus five dollars to record if filed with a county recorder.~~
  - c. ~~For all other notices, including a certificate of discharge, nonattachment, or subordination, ten dollars, plus ten dollars if filed toward a lien on real estate with a county recorder.~~
  - d. ~~For a nonstandard statement when presented for filing, an additional fee of five dollars plus one dollar per page, and if filed on a real estate lien with a county recorder, an additional ten dollars plus three dollars for the second and each succeeding page.~~
  - e. For a certificate of release, five dollars, which must be paid at the time the lien is filed in the central indexing system is established according to section 41-09-96. Fees to record liens with a county recorder are the same as provided for under section 11-18-05.

2. The officer may not file or record an instrument under this chapter unless the person offering the instrument for filing or recording has first paid the requisite filing or recording fee.

**SECTION 12. AMENDMENT.** Section 35-30-02 of the North Dakota Century Code is amended and reenacted as follows:

**35-30-02. Procedure to obtain lien.**

1. To obtain an agricultural processor's lien, the person entitled to the lien, within ninety days after the processing is completed, shall file electronically a statement signed by the filer in the office of the recorder in any county in this state or in the office of the secretary of state central indexing system. The statement must contain the following information:
  - a. The name and address of the person for whom the processing was done.
  - b. The name and address of the processor.
  - c. A description of the crops or agricultural products and their amount, if known, subject to the lien together with a reasonable description, including the county as to the location where the crops or agricultural products were grown and the year the crop is to be harvested or was harvested.
  - d. The price agreed upon for processing, or if no price was agreed upon, the reasonable value of the processing.
  - e. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the processing was done.
  - f. A description of the processing services and the first date the services were furnished.
2. ~~The secretary of state and the office of the recorder in any county in this state with which a statement signed by the filer under subsection 1 is submitted for filing shall reject the statement unless proof of mailing of notification of the lien to the debtor's last known address by registered or certified mail with return receipt requested is filed with the statement.~~
3. The secretary of state shall ~~prescribe one form that can be used~~ provide an electronic means to obtain a lien under this section or gain protection under the central notice system, or both. Before a processor's lien is filed, a billing statement for the services performed must include notice to the agricultural producer that if the amount due to the agricultural processor is not satisfied a lien may be filed.

**SECTION 13. AMENDMENT.** Section 35-30-05 of the North Dakota Century Code is amended and reenacted as follows:

**35-30-05. Amendment of lien.**

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~ provide an electronic means to amend or assign the agricultural processor's lien

that has been filed pursuant to section 35-30-02. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 14. AMENDMENT.** Section 35-30-06 of the North Dakota Century Code is amended and reenacted as follows:

**35-30-06. Fees - Penalty.**

The fee for filing electronically an agricultural processor's lien and related documents ~~with the secretary of state or the county recorder in the central indexing system~~ is the same as that provided for in section 41-09-96. If a lienholder fails to file a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

**SECTION 15. AMENDMENT.** Section 35-31-02 of the North Dakota Century Code is amended and reenacted as follows:

**35-31-02. Procedure to obtain lien.**

To obtain an agricultural supplier's lien, except an agricultural supplier's lien for furnishing petroleum products, the person entitled to the lien, within one hundred twenty days after the supplies are furnished or the services performed, shall file electronically a statement signed by the filer in the office of the recorder of any county in this state or in the office of the secretary of state ~~central notice system~~. To obtain an agricultural supplier's lien for furnishing and delivering petroleum products, the person entitled to the lien, within one hundred fifty days after the petroleum products are furnished or delivered, shall file electronically a statement signed by the filer in the office of the recorder of any county in the state or in the office of the secretary of state ~~central notice system~~. The statement must contain the following information:

1. The name and address of the person to whom the supplies were furnished.
2. The name and address of the supplier.
3. A description of the crops, agricultural products, or livestock and their amount or number, if known, subject to the lien together with a reasonable description, including the county as to the location of the crops, agricultural products, or livestock and the year the crop is to be harvested or was harvested.
4. A description and value of the supplies and the first date furnished.
5. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person to whom the supplies were furnished.

The secretary of state shall ~~prescribe one form that can be used~~ provide an electronic means to obtain a lien under this section or gain protection under the central notice system, or both. Before a supplier's lien is filed, a billing statement for the supplies furnished must include notice to the agricultural producer that if the amount due to the agricultural supplier is not satisfied a lien may be filed.

**SECTION 16. AMENDMENT.** Section 35-31-05 of the North Dakota Century Code is amended and reenacted as follows:

**35-31-05. Amendment of lien.**

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct

the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~ provide an electronic means to amend or assign the agricultural supplier's lien that has been filed pursuant to section 35-31-02. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 17. AMENDMENT.** Section 35-31-06 of the North Dakota Century Code is amended and reenacted as follows:

**35-31-06. Fees - Penalty.**

The fee for filing an agricultural supplier's lien and related documents ~~with the secretary of state or the county recorder~~ in the central notice system is the same as that provided for in section 41-09-96. If a lienholder fails to file a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

**SECTION 18. AMENDMENT.** Section 35-34-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-34-04. Vessel lien.**

1. In the case of a vessel, the child support agency may file electronically a notice of lien ~~with the secretary of state~~ in the central indexing system if the value of the vessel is estimated to be at least twice the cost of establishing the lien. The notice must contain a description of the make, model designation, and serial number of the vessel, including its identification or registration number, if any, and the name, social security number, and last-known address of the obligor. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.
2. Upon filing of the notice of lien in accordance with this section, the notice of lien must be indexed ~~by the secretary of state~~ in the central indexing system and may be enforced and foreclosed in the same manner as a security agreement under the provisions of title 41.
3. The secretary of state shall remove and destroy the lien notification statement in the same manner as provided for other liens in section 11-18-14 for the recorder.
4. The child support agency may file electronically an amendment to correct the spelling of the obligor's name, to correct the obligor's social security number, or to correct or change the address of the obligor.

**SECTION 19. AMENDMENT.** Section 35-34-06 of the North Dakota Century Code is amended and reenacted as follows:

**35-34-06. Lien on other personal property.**

1. In the case of untitled personal property other than an account maintained in a financial institution, the child support agency may establish a lien on such personal property by filing electronically a notice of lien ~~with the office of the recorder in the county in which the personal property may be found, with the secretary of state~~ in the central indexing system or with a third party who is in possession of the personal property. The notice must particularly describe the property to be subjected to the lien and the name and last-known address of the obligor. The notice of lien must state that the child support obligation is past due and that a

copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.

2. The information filed ~~with a recorder or with the secretary of state~~ under this section must be included in the computerized central indexing system maintained by the secretary of state under section 54-09-09 and must be accessible to the public on the same terms and conditions that apply to access other statutory lien information maintained in the computerized central indexing system.
3. Upon filing of the notice of lien in accordance with this section, the lien attaches to and is perfected against all personal property described in the notice.

**SECTION 20. AMENDMENT.** Section 35-35-03 of the North Dakota Century Code is amended and reenacted as follows:

**35-35-03. Filing officer may reject lien - Filing officer to accept notice of invalid lien - Filing officer not liable.**

1. Any filing officer may reject for filing or recording any nonconsensual common-law lien.
2. If a nonconsensual common-law lien has been accepted for filing or recording, the filing officer shall accept for filing any ~~sworn~~-notice of invalid lien ~~signed and submitted~~ electronically by the person against whom such a lien was filed or that person's attorney. The notice must be captioned "Notice of Invalid Lien" and must state the name and address of the person on whose behalf the notice is filed, the name and address of the lien claimant, and a clear reference to the document or documents the person believes constitute a nonconsensual common-law lien. The notice must be filed in such a manner that any search of the records which reveals the lien the notice refers to will also reveal the notice of invalid lien. The filing officer shall mail or deliver electronically a copy of the notice of invalid lien to the lien claimant at the lien claimant's last-known address within one business day.
3. A filing officer, county, or the state may not be held liable for filing a nonconsensual common-law lien, or for filing a ~~sworn~~-notice of invalid lien pursuant to this section.
4. A fee may not be charged for the filing of a notice of invalid lien against a filed nonconsensual common-law lien.

**SECTION 21. AMENDMENT.** Section 35-37-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-37-04. Perfection of lien - Verified notice - Effect of instruments - Effective date of lien.**

1. If the proceeds for oil or gas which are required to be paid are not paid to the interest owner when due, the interest owner may perfect the security interest and lien by filing electronically a form-UCC-1A in the central indexing system and recording the lien in the real estate records in the office of the county recorder of the county in which the well is located. If the oil and gas owner's lien is not filed within ninety days from the date of production, the security interest is not perfected and does not give the interest owner priority over a perfected security interest in the same oil, gas, or proceeds of the oil or gas.

2. ~~All instruments that are presented to a county recorder for filing in accordance with subsection 1 are effective as financing statements even though the signature of the debtor may not appear on the lien.~~ Liens must be filed electronically in the central indexing system and recorded in the real estate records of the county according to sections 11-18-01 and 11-18-05. Liens may be terminated in the same manner as financing statements.
3. Upon perfection by filing, the security interest and lien of the interest owner takes priority over the rights of all persons whose rights or claims arise or attach thereafter to the oil or gas unpaid for, or the proceeds of oil or gas if the oil or gas has been sold, including those that arise or attach between the time the security interest and lien attaches and the time of filing. The security interest and lien created pursuant to this chapter do not have priority over the security interest and lien rights previously created and perfected or an operating agreement or other voluntary agreement for the development and operation of the property.

**SECTION 22. AMENDMENT.** Section 41-09-72 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-72. (9-501) Filing office.**

1. Except as otherwise provided in subsection 2, if the local law of this state governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:
  - a. The office designated for the filing or recording of a record of a mortgage on the related real property, if:
    - (1) The collateral is as-extracted collateral or timber to be cut; or
    - (2) The financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or
  - b. The office of the recorder in any county in this state or in the office of the secretary of state, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.
2. The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the secretary of state. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.
3. The secretary of state shall provide an electronic means for filing any record required or permitted to be filed by this title. This may include use of business-to-business methods using a common data format and must include a web-based application. Any record that is not filed electronically must be rejected.

**SECTION 23. AMENDMENT.** Section 41-09-73 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-73. (9-502) (Effective through June 30, 2013) Contents of financing statement - Record of mortgage as financing statement - Time of filing financing statement - Amending financing statement.**

1. Subject to subsection 2, a financing statement is sufficient only if the statement:
  - a. Provides the name of the debtor;
  - b. Provides the name of the secured party or a representative of the secured party;
  - c. Indicates the collateral covered by the financing statement;
  - d. If it is a financing statement that is to be filed to gain protection under the central notice system, includes a reasonable description of the property, including the county in which the property is located, and any other additional information required by the Food Security Act of 1985 [Pub. L. 99-198; Stat. 1535; 7 U.S.C. 1631], as prescribed by the secretary of state, and, to be sufficient a financing statement must include the name and address of the secured party; and unless electronically filed, the signatures of the debtor and secured parties;
  - e. Provides a mailing address for the secured party; and
  - f. Provides a mailing address for the debtor.
2. Except as otherwise provided in subsection 2 of section 41-09-72, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection 1 and also:
  - a. Indicate that it covers this type of collateral;
  - b. Indicate that it is to be filed for record in the real property records;
  - c. Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and
  - d. If the debtor does not have an interest of record in the real property, provide the name of a record owner.
3. A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:
  - a. The record indicates the goods or accounts that it covers;
  - b. The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
  - c. The record satisfies the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and
  - d. The record is duly recorded.

4. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.
5. A financing statement filed to gain protection under the central notice system must be amended within three months of a material change to reflect that change. The amended financing statement must be signed by both the debtor and secured party and filed in the same manner as the original financing statement. An electronically filed amendment does not need to be signed.
6. Any social security number or federal tax identification number submitted on a financing statement filed pursuant to this chapter as a central indexing filing prior to January 1, 2012, is an exempt record as defined by subsection 5 of section 44-04-17.1 and may not be disclosed as part of any search under section 41-09-94 or 41-09-96 or as part of a copy of the record. After December 31, 2011, a debtor's social security number or federal tax identification number may not be filed pursuant to this chapter in the filing office with the central indexing system and may not be recorded in the real property records.

**(Effective after June 30, 2013) Contents of financing statement - Record of mortgage as financing statement - Time of filing financing statement - Amending financing statement.**

1. Subject to subsection 2, a financing statement is sufficient only if the statement:
  - a. Provides the name of the debtor;
  - b. Provides the name of the secured party or a representative of the secured party;
  - c. Indicates the collateral covered by the financing statement; and
  - d. If it is a financing statement that is to be filed to gain protection under the central notice system, includes a reasonable description of the property, including the county in which the property is located, and any other additional information required by the Food Security Act of 1985 [Pub. L. 99-198; Stat. 1535; 7 U.S.C. 1631], as prescribed by the secretary of state, and, to be sufficient a financing statement must include the name and address of the secured party; and unless electronically filed, the signatures of the debtor and secured parties;
  - e. ~~Provides a mailing address for the secured party; and~~
  - f. ~~Provides a mailing address for the debtor.~~
2. Except as otherwise provided in subsection 2 of section 41-09-72, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection 1 and also:
  - a. Indicate that it covers this type of collateral;
  - b. Indicate that it is to be filed for record in the real property records;
  - c. Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and

- d. If the debtor does not have an interest of record in the real property, provide the name of a record owner.
3. A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:
  - a. The record indicates the goods or accounts that it covers;
  - b. The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
  - c. The record satisfies the requirements for a financing statement in this section, but:
    - (1) The record need not indicate that it is to be filed in the real property records; ~~and~~
    - (2) The record sufficiently provides the name of a debtor who is an individual if the record provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom subdivision d of subsection 1 of section 41-09-74 applies; and
    - (3) The mortgage may not include a social security number or internal revenue service taxpayer identification number; and
  - d. The record is duly recorded.
4. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.
5. A financing statement filed to gain protection under the central notice system must be amended within three months of a material change to reflect that change. The amended financing statement must be signed by both the debtor and secured party and filed in the same manner as the original financing statement. An electronically filed amendment does not need to be signed.
6. Any social security number or ~~federal tax~~ internal revenue service taxpayer identification number submitted on a financing statement filed pursuant to this chapter as a central indexing filing ~~prior to January 1, 2012,~~ is an exempt record as defined by subsection 5 of section 44-04-17.1 and may not be disclosed as part of any search under section 41-09-94 or 41-09-96 or as part of a copy of the record. ~~After December 31, 2011, a~~ debtor's social security number or ~~federal tax~~ internal revenue service taxpayer identification number ~~may not be filed pursuant to this chapter in the filing office with the central indexing system and may not be recorded in the real property records as provided for under section 11-18-23.2.~~

**SECTION 24. AMENDMENT.** Section 41-09-84 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-84. (9-513) Termination statement - Remedies - Fees.**

1. If a financing statement covering consumer goods is filed after December 31, 1973, then within one month or within ten days following written demand by the debtor after there is no outstanding secured

obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party shall file ~~with each filing officer with whom the financing statement was filed~~ electronically in the central indexing system, a termination statement to the effect that the secured party no longer claims a security interest under the financing statement, which must be identified by file number. In other cases when there is no outstanding secured obligation and no written commitment between the secured party and the debtor to make advances, incur obligations, or otherwise give value, the secured party, unless requested by the debtor in writing to continue the filing, ~~must send to each filing officer with whom the financing statement was filed,~~ shall file electronically a termination statement to the effect that the secured party no longer claims a security interest under the financing statement nor under the central notice system, which shall be identified by file number. If the affected secured party fails to file a termination statement as required by this subsection within sixty days of when the secured obligation is fully satisfied, and the debtor has not requested in writing that the filing be continued, then under section 41-09-120 the secured party is liable to the debtor for one hundred dollars and for any loss caused to the debtor by such failure. The debtor's written request for a filing to be continued may be made at any time and be effective under this section. If the affected secured party fails to file a termination statement within ten days after proper written demand by the debtor, then under section 41-09-120 the secured party is liable to the debtor for one hundred dollars and for any loss caused to the debtor by such failure.

2. Except as otherwise provided in section 41-09-81, upon the filing of a termination statement ~~with the filing office~~, the financing statement to which the termination statement relates ceases to be effective. Except as provided in section 41-09-81, for purposes of subsection 7 of section 41-09-90, subsection 1 of section 41-09-93, and subsection 32 of section 41-09-94, the electronic filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.
3. The fee for filing and indexing a termination statement, ~~including sending or delivering the financing statement, is five dollars. For any financing statement filed after April 8, 1991, the fee must be paid at the time is included in the fee for filing the financing statement is paid.~~

**SECTION 25. AMENDMENT.** Subsection 2 of section 41-09-87 of the North Dakota Century Code is amended and reenacted as follows:

2. Filing does not occur with respect to a record that a filing office refuses to accept because:
  - a. The record is not communicated by a method or medium of communication authorized by the filing office;
  - b. An amount equal to or greater than the applicable filing fee is not tendered;
  - c. The filing office is unable to index the record because:
    - (1) In the case of an initial financing statement, the record does not provide a name for the debtor;
    - (2) In the case of an amendment or correction statement, the record:

- (a) Does not identify the initial financing statement as required by section 41-09-83 or 41-09-89, as applicable; or
  - (b) Identifies an initial financing statement whose effectiveness has lapsed under section 41-09-86;
- (3) In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or
- (4) In the case of a record filed or recorded in the filing office described in subdivision a of subsection 1 of section 41-09-72, the record does not provide a sufficient description of the real property to which it relates;
- d. In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;
- e. In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:
- (1) Provide a mailing address for the debtor;
  - (2) Indicate whether the debtor is an individual or an organization; or
  - (3) If the financing statement indicates that the debtor is an organization, provide:
    - (a) A type of organization for the debtor;
    - (b) A jurisdiction of organization for the debtor; or
    - (c) An organizational identification number for the debtor or indicate that the debtor has none;
- f. In the case of an assignment reflected in an initial financing statement under subsection 1 of section 41-09-85 or an amendment filed under subsection 2 of section 41-09-85, the record does not provide a name and mailing address for the assignee; or
- g. In the case of a continuation statement, the record is not filed within the six-month period prescribed by subsection 4 of section 41-09-86; or
- h. The record does not contain the social security number or the internal revenue service taxpayer identification number of the debtor.

**SECTION 26. AMENDMENT.** Section 41-09-94 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-94. (9-523) Information from filing office - Sale or license of records.**

1. ~~If a~~Any person that files a written record requests ~~may request~~ electronically an acknowledgment of the filing, ~~the filing office~~ electronically a filing. The central indexing system shall ~~send~~ provide to the person detailed information and an image of the record, if not filed electronically, showing the number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90 and the date and time of the filing of the record. ~~However, if the person furnishes a copy of the record to the filing office, the filing office may instead:~~
  - a. ~~Note upon the copy the number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90 and the date and time of the filing of the record; and~~
  - b. ~~Send the copy to the person.~~
2. ~~If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:~~
  - a. ~~The information in the record;~~
  - b. ~~The number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90; and~~
  - c. ~~The date and time of the filing of the record.~~
3. ~~The filing office~~ central indexing system shall communicate ~~or otherwise make available in a record~~ electronically the following information to any person that requests it:
  - a. ~~Whether there is on file on a date and time specified by the filing office~~ central indexing system, but not a date earlier than three business days before the filing office receives the request, any verified statement of an agricultural lien created under chapter 35-17, 35-30, or 35-31 or any financing statement that:
    - (1) ~~Designates a particular debtor or, if the request so states, designates a particular debtor at the address specified in the request;~~
    - (2) ~~Has not lapsed under section 41-09-86 with respect to all secured parties of record; and~~
    - (3) ~~Effective January 1, 2002, if the request so states, has lapsed under section 41-09-86 and a record of which is maintained by the filing office~~ central indexing system under subsection 1 of section 41-09-93;
  - b. ~~The date and time of filing of each verified statement and each financing statement; and~~
  - c. ~~The information provided in each verified statement and each financing statement.~~
4. ~~In complying with its duty under subsection 3, the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing a written certificate.~~

- ~~5-3.~~ The filing office if a request to the central indexing system cannot be automatically accepted, the secretary of state shall perform the acts required by subsections 1 through 4 at the time and in the manner prescribed by filing office rule, but and 2 not later than two business days after the filing office central indexing system receives the request.
- ~~6-4.~~ At least weekly, the secretary of state shall offer to sell or license to the public on a nonexclusive basis, in bulk, copies detailed information of all records filed in it under this part, in every medium from time to time filed within the central indexing system.

**SECTION 27. AMENDMENT.** Section 41-09-96 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-96. (9-525) Fees.**

1. The fee for filing and indexing an original statement under this title is fifteen forty dollars plus one dollar per additional page. ~~When a nonstandard statement is presented for filing, an additional fee of five dollars must be paid.~~ An additional fee may not be charged for the same statement to gain protection under the central notice system.
2. The fee for filing and indexing an amendment, ~~including continuations, assignments, releases, or correction statements~~ under this title is ten forty dollars plus one dollar per additional page. An additional fee may not be charged for the same document to gain protection under the central notice system.
3. The fee for filing and indexing a continuation under this title is thirty dollars. An additional fee may not be charged for the same document to gain protection under the central notice system.
4. A fee may not be charged for ~~responding to a~~ central indexing system response to an electronic request for information:
  - a. Information from the filing office central indexing system communicating whether there is on file any financing statement or verified statement naming a particular debtor.
  - b. Information on specific filings on a particular debtor.
  - c. Copies of each filing on a particular debtor.
  - d. Certified copies of filings on a particular debtor.
- ~~4-5.~~ The fee for a filing office central indexing response providing information on specific filings ~~on~~ submitted by a particular debtor secured party is seven five hundred dollars per debtor for the first five entries, plus two dollars for each additional five entries or fraction thereafter.
- ~~5.~~ The fee for a filing office providing copies of each filing for a particular debtor is seven dollars per debtor plus two dollars per page for each page over three pages.
- ~~6.~~ The fee for a filing office providing certified copies of filings on a particular debtor is ten dollars plus two dollars per page for attachments.
- ~~7-6.~~ Any fees collected by the secretary of state pursuant to this chapter and all other filings entered into the central indexing system must be deposited in the general fund in the state treasury, except with the exception of the fees collected under subsection 64 of section 41-09-94,

subsection 4 of this section, and a portion of the filing fees specifically identified in section 54-09-11, which must be deposited in the secretary of state's general services operating fund.

**SECTION 28. AMENDMENT.** Subsection 3 of section 41-09-135 of the North Dakota Century Code is amended and reenacted as follows:

3. The filing of a continuation statement after this Act takes effect does not continue the effectiveness of the financing statement filed before this Act takes effect. However, upon the timely filing of a continuation statement after this Act takes effect, no later than is required by section 41-09-86, and in accordance with the law of the jurisdiction governing perfection as provided in this chapter as amended by this Act, the effectiveness of a financing statement filed in the same office in that jurisdiction before this Act takes effect continues for the period provided by the law of that jurisdiction.

**SECTION 29. AMENDMENT.** Section 41-10-01 of the North Dakota Century Code is amended and reenacted as follows:

**41-10-01. Definitions.**

As used in this chapter:

1. "Authorized", when used with reference to a financing statement record, means that the financing statement record was filed by a person authorized to do so as provided in sections 41-09-80 and 41-09-130.
2. "Debtor" means a natural person whose name was provided in a financing statement record as an individual debtor or one of the types of persons listed in section 41-09-76.
3. "Filing office" or "filing officer" refers to the ~~appropriate office or officer~~ central indexing system, which must be provided by the secretary of state, where a financing statement record is to be filed electronically as provided by section 41-09-72, ~~including the county recorder, the secretary of state, and other designated filing officers.~~
4. "Financing statement record" means an initial financing statement, an amendment that adds collateral covered by a financing statement, and an amendment that adds a debtor to a financing statement as such terms are used in this title.

**SECTION 30. AMENDMENT.** Section 41-10-05 of the North Dakota Century Code is amended and reenacted as follows:

**41-10-05. Venue.**

An action under this chapter may be brought in any district court ~~in the county in which the financing statement record is presented for filing or~~ in a county where any of the persons who may bring an action under this chapter reside.

**SECTION 31. AMENDMENT.** Section 47-16-03 of the North Dakota Century Code is amended and reenacted as follows:

**47-16-03. Filing farm lease containing reservation of title to crop - Waiver of rights on failure to file.**

1. When a lease of a farm contains a provision reserving title in the lessor to any part of the crops in excess of the rental share of the lessor until the stated conditions of the lease have been complied with by the lessee,

such lease must be filed in the office of the recorder in the county in which the land described therein is located if notice by a real estate recording is sought, and must be filed electronically in the central indexing system if recording in the central notice system is sought, prior to July first in the year in which the crops are raised to render such reservation of title effective as to subsequent purchasers or encumbrancers of any part of the grain over and above the lessor's rental share produced upon the land.

2. The failure to file such lease or contract in accordance with this section constitutes a waiver by the lessor of all rights reserved by that person over and above that person's rental share in such crops as against any subsequent purchaser or encumbrancer of the lessee.
3. The secretary of state ~~may prescribe a form which shall provide an~~ electronic system that includes the pertinent information from the lease that may be filed in the central notice system. A lessor may file this ~~form with the recorder~~ electronic statement and obtain the same rights under this section as if the lessor had filed the lease.
4. The fee required to file and index this notice of lease is:
  - a. As provided in section 11-18-05, if the notice of lease is only a real estate recording;
  - b. As provided in section ~~41-09-06~~ 41-09-96, if the notice of lease is filed only to gain protection under the central notice system; or
  - c. As provided in section 11-18-05, if ~~the notice of lease is both a real estate recording and filed to gain protection under the central notice system. An additional fee may not be charged for the same~~ statement a real estate recording is sought and according to section 41-09-96 if electronically filed to gain protection under the central notice system.

**SECTION 32. AMENDMENT.** Section 54-09-08 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-08. Secretary of state's general services operating fund.**

The secretary of state's general services operating fund is a special fund in the state treasury. Moneys in the fund are to be used pursuant to legislative appropriations for the provision of services under section 16.1-02-15, subsection ~~64~~ of section 41-09-94, subsection 4 of section 41-09-96, subsection ~~87~~ of section 54-09-04, and sections 10-35-33, 54-09-10, and 54-09-11. At the close of each biennium, the secretary of state shall transfer any unobligated balance remaining in the fund exceeding seventy-five thousand dollars to the general fund.

**SECTION 33. AMENDMENT.** Section 54-09-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-09. Computerized central indexing system - Rules.**

1. The secretary of state shall maintain a computerized central indexing system that contains the information filed ~~with the office of the secretary of state or with any of the offices of the recorder in this state pursuant to sections 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, 35-34-04, 35-34-06, 41-09-72, 57-28-29, 57-38-49, 57-39.2-13, 57-40.2-16, 57-40.3-07.1, 57-43.1-17.4, 57-43.2-16.3, and 57-51-11. The system must connect each recorder's office to the secretary of state's office through the information technology department.~~ The system must allow

access to financing statement information by equipment that conforms to requirements determined by the information technology department. The system must have safeguards to allow access to information that is in the system relating to security interests or liens and to prevent unauthorized alteration or deletion of that information and to allow access to other information in the system as prescribed by the secretary of state.

2. Within two working days of receipt of a financing statement, continuation statement, amendment, or termination statement filed electronically pursuant to chapter 41-09 or a statement filed electronically pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, or 35-31-02, the ~~recorder or secretary of state shall file the information contained in the statement~~ must be filed in the computerized central indexing system. A computer printout of information from the system is prima facie evidence of the existence or nonexistence of the filing of a financing statement or lien. The secretary of state shall ~~prescribe one form~~ provide an electronic means that can be used to perfect a security interest in farm products or gain protection under the central notice system, or both.
3. The secretary of state may adopt rules necessary to implement this section and sections 54-09-10 and 54-09-11.

**SECTION 34. AMENDMENT.** Section 54-09-10 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-10. Secretary of state to compile lists for crops and livestock - Distribution of lists.**

1. From the computerized central indexing system, the secretary of state or a designee shall produce ~~each month one~~ electronically a list for crops and ~~one~~ a list for livestock that each contain the information as filed ~~on the forms~~ pursuant to section 41-09-72. The secretary of state shall also include on the lists the information filed for crops and livestock pursuant to sections 35-17-04, 35-30-02, and 35-31-02. The lists must be in alphabetical order according to the last name of, or in numerical order according to the social security number of, the person engaged in farming operations. The lists may be prepared in categories according to county, regions as designated by the secretary of state, or on a statewide basis. If requested, the lists must be in printed form. Each list must conspicuously note the effective date of the list.
2. The secretary of state shall distribute ~~monthly by mail~~ or deliver electronically the lists prepared pursuant to subsection 1, ~~at least five business days in advance of the effective date of each of the lists~~. If requested, the secretary of state shall mail or deliver electronically the lists to any person making a request at a fee as provided in section 54-09-11.
3. Upon a verbal request of any person, the secretary of state, or a designee of the secretary of state, ~~or a recorder~~ shall verbally provide information contained on a list generated through the computerized central indexing system if the collateral is crops or livestock. The requesting party may request electronically a certificate from ~~the secretary of state or the recorder and the secretary of state or the recorder shall~~ the central indexing system to confirm the information given. Direct computer access is equivalent to oral confirmation, and a computer printout constitutes the written confirmation of the secretary of state, if use of this method of confirmation does not cause the central indexing system to lose federal certification. A computer printout from the computerized central indexing system constitutes the certificate of the

secretary of state or the recorder as to whether there is on file, on the date and hour stated on the computer printout, a financing statement.

**SECTION 35. AMENDMENT.** Section 54-09-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-11. Fees.**

1. The secretary of state shall establish fees for ~~placing data in the computerized central indexing system; for obtaining computer access to the computerized central indexing system, to the computerized Uniform Commercial Code central filing database, or to the computerized statutory liens database; for receiving printouts; for direct access to all or parts of the central indexing system; for lists sold or licensed under subsection 6 of section 41-09-94; for any other list provided by the secretary of state; for any programming charges specifically incurred to provide information requested by persons which is related to the central indexing system; and for other services provided through the computerized system.~~
2. ~~The~~ A fee may not be required for furnishing information on a verbal request pursuant to subsection 3 of section 54-09-10 ~~is seven dollars, and the fee for furnishing a certificate under subsection 3 of section 54-09-10 is sevenfifteen dollars.~~
3. The secretary of state shall establish the fee for furnishing lists under subsection 1 of section 54-09-10 from the central indexing system based on actual costs to produce the lists for distribution.
4. Fees collected by the secretary of state under ~~subsections 1 and 3 and this section, under subsection 64 of section 41-09-94, and subsection 4 of section 41-09-96, and ten dollars from each filing entered into the central indexing system~~ must be deposited in the secretary of state's general services operating fund. Fees collected by the secretary of state under ~~subsection 2~~ must be deposited in the general fund in the state treasury this section must be used for the programming and maintenance of the central indexing system.
5. The secretary of state ~~may adopt rules regarding what portion of the filing fees and search fees collected by the recorder under section 41-09-96 must be submitted to the secretary of state for deposit into the secretary of state's general operating fund to meet the cost of the provision of services required under sections 54-09-09 and 54-09-10~~ shall pay ten dollars to the county recorder of the county of residence for the first debtor listed on each statement filed pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, or 41-09-72. The payment must be made monthly from the general fund in the state treasury.

**SECTION 36. AMENDMENT.** Subsection 5 of section 57-34-10 of the North Dakota Century Code is amended and reenacted as follows:

5. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the tax commissioner filing in the central indexing system maintained by the secretary of state a notice of the lien provided for in subsection 4, takes free of, or has priority over, the lien. The tax commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.

- c. The date and time the notice of lien was indexed.
- d. The amount of the lien.
- e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. the next day following the indexing of the notice. The tax commissioner shall index any notice of lien with no payment of fees or costs to the secretary of state.

**SECTION 37. AMENDMENT.** Subsection 4 of section 57-36-09.5 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next day following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 38. AMENDMENT.** Section 57-38-49 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-49. Preservation of lien.**

Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the commissioner filing in the central indexing system maintained by the secretary of state a notice of the lien provided for in section 57-38-48, takes free of, or has priority over, the lien. The commissioner shall index in the central indexing system the following data:

1. The name of the taxpayer.
2. The name "State of North Dakota" as claimant.
3. The date and time the notice of lien was indexed.
4. The amount of the lien.
5. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed. The commissioner shall index any notice of lien with no payment of fees or costs to the secretary of state.

**SECTION 39. AMENDMENT.** Subsection 4 of section 57-39.2-13 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 40. AMENDMENT.** Subsection 4 of section 57-40.2-16 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 41. AMENDMENT.** Subsection 3 of section 57-40.3-07.1 of the North Dakota Century Code is amended and reenacted as follows:

3. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed. The commissioner is exempt from the payment of fees otherwise provided by law for the indexing or the satisfaction of the lien.

**SECTION 42. AMENDMENT.** Subsection 4 of section 57-43.1-17.4 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 43. AMENDMENT.** Subsection 4 of section 57-43.2-16.3 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 44. AMENDMENT.** Subsection 4 of section 57-43.3-22 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.

- c. The date and time the notice of lien was indexed.
- d. The amount of the lien.
- e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 45. AMENDMENT.** Subsection 2 of section 57-51-11 of the North Dakota Century Code is amended and reenacted as follows:

- 2. Any judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in this state, prior to the commissioner filing in the central indexing system maintained by the secretary of state, a notice of the lien provided for in this section, takes free of, or has priority over, the lien. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. of the first day following the indexing of the notice. A notice of lien filed by the commissioner ~~with a recorder~~ before August 1, 1997, may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 46. AMENDMENT.** Subsection 4 of section 57-63-10 of the North Dakota Century Code is amended and reenacted as follows:

- 4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the facility.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number of the facility or the social security number of the owner, officer, or manager of the facility.

The notice of lien is effective as of eight a.m. the next day following the indexing of the notice. A notice of lien filed by the commissioner ~~with the recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 47. REPEAL.** Section 57-28-29 of the North Dakota Century Code is repealed.

**SECTION 48. APPLICATION.** During the 2013-15 biennium, the secretary of state shall provide an electronic means for the central indexing system to accept an amendment to a statement filed before July 1, 2014, pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, 35-34-04, 41-09-72, 57-38-49, 57-39.2-13, 57-40.2-16, 57-40.3-07.1, 57-43.1-17.4, or 57-43.2-16. Before July 1, 2015, a secured party or lienholder may amend a filing under this section without a fee if the amendment is limited in scope to correcting the name of the debtor as required under section 41-09-135, or adding or correcting the social security or internal revenue service taxpayer identification number of the debtor, or both.

**SECTION 49. SECRETARY OF STATE REPORT TO LEGISLATIVE ASSEMBLY.** The secretary of state shall report to the sixty-fourth legislative assembly regarding the change in filing fees provided under this Act, including a comparison of the revenue collected under the new fee system versus the revenues collected under the previous fee system.

**SECTION 50. CONTINGENT EFFECTIVE DATE.** Sections 1 through 27 and sections 29 through 47 of this Act become effective August 1, 2015, or earlier if the secretary of state makes a report to the legislative management and to the information technology committee certifying that the information technology components of the electronic filing system are ready for implementation of those provisions of this Act, in which case those sections become effective ninety days following the completion of the certificate requirement."

Renumber accordingly

HB 1136 was placed on the Seventh order of business on the calendar.

**2013 TESTIMONY**

**HB 1136**



# **North Dakota Farm Credit Council**

*AgCountry Farm Credit Services Farm Credit Services of Mandan Farm Credit Services of North Dakota*

**Testimony of Dana Bohn  
North Dakota Farm Credit Council Executive Director  
HB 1136  
January 21, 2013**

Chairman Koppelman and members of the House Judiciary Committee, my name is Dana Bohn. I am here today on behalf of the North Dakota Farm Credit Council (NDFCC) to express our support for HB 1136

NDFCC is comprised of three farmer/rancher-owned independent Farm Credit associations that provide credit and financial services to farmers, ranchers and agribusinesses of all sizes and income ranges in every county in North Dakota. As one of the state's largest ag lenders, North Dakota Farm Credit associations provide about \$7.2 billion in credit and financial services to nearly 20,900 customers.

During the 2011 Legislative Session, HB 1137 was passed which revises the Uniform Commercial Code (UCC) Article 9 regarding secured transactions. Section 41-09-74 of North Dakota Century Code clarified that the name of the debtor is the name as it appears on the individuals driver's license or state issued I.D. card. The effective date for these changes is July 1, 2013.

Legal counsel for lenders noticed that this new North Dakota Century Code includes a contradictory provision. It is unclear as to whether a UCC Amendment filing (to match driver's license name) must be completed within one year or by the next continuation date. After checking with the national drafters and a national UCC expert, we found that they were also unable to agree on the date by which the filing of a continuation statement needs to be completed.

Independently owned and operated associations serving North Dakota and northwest and west central Minnesota.

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**FCS of North Dakota**  
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[www.farmcreditnd.com](http://www.farmcreditnd.com)

In an effort to address the problem and seek clarity Berdette Howe of Farm Credit Services of Mandan and Marilyn Foss of the North Dakota Bankers Association worked with Jessica Fyre, who provides legal counsel for AgCountry in Fargo, and Tracy Kennedy, who specializes in and teaches Uniform Commercial Code at the North Dakota Law School, to develop the suggested language change to 41-09-135(3) to draft the language included in this HB 1136.

Representative Larry Klemin, who also serves on the National Uniform Laws Commission, had Legislative Council draft HB 1136 for us. The bill amends UCC 41-09-135(3) to clarify that you have until the next continuation date to complete a UCC Amendment filing (to match driver's license name). The other lenders in North Dakota are aware of our efforts and are also supportive of this bill.

Thank you for the opportunity to appear before you today in support of HB 1136.

- 2. This Act does not affect an action, case, or proceeding commenced before this Act takes effect.

**41-09-133. (9-803) (Effective July 1, 2013) Security interest perfected before effective date.**

- 1. A security interest that is a perfected security interest immediately before this Act takes effect is a perfected security interest under this chapter as amended by this Act if, when this Act takes effect, the applicable requirements for attachment and perfection under this chapter as amended by this Act are satisfied without further action.
- 2. Except as otherwise provided in section 41-09-135, if, immediately before this Act takes effect, a security interest is a perfected security interest, but the applicable requirements for perfection under this chapter as amended by this Act are not satisfied when this Act takes effect, the security interest remains perfected thereafter only if the applicable requirements for perfection under this chapter as amended by this Act are satisfied within one year after this Act takes effect.

**41-09-134. (9-804) (Effective July 1, 2013) Security interest unperfected before effective date.**

A security interest that is an unperfected security interest immediately before this Act takes effect becomes a perfected security interest:

- 1. Without further action, when this Act takes effect if the applicable requirements for perfection under this chapter as amended by this Act are satisfied before or at that time; or
- 2. When the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

**41-09-135. (9-805) (Effective July 1, 2013) Effectiveness of action taken before effective date.**

- 1. The filing of a financing statement before this Act takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this chapter as amended by this Act.
- 2. This Act does not render ineffective an effective financing statement that, before this Act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in this chapter as it existed before amendment of this Act. However, except as otherwise provided in subsections 3 and 4 and section 41-09-136, the financing statement ceases to be effective:
  - a. If the financing statement is filed in this state, at the time the financing statement would have ceased to be effective had this Act not taken effect; or
  - b. If the financing statement is filed in another jurisdiction, at the earlier of:
    - (1) The time the financing statement would have ceased to be effective under the law of that jurisdiction; or
    - (2) June 30, 2018.
- 3. The filing of a continuation statement after this Act takes effect does not continue the effectiveness of the financing statement filed before this Act takes effect. However, upon the timely filing of a continuation statement after this Act takes effect and in accordance with the law of the jurisdiction governing perfection as provided in this chapter as amended by this Act, the effectiveness of a financing statement filed in the same office in that jurisdiction before this Act takes effect continues for the period provided by the law of that jurisdiction.
- 4. Paragraph 2 of subdivision b of subsection 2 applies to a financing statement that, before this Act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in this chapter as it existed before amendment, only to the extent that this chapter as amended by this Act provides that the law of a jurisdiction

**41-09-85. (9-514) Assignment of powers of secured party of record.**

1. Except as otherwise provided in subsection 3, an initial financing statement may reflect an assignment of all of the secured party's power to authorize an amendment to the financing statement by providing the name and mailing address of the assignee as the name and address of the secured party.
2. Except as otherwise provided in subsection 3, a secured party of record may assign of record all or part of its power to authorize an amendment to a financing statement by filing in the filing office an amendment of the financing statement which:
  - a. Identifies, by its file number, the initial financing statement to which it relates;
  - b. Provides the name of the assignor; and
  - c. Provides the name and mailing address of the assignee.
3. An assignment of record of a security interest in a fixture covered by a record of a mortgage which is effective as a financing statement filed as a fixture filing under subsection 3 of section 41-09-73 may be made only by an assignment of record of the mortgage in the manner provided by law of this state other than this title.

**41-09-86. (9-515) (Effective through June 30, 2013) Duration and effectiveness of financing statement - Effect of lapsed financing statement.**

1. Except as otherwise provided in subsections 5, 6, and 7, a financing statement filed in the personal property records or recorded in real property records is effective for a period of five years after the date of filing.
2. Except as otherwise provided in subsections 5, 6, and 7, a financing statement recorded as a fixture filing against real property is effective for a period of five years after the date of recording.
3. The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless before the lapse a continuation statement is filed pursuant to subsection 4. Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.
4. A continuation statement may be filed only within six months before the expiration of the five-year period specified in subsection 1.
5. Except as otherwise provided in section 41-09-81, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of five years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the five-year period, the financing statement lapses in the same manner as provided in subsection 3, unless, before the lapse, another continuation statement is filed pursuant to subsection 4. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.
6. If a debtor is a transmitting utility and a filed financing statement so indicates, the financing statement is effective until a termination statement is filed.
7. A record of a mortgage that is effective as a financing statement filed as a fixture filing under subsection 3 of section 41-09-73 remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

**(Effective after June 30, 2013) Duration and effectiveness of financing statement - Effect of lapsed financing statement.**

1. Except as otherwise provided in subsections 5, 6, and 7, a financing statement filed in the personal property records or recorded in real property records is effective for a period of five years after the date of filing.
2. Except as otherwise provided in subsections 5, 6, and 7, a financing statement recorded as a fixture filing against real property is effective for a period of five years after the date of recording.

- (1)
2. This Act does not affect an action, case, or proceeding commenced before this Act takes effect.

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1. A security interest that is a perfected security interest immediately before this Act takes effect is a perfected security interest under this chapter as amended by this Act if, when this Act takes effect, the applicable requirements for attachment and perfection under this chapter as amended by this Act are satisfied without further action.
2. Except as otherwise provided in section 41-09-135, if, immediately before this Act takes effect, a security interest is a perfected security interest, but the applicable requirements for perfection under this chapter as amended by this Act are not satisfied when this Act takes effect, the security interest remains perfected thereafter only if the applicable requirements for perfection under this chapter as amended by this Act are satisfied within one year after this Act takes effect.

**41-09-134. (9-804) (Effective July 1, 2013) Security interest unperfected before effective date.**

A security interest that is an unperfected security interest immediately before this Act takes effect becomes a perfected security interest:

1. Without further action, when this Act takes effect if the applicable requirements for perfection under this chapter as amended by this Act are satisfied before or at that time; or
2. When the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

**41-09-135. (9-805) (Effective July 1, 2013) Effectiveness of action taken before effective date.**

1. The filing of a financing statement before this Act takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this chapter as amended by this Act.
2. This Act does not render ineffective an effective financing statement that, before this Act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in this chapter as it existed before amendment of this Act. However, except as otherwise provided in subsections 3 and 4 and section 41-09-136, the financing statement ceases to be effective:
  - a. If the financing statement is filed in this state, at the time the financing statement would have ceased to be effective had this Act not taken effect; or
  - b. If the financing statement is filed in another jurisdiction, at the earlier of:
    - (1) The time the financing statement would have ceased to be effective under the law of that jurisdiction; or
    - (2) June 30, 2018.
3. The filing of a continuation statement after this Act takes effect does not continue the effectiveness of the financing statement filed before this Act takes effect. However, upon the timely filing of a continuation statement after this Act takes effect and in accordance with the law of the jurisdiction governing perfection as provided in this chapter as amended by this Act, the effectiveness of a financing statement filed in the same office in that jurisdiction before this Act takes effect continues for the period provided by the law of that jurisdiction.
4. Paragraph 2 of subdivision b of subsection 2 applies to a financing statement that, before this Act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in this chapter as it existed before amendment, only to the extent that this chapter as amended by this Act provides that the law of a jurisdiction

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**41-09-85. (9-514) Assignment of powers of secured party of record.**

1. Except as otherwise provided in subsection 3, an initial financing statement may reflect an assignment of all of the secured party's power to authorize an amendment to the financing statement by providing the name and mailing address of the assignee as the name and address of the secured party.
2. Except as otherwise provided in subsection 3, a secured party of record may assign of record all or part of its power to authorize an amendment to a financing statement by filing in the filing office an amendment of the financing statement which:
  - a. Identifies, by its file number, the initial financing statement to which it relates;
  - b. Provides the name of the assignor; and
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3. An assignment of record of a security interest in a fixture covered by a record of a mortgage which is effective as a financing statement filed as a fixture filing under subsection 3 of section 41-09-73 may be made only by an assignment of record of the mortgage in the manner provided by law of this state other than this title.

**41-09-86. (9-515) (Effective through June 30, 2013) Duration and effectiveness of financing statement - Effect of lapsed financing statement.**

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4. A continuation statement may be filed only within six months before the expiration of the five-year period specified in subsection 1.
5. Except as otherwise provided in section 41-09-81, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of five years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the five-year period, the financing statement lapses in the same manner as provided in subsection 3, unless, before the lapse, another continuation statement is filed pursuant to subsection 4. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.
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**(Effective after June 30, 2013) Duration and effectiveness of financing statement - Effect of lapsed financing statement.**

1. Except as otherwise provided in subsections 5, 6, and 7, a financing statement filed in the personal property records or recorded in real property records is effective for a period of five years after the date of filing.
2. Except as otherwise provided in subsections 5, 6, and 7, a financing statement recorded as a fixture filing against real property is effective for a period of five years after the date of recording.



# North Dakota Farm Credit Council

AgCountry Farm Credit Services Farm Credit Services of Mandan Farm Credit Services of North Dakota

**Testimony of Dana Bohn  
North Dakota Farm Credit Council Executive Director  
HB 1136  
March 6, 2013**

Chairman Hogue and members of the Senate Judiciary Committee, my name is Dana Bohn. I am here today on behalf of the North Dakota Farm Credit Council (NDFCC) to express our support for HB 1136.

NDFCC is comprised of three farmer/rancher-owned independent Farm Credit associations that provide credit and financial services to farmers, ranchers and agribusinesses of all sizes and income ranges in every county in North Dakota. As one of the state's largest ag lenders, North Dakota Farm Credit associations provide about \$7.2 billion in credit and financial services to nearly 20,900 customers.

During the 2011 Legislative Session, HB 1137 was passed, which revises the Uniform Commercial Code (UCC) Article 9 regarding secured transactions. Section 41-09-74 of North Dakota Century Code clarified that the name of the debtor is the name as it appears on the individuals driver's license or state issued I.D. card. The effective date for these changes is July 1, 2013.

Legal counsel for lenders in North Dakota noticed that some of the North Dakota Century Code adopted in 2011 included a contradictory provision. The bill passed last session made it unclear as to whether a UCC Amendment filing (to match driver's license name) must be completed within one year or by the next continuation date. After checking with the national drafters and a national UCC expert, we found that they were also unable to agree on the date by which the filing of a continuation statement needs to be completed.

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In an effort to address the problem and seek clarity Berdette Howe of Farm Credit Services of Mandan and Marilyn Foss of the North Dakota Bankers Association worked with Jessica Fyre, who provides legal counsel for AgCountry in Fargo, and Tracy Kennedy, who specializes in and teaches Uniform Commercial Code at the North Dakota Law School, to develop the suggested language change to 41-09-135(3) to fix this issue.

Representative Larry Klemin, who also serves on the National Uniform Laws Commission, had Legislative Council draft HB 1136 using our suggested language. HB 1136 amends UCC 41-09-135(3) to clarify that you have until the next continuation date to complete a UCC Amendment filing (to match driver's license name).

The other lenders in North Dakota are aware of our efforts and are also supportive of this bill. In addition, Berdette Howe of Farm Credit Services of Mandan is with me today to provide more details on how we got to where we are at today.

Thank you for the opportunity to appear before you today in support of HB 1136.

ALVIN A. JAEGER  
SECRETARY OF STATE

HOME PAGE [www.nd.gov/sos](http://www.nd.gov/sos)



SECRETARY OF STATE  
STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 108  
BISMARCK ND 58505-0500

April 3, 2013

1126 (1)  
Commuk  
PHONE (701) 328-2900  
FAX (701) 328-2992  
E-MAIL [sos@nd.gov](mailto:sos@nd.gov)

TO: Sen. Hogue, Chairman, and Members of the Senate Judiciary Committee

FR: Al Jaeger, Secretary of State

RE: HB 1136 – Central Indexing System for UCC and other liens

The bill before you, as passed by the House, is now section 28 of an amendment that we are offering for the committee's consideration. The bill in its original form simply extended the time allowed for secured parties to correct the debtor's name in accordance with the secured transaction act for all previously filed and active financing statements.

While the 30 page amendment is daunting, it is necessary to reference numerous lien filings in order to make the changes listed below.

1. It mandates the electronic filing of all lien documents that are to be recorded in the Central Indexing System.
2. It removes the fees for searching the lien records in the Central Indexing System.
3. It will allow the listing and searching of an unlimited amount of collateral.
4. It establishes a fee of \$45 for each electronic filing (fee is to provide a revenue neutral position based on the fee and search revenue received under current law).
5. It restores a requirement that all filings must include the debtor's social security number or their internal revenue service taxpayer identification number. These numbers will not be visible to any individual viewing the lien records, but will allow for an accurate search of the records using these numbers with appropriate safeguards to prevent identity theft.
6. It requires the lien to be associated to the county of the first debtor's residence.

The adoption of the amended bill will be timely because the programming is now being developed for the Central Indexing System portion of the Secretary of State's comprehensive software project. This part of the project will be completed by July 1, 2014, which is the effective date for the above features.

1150  
Comm. WK (2)

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1136

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 11-18-01, 11-18-05, 35-13-02, 35-17-04, 35-17-07, 35-17-08, 35-20-15.1, 35-20-16, 35-29-02, 35-29-04, 35-29-05, 35-30-02, 35-30-05, 35-30-06, 35-31-02, 35-31-05, 35-31-06, 35-34-04, 35-34-06, 35-35-03, 35-37-04, 41-09-72, 41-09-73, and 41-09-84, subsection 2 of section 41-09-87, sections 41-09-94 and 41-09-96, subsection 3 of section 41-09-135, sections 41-10-01, 41-10-05, 47-16-03, 54-09-08, 54-09-09, 54-09-10, and 54-09-11, subsection 5 of section 57-34-10, subsection 4 of section 57-36-09.5, section 57-38-49, subsection 4 of section 57-39.2-13, subsection 4 of section 57-40.2-16, subsection 3 of section 57-40.3-07.1, subsection 4 of section 57-43.1-17.4, subsection 4 of section 57-43.2-16.3, subsection 4 of section 57-43.3-22, subsection 2 of section 57-51-11, and subsection 4 of section 57-63-10 of the North Dakota Century Code, relating to filing liens and security interests electronically; to repeal section 57-28-29 of the North Dakota Century Code, relating to filing tax liens; to provide for application; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 11-18-01 of the North Dakota Century Code is amended and reenacted as follows:

**11-18-01. Recorder's duties - Recording and filing instruments - Abstracts.**

The recorder shall:

1. Keep a full and true record, in proper books or other storage media provided for that purpose, of each patent, deed, mortgage, bill of sale, security agreement, judgment, decree, lien, certificate of sale, and other instrument required to be filed or admitted to record, if the person offering the instrument for filing or recording pays to the recorder the fees provided by law for the filing or recording.
2. Endorse upon each instrument filed with the recorder for record or otherwise the date and the hour and minute of the day of the filing or recording.
3. When the instrument is recorded or filed, endorse on the instrument the book and page or document number, the date, and the hour and minute of the date when it was recorded or filed with the recorder.
4. Prepare a security agreement abstract whenever any person requests the agreement and pays the required fee.
5. ~~Furnish upon written or telephonic request to persons the information contained in financing statements filed to perfect a security interest pursuant to chapter 41-09 when the collateral is farm products, and to~~

~~provide written confirmation of the oral information provided upon receipt of a fee which shall be the same as for recording that instrument.~~

**SECTION 2. AMENDMENT.** Section 11-18-05 of the North Dakota Century Code is amended and reenacted as follows:

**11-18-05. Fees of recorder.**

The recorder shall charge and collect the following fees:

1. For recording an instrument affecting title to real estate:
  - a. Deeds, mortgages, and all other instruments not specifically provided for in this subsection, ten dollars for the first page and three dollars for each additional page. In addition, for all documents recorded under this section that list more than five sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for the first page of each instrument recorded under this subdivision must be placed in the document preservation fund.
    - (1) "Page" means one side of a single legal size sheet of paper not exceeding eight and one-half inches [21.59 centimeters] in width and fourteen inches [35.56 centimeters] in length.
    - (2) The printed, written, or typed words must be considered legible by the recorder before the page will be accepted for recording.
    - (3) Each real estate instrument must have a legal description considered to be adequate by the recorder before such instrument will be accepted for recording.
    - (4) A space of at least four inches by three and one-half inches [10.16 by 8.89 centimeters] square must be provided on the first or last page of each instrument for the recorder's recording information. If recording information can only be placed on the reverse side of an instrument, an additional page charge must be levied.
  - b. Instruments satisfying, releasing, assigning, subordinating, continuing, amending, or extending more than one instrument previously recorded in the county in which recording is requested, ten dollars for the first page and three dollars for each additional page plus three dollars for each such additional document number or book and page. In addition, for all documents recorded under this section which list more than five separate sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for the first page of each instrument recorded under this subdivision must be placed in the document preservation fund.
  - c. Plats, irregular tracts, or annexations, ten dollars for one lot plus ten cents for each additional lot, with the exception of auditor's lots which must be a single charge of seven dollars.

- d. All instruments presented for recording after June 30, 2001, must contain a one-inch [2.54-centimeter] top, bottom, or side margin on each page of the instrument for the placement of computerized recording labels. An instrument that does not conform to this margin requirement may be recorded upon payment of an additional fee of ten dollars.
2. ~~For filing any non-central indexing system instrument, ten dollars.~~
3. ~~For making certified copies of any recorded instrument or filed non-central indexing system instrument, the charge is five dollars for the first page and two dollars for each additional page. For making a noncertified copy of any recorded instrument or filed non-central indexing system instrument, a fee of not more than one dollar per instrument page. For providing any electronic data extracted from the recorded instrument, a fee of not more than fifty cents per instrument.~~
4. ~~For filing, indexing, making, or completing any statement, abstract, or certificate under the Uniform Commercial Code central filing database, the computerized central notice system or the computerized statutory liens database, for receiving printouts, and for other services provided through the computerized system, the fee is the same as that provided in sections 41-09-06 and 54-09-11.~~
- 5.3. The recorder may establish procedures for providing access for duplicating records under the recorder's control. Such records include paper, photostat, microfilm, microfiche, and electronic or computer-generated instruments created by governmental employees.
- 6.4. Duplicate recorders' records stored offsite as a security measure are not accessible for reproduction.

**SECTION 3. AMENDMENT.** Section 35-13-02 of the North Dakota Century Code, as amended by House Bill No. 1340, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

**35-13-02. Lien statement - Contents - When required - Filing.**

1. The secretary of state shall prescribe ~~one form~~ an electronic system that can be used to obtain a lien under this section and also be entered in the central indexing system. A person entitled to a lien under this chapter who retains possession of the property made, altered, or repaired is not required to file any statement to perfect the lien. If the possession of the property so made, altered, or repaired is relinquished, the person shall file electronically, within ninety days, or if the property is used for agricultural purposes within one hundred twenty days, or in the exploration for or the production of oil or gas within six months, after the materials are furnished or the labor is completed, in the ~~office of the recorder of the county in which the owner or legal possessor of the property resides~~ central indexing system, a ~~verified written statement~~ showing:
  - a. The labor performed.
  - b. The materials furnished.

- c. The price agreed upon for the labor performed or materials furnished, or, if no price was agreed upon, the reasonable value thereof.
  - d. The name and address of the person for whom the labor was performed or to whom the materials were furnished.
  - e. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the labor was performed or to whom the materials were furnished.
  - f. The name and address of the person claiming the lien.
  - f.g. A description of the property upon which the lien is claimed.
2. A person filing a ~~verified~~-statement shall within thirty days serve notice of the filing, by registered mail, upon the owner or legal possessor of the property. A person entitled to the lien who fails to file a ~~verified~~-statement within the time limited in this section is deemed to have waived the right to a lien.
  3. A lienholder may file electronically an amendment to add or correct the social security number or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~provide a means to amend electronically the repairman's lien that has been filed pursuant to this section. The amendment of the lien does not affect the priority of the lien.

**SECTION 4. AMENDMENT.** Section 35-17-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-17-04. Procedure to obtain lien - Statement filed - Contents - Waiver.**

Any person entitled to an agister's lien, within ninety days after taking possession of the animal, may file electronically in the ~~office of the recorder in any county in this state or in the office of the secretary of state~~central indexing system, a statement ~~signed by the filer~~ containing the following information:

1. The number of and a description of the animals subject to the lien and the legal description as to the location of the animals.
2. The name and address of the person for whom the animals are kept.
3. The name and address of the lienholder.
4. The price agreed upon for keeping the animals and, if no price was agreed upon, the reasonable value of the services.
5. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the animals are kept.

The secretary of state shall ~~prescribe one form that can be used to~~provide a means to obtain electronically a lien under this section or gain protection under the

central notice system, or both. If the statement is not filed within ninety days as required by this section, the person entitled to the lien under section 35-17-03 waives the lien.

**SECTION 5. AMENDMENT.** Section 35-17-07 of the North Dakota Century Code is amended and reenacted as follows:

**35-17-07. Amendment of lien.**

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used to provide a means to electronically~~ amend or assign the agister's lien that has been filed pursuant to section 35-17-04. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 6. AMENDMENT.** Section 35-17-08 of the North Dakota Century Code is amended and reenacted as follows:

**35-17-08. Fees - Penalty.**

The fee for filing electronically an agister's lien and related documents ~~with the secretary of state or the county recorder in the central notice system~~ is the same as that provided for in section 41-09-96. If a lienholder fails to file electronically a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

**SECTION 7. AMENDMENT.** Section 35-20-15.1 of the North Dakota Century Code is amended and reenacted as follows:

**35-20-15.1. Amendment of lien for unpaid earned property or casualty insurance premiums.**

A lienholder may file an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used to provide a means to amend electronically~~ or assign the unpaid earned property or casualty insurance premium lien that has been filed under section 35-20-15. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 8. AMENDMENT.** Section 35-20-16 of the North Dakota Century Code is amended and reenacted as follows:

**35-20-16. Procedure to obtain unpaid earned property or casualty insurance premium lien - Filing.**

The secretary of state shall ~~prescribe a form that can be used to provide a means to obtain electronically~~ a lien under this section and also be entered in the central indexing system. Any person entitled to an unpaid earned property or casualty insurance premium lien, within ninety days after termination of coverage, shall file in the ~~office of the recorder of the county or counties in which the property covered by the policy is located~~ central indexing system and with any loss payee named in the policy, a ~~verified~~ an electronic statement ~~in writing~~ stating all of the following:

1. The name and address of the policyholder.
2. The name and address of the lienholder.
3. The nature and quantity of insurance coverage provided.
4. The amount of unpaid earned premium.
5. A description of the property covered by the insurance and subject to the lien.
6. That a lien is claimed upon the property described.
7. The name of the county or counties where the property is located.
8. The social security number of the debtor, or in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of that person.

**SECTION 9. AMENDMENT.** Section 35-29-02 of the North Dakota Century Code is amended and reenacted as follows:

**35-29-02. Place of filing.**

1. Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens must be filed in accordance with this chapter.
2. Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens must be filed in the office of the recorder of central indexing system and associated to the county in which the real property subject to the liens is situated.
3. Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens must be filed as follows:
  - a. If the person against whose interest the lien applies is a corporation, limited liability company, or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the secretary of state.
  - b. If the person against whose interest the lien applies is a trust that is not covered by subdivision a, in the office of the secretary of state.
  - c. If the person against whose interest the lien applies is the estate of a decedent, in the office of the secretary of state.
  - d. In all other cases, in the office of the recorder of the county where the person against whose interest the lien applies resides at the time of filing of the notice of lien.
4. The secretary of state shall provide a means for the United States to file any documentation according to this chapter.

**SECTION 10. AMENDMENT.** Section 35-29-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-29-04. Duties of filing officer.**

1. If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subsection 2 is presented to a filing officer who is:
  - a. The secretary of state, the secretary shall cause the notice to be marked, held, and indexed in accordance with the provisions of section 41-09-90 as if the notice were a financing statement within the meaning of title 41; or
  - b. ~~Any other officer described in section 35-29-02, the officer~~The secretary of state shall endorse thereon the officer's identification and the date and time of receipt and immediately file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the title and address of the official or entity certifying the lien, and the total amount appearing on the notice of lien.
2. If a certificate of release, nonattachment, discharge, or subordination of any lien is presented to the secretary of state for filing, the secretary shall do all of the following:
  - a. Cause a certificate of release or nonattachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of title 41, but the notice of lien to which the certificate relates may not be removed from the files.
  - b. Cause a certificate of discharge or subordination to be marked, held, and indexed as if the certificate were a release of collateral within the meaning of title 41.
3. If a refiled notice of federal lien referred to in subsection 1 or any certificate or notice referred to in subsection 2 is presented for filing to any other filing officer specified in section 35-29-02, the officer secretary of state shall permanently attach the refiled notice or the certificate to the original notice of lien and enter the refiled notice or the certificate with the date of filing in any alphabetical lien index on the line where original notice of lien is entered.
4. ~~Upon request of any~~Any person, the filing officer shall issue the officer's certificate showing may search the central indexing system to determine whether there is on file, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed under this chapter or chapter 35-28 as it existed prior to enactment of this chapter, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. ~~The fee for a certificate is one dollar and twenty-five cents for each notice or certificate reported therein. Upon request, the filing officer shall furnish a copy of any notice of federal lien, or notice or certificate affecting a federal lien, for a fee of one dollar, plus seventy-five cents for the second and each succeeding page.~~

5. The secretary of state shall fulfill any of the functions described in this section by electronic means with the same legal effect as if the function had been completed on a physical document.

**SECTION 11. AMENDMENT.** Section 35-29-05 of the North Dakota Century Code is amended and reenacted as follows:

**35-29-05. Fees.**

1. The fee for filing and indexing each notice of lien in the central indexing system is established according to section 41-09-96. Fees to record liens with a county recorder are:
  - a. For a lien on real estate, ten dollars, plus three dollars for the second and each succeeding page.
  - b. For a lien on tangible and intangible personal property, ~~ten dollars, plus five dollars to record if filed with a county recorder.~~
  - c. For all other notices, including a certificate of discharge, nonattachment, or subordination, ten dollars, ~~plus ten dollars if filed toward a lien on real estate with a county recorder.~~
  - d. For a nonstandard statement when presented for filing, ~~an additional fee of five dollars plus one dollar per page, and if filed on a real estate lien with a county recorder, an additional ten dollars plus three dollars for the second and each succeeding page.~~
  - e. For a certificate of release, five dollars, which must be paid at the time the lien is filed.
2. The officer may not file or record an instrument under this chapter unless the person offering the instrument for filing or recording has first paid the requisite filing or recording fee.

**SECTION 12. AMENDMENT.** Section 35-30-02 of the North Dakota Century Code is amended and reenacted as follows:

**35-30-02. Procedure to obtain lien.**

1. To obtain an agricultural processor's lien, the person entitled to the lien, within ninety days after the processing is completed, shall file electronically a statement signed by the filer in the office of the recorder in any county in ~~this state or in the office of the secretary of state~~ central indexing system. The statement must contain the following information:
  - a. The name and address of the person for whom the processing was done.
  - b. The name and address of the processor.
  - c. A description of the crops or agricultural products and their amount, if known, subject to the lien together with a reasonable description, including the county as to the location where the crops or agricultural products were grown and the year the crop is to be harvested or was harvested.

- d. The price agreed upon for processing, or if no price was agreed upon, the reasonable value of the processing.
  - e. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the processing was done.
  - f. A description of the processing services and the first date the services were furnished.
2. ~~The secretary of state and the office of the recorder in any county in this state with which a statement signed by the filer under subsection 1 is submitted for filing shall reject the statement unless proof of mailing of notification of the lien to the debtor's last known address by registered or certified mail with return receipt requested is filed with the statement.~~
  3. The secretary of state shall ~~prescribe one form that can be used~~provide an electronic means to obtain a lien under this section or gain protection under the central notice system, or both. Before a processor's lien is filed, a billing statement for the services performed must include notice to the agricultural producer that if the amount due to the agricultural processor is not satisfied a lien may be filed.

**SECTION 13. AMENDMENT.** Section 35-30-05 of the North Dakota Century Code is amended and reenacted as follows:

**35-30-05. Amendment of lien.**

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~provide an electronic means to amend or assign the agricultural processor's lien that has been filed pursuant to section 35-30-02. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 14. AMENDMENT.** Section 35-30-06 of the North Dakota Century Code is amended and reenacted as follows:

**35-30-06. Fees - Penalty.**

The fee for filing electronically an agricultural processor's lien and related documents ~~with the secretary of state or the county recorder in the central indexing system~~ is the same as that provided for in section 41-09-96. If a lienholder fails to file a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

**SECTION 15. AMENDMENT.** Section 35-31-02 of the North Dakota Century Code is amended and reenacted as follows:

**35-31-02. Procedure to obtain lien.**

To obtain an agricultural supplier's lien, except an agricultural supplier's lien for furnishing petroleum products, the person entitled to the lien, within one hundred

twenty days after the supplies are furnished or the services performed, shall file electronically a statement signed by the filer in the office of the recorder of any county in this state or in the office of the secretary of state central notice system. To obtain an agricultural supplier's lien for furnishing and delivering petroleum products, the person entitled to the lien, within one hundred fifty days after the petroleum products are furnished or delivered, shall file electronically a statement signed by the filer in the office of the recorder of any county in the state or in the office of the secretary of state central notice system. The statement must contain the following information:

1. The name and address of the person to whom the supplies were furnished.
2. The name and address of the supplier.
3. A description of the crops, agricultural products, or livestock and their amount or number, if known, subject to the lien together with a reasonable description, including the county as to the location of the crops, agricultural products, or livestock and the year the crop is to be harvested or was harvested.
4. A description and value of the supplies and the first date furnished.
5. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person to whom the supplies were furnished.

The secretary of state shall ~~prescribe one form that can be used~~ provide an electronic means to obtain a lien under this section or gain protection under the central notice system, or both. Before a supplier's lien is filed, a billing statement for the supplies furnished must include notice to the agricultural producer that if the amount due to the agricultural supplier is not satisfied a lien may be filed.

**SECTION 16. AMENDMENT.** Section 35-31-05 of the North Dakota Century Code is amended and reenacted as follows:

**35-31-05. Amendment of lien.**

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~ provide an electronic means to amend or assign the agricultural supplier's lien that has been filed pursuant to section 35-31-02. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 17. AMENDMENT.** Section 35-31-06 of the North Dakota Century Code is amended and reenacted as follows:

**35-31-06. Fees - Penalty.**

The fee for filing an agricultural supplier's lien and related documents ~~with the secretary of state or the county recorder in the central notice system~~ is the same as that provided for in section 41-09-96. If a lienholder fails to file a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

**SECTION 18. AMENDMENT.** Section 35-34-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-34-04. Vessel lien.**

1. In the case of a vessel, the child support agency may file electronically a notice of lien ~~with the secretary of state in the central indexing system~~ if the value of the vessel is estimated to be at least twice the cost of establishing the lien. The notice must contain a description of the make, model designation, and serial number of the vessel, including its identification or registration number, if any, and the name, social security number, and last-known address of the obligor. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.
2. Upon filing of the notice of lien in accordance with this section, the notice of lien must be indexed ~~by the secretary of state~~ in the central indexing system and may be enforced and foreclosed in the same manner as a security agreement under the provisions of title 41.
3. The secretary of state shall remove and destroy the lien notification statement in the same manner as provided for other liens in section 11-18-14 for the recorder.
4. The child support agency may file electronically an amendment to correct the spelling of the obligor's name, to correct the obligor's social security number, or to correct or change the address of the obligor.

**SECTION 19. AMENDMENT.** Section 35-34-06 of the North Dakota Century Code is amended and reenacted as follows:

**35-34-06. Lien on other personal property.**

1. In the case of untitled personal property other than an account maintained in a financial institution, the child support agency may establish a lien on such personal property by filing electronically a notice of lien ~~with the office of the recorder in the county in which the personal property may be found, with the secretary of state, in the central indexing system~~ or with a third party who is in possession of the personal property. The notice must particularly describe the property to be subjected to the lien and the name and last-known address of the obligor. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.
2. The information filed ~~with a recorder or with the secretary of state~~ under this section must be included in the computerized central indexing system maintained by the secretary of state under section 54-09-09 and must be accessible to the public on the same terms and conditions that apply to access other statutory lien information maintained in the computerized central indexing system.

3. Upon filing of the notice of lien in accordance with this section, the lien attaches to and is perfected against all personal property described in the notice.

**SECTION 20. AMENDMENT.** Section 35-35-03 of the North Dakota Century Code is amended and reenacted as follows:

**35-35-03. Filing officer may reject lien - Filing officer to accept notice of invalid lien - Filing officer not liable.**

1. Any filing officer may reject for filing or recording any nonconsensual common-law lien.
2. If a nonconsensual common-law lien has been accepted for filing or recording, the filing officer shall accept for filing any ~~sworn~~-notice of invalid lien ~~signed and submitted~~ electronically by the person against whom such a lien was filed or that person's attorney. The notice must be captioned "Notice of Invalid Lien" and must state the name and address of the person on whose behalf the notice is filed, the name and address of the lien claimant, and a clear reference to the document or documents the person believes constitute a nonconsensual common-law lien. The notice must be filed in such a manner that any search of the records which reveals the lien the notice refers to will also reveal the notice of invalid lien. The filing officer shall mail or deliver electronically a copy of the notice of invalid lien to the lien claimant at the lien claimant's last-known address within one business day.
3. A filing officer, county, or the state may not be held liable for filing a nonconsensual common-law lien, or for filing a ~~sworn~~-notice of invalid lien pursuant to this section.
4. A fee may not be charged for the filing of a notice of invalid lien against a field nonconsensual common-law lien.

**SECTION 21. AMENDMENT.** Section 35-37-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-37-04. Perfection of lien - Verified notice - Effect of instruments - Effective date of lien.**

1. If the proceeds for oil or gas which are required to be paid are not paid to the interest owner when due, the interest owner may perfect the security interest and lien by filing electronically a ~~form~~-UCC-1A in the central indexing system and recording the lien in the real estate records in the office of the county recorder of the county in which the well is located. If the oil and gas owner's lien is not filed within ninety days from the date of production, the security interest is not perfected and does not give the interest owner priority over a perfected security interest in the same oil, gas, or proceeds of the oil or gas.
2. ~~All instruments that are presented to a county recorder for filing in accordance with subsection 1 are effective as financing statements even though the signature of the debtor may not appear on the lien. Liens must be filed~~ electronically in the central indexing system and recorded in the

real estate records of the county. Liens may be terminated in the same manner as financing statements.

3. Upon perfection by filing, the security interest and lien of the interest owner takes priority over the rights of all persons whose rights or claims arise or attach thereafter to the oil or gas unpaid for, or the proceeds of oil or gas if the oil or gas has been sold, including those that arise or attach between the time the security interest and lien attaches and the time of filing. The security interest and lien created pursuant to this chapter do not have priority over the security interest and lien rights previously created and perfected or an operating agreement or other voluntary agreement for the development and operation of the property.

**SECTION 22. AMENDMENT.** Section 41-09-72 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-72. (9-501) Filing office.**

1. Except as otherwise provided in subsection 2, if the local law of this state governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:
  - a. The office designated for the filing or recording of a record of a mortgage on the related real property, if:
    - (1) The collateral is as-extracted collateral or timber to be cut; or
    - (2) The financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or
  - b. The office of the recorder in any county in this state or in the office of the secretary of state, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.
2. The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the secretary of state. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.
3. The secretary of state shall provide an electronic means for filing any record required or permitted to be filed by this title. This may include use of business-to-business methods using a common data format and must include a web-based application. Any record that is not filed electronically must be rejected.

**SECTION 23. AMENDMENT.** Section 41-09-73 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-73. (9-502) (Effective through June 30, 2013) Contents of financing statement - Record of mortgage as financing statement - Time of filing financing statement - Amending financing statement.**

1. Subject to subsection 2, a financing statement is sufficient only if the statement:
  - a. Provides the name of the debtor;
  - b. Provides the name of the secured party or a representative of the secured party;
  - c. Indicates the collateral covered by the financing statement;
  - d. If it is a financing statement that is to be filed to gain protection under the central notice system, includes a reasonable description of the property, including the county in which the property is located, and any other additional information required by the Food Security Act of 1985 [Pub. L. 99-198; Stat. 1535; 7 U.S.C. 1631], as prescribed by the secretary of state, and, to be sufficient a financing statement must include the name and address of the secured party; and unless electronically filed, the signatures of the debtor and secured parties;
  - e. Provides a mailing address for the secured party; and
  - f. Provides a mailing address for the debtor.
2. Except as otherwise provided in subsection 2 of section 41-09-72, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection 1 and also:
  - a. Indicate that it covers this type of collateral;
  - b. Indicate that it is to be filed for record in the real property records;
  - c. Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and
  - d. If the debtor does not have an interest of record in the real property, provide the name of a record owner.
3. A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:
  - a. The record indicates the goods or accounts that it covers;
  - b. The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
  - c. The record satisfies the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and

- d. The record is duly recorded.
4. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.
5. A financing statement filed to gain protection under the central notice system must be amended within three months of a material change to reflect that change. The amended financing statement must be signed by both the debtor and secured party and filed in the same manner as the original financing statement. An electronically filed amendment does not need to be signed.
6. Any social security number or federal tax identification number submitted on a financing statement filed pursuant to this chapter as a central indexing filing prior to January 1, 2012, is an exempt record as defined by subsection 5 of section 44-04-17.1 and may not be disclosed as part of any search under section 41-09-94 or 41-09-96 or as part of a copy of the record. After December 31, 2011, a debtor's social security number or federal tax identification number may not be filed pursuant to this chapter in the filing office with the central indexing system and may not be recorded in the real property records.

**(Effective after June 30, 2013) Contents of financing statement - Record of mortgage as financing statement - Time of filing financing statement - Amending financing statement.**

1. Subject to subsection 2, a financing statement is sufficient only if the statement:
  - a. Provides the name and social security number or internal revenue service taxpayer identification number of the debtor;
  - b. Provides the name of the secured party or a representative of the secured party;
  - c. Indicates the collateral covered by the financing statement;
  - d. If it is a financing statement that is to be filed to gain protection under the central notice system, includes a reasonable description of the property, including the county in which the property is located, and any other additional information required by the Food Security Act of 1985 [Pub. L. 99-198; Stat. 1535; 7 U.S.C. 1631], as prescribed by the secretary of state, and, to be sufficient a financing statement must include the name and address of the secured party; and unless electronically filed, the signatures of the debtor and secured parties;
  - e. Provides a mailing address for the secured party; and
  - f. Provides a mailing address for the debtor.
2. Except as otherwise provided in subsection 2 of section 41-09-72, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection 1 and also:
  - a. Indicate that it covers this type of collateral;

- b. Indicate that it is to be filed for record in the real property records;
  - c. Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and
  - d. If the debtor does not have an interest of record in the real property, provide the name of a record owner.
3. A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:
  - a. The record indicates the goods or accounts that it covers;
  - b. The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
  - c. The record satisfies the requirements for a financing statement in this section, but:
    - (1) The record need not indicate that it is to be filed in the real property records; and
    - (2) The record sufficiently provides the name of a debtor who is an individual if the record provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom subdivision d of subsection 1 of section 41-09-74 applies; and
  - d. The record is duly recorded.
4. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.
5. A financing statement filed to gain protection under the central notice system must be amended within three months of a material change to reflect that change. The amended financing statement must be signed by both the debtor and secured party and filed in the same manner as the original financing statement. An electronically filed amendment does not need to be signed.
6. Any social security number or federal tax internal revenue service taxpayer identification number submitted on a financing statement filed pursuant to this chapter as a central indexing filing ~~prior to January 1, 2012~~, is an exempt record as defined by subsection 5 of section 44-04-17.1 and may not be disclosed as part of any search under section 41-09-94 or 41-09-96 or as part of a copy of the record. ~~After December 31, 2011, a~~ debtor's social security number or federal tax internal revenue service taxpayer identification number ~~may not be filed pursuant to this chapter in the filing office with the central indexing system and may not be recorded in the real property records.~~

**SECTION 24. AMENDMENT.** Section 41-09-84 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-84. (9-513) Termination statement - Remedies - Fees.**

1. If a financing statement covering consumer goods is filed after December 31, 1973, then within one month or within ten days following written demand by the debtor after there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party shall file ~~with each filing officer with whom the financing statement was filed~~electronically in the central indexing system, a termination statement to the effect that the secured party no longer claims a security interest under the financing statement, which must be identified by file number. In other cases when there is no outstanding secured obligation and no written commitment between the secured party and the debtor to make advances, incur obligations, or otherwise give value, the secured party, unless requested by the debtor in writing to continue the filing, ~~must send to each filing officer with whom the financing statement was filed~~shall file electronically a termination statement to the effect that the secured party no longer claims a security interest under the financing statement nor under the central notice system, which shall be identified by file number. If the affected secured party fails to file a termination statement as required by this subsection within sixty days of when the secured obligation is fully satisfied, and the debtor has not requested in writing that the filing be continued, then under section 41-09-120 the secured party is liable to the debtor for one hundred dollars and for any loss caused to the debtor by such failure. The debtor's written request for a filing to be continued may be made at any time and be effective under this section. If the affected secured party fails to file a termination statement within ten days after proper written demand by the debtor, then under section 41-09-120 the secured party is liable to the debtor for one hundred dollars and for any loss caused to the debtor by such failure.
2. Except as otherwise provided in section 41-09-81, upon the filing of a termination statement ~~with the filing office~~, the financing statement to which the termination statement relates ceases to be effective. Except as provided in section 41-09-81, for purposes of subsection 7 of section 41-09-90, subsection 1 of section 41-09-93, and subsection ~~32~~ of section 41-09-94, the electronic filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.
3. The fee for filing and indexing a termination statement, ~~including sending or delivering the financing statement~~, is five dollars. ~~For any financing statement filed after April 8, 1991, the fee must be paid at the time is~~ included in the fee for filing the financing statement is paid.

**SECTION 25. AMENDMENT.** Subsection 2 of section 41-09-87 of the North Dakota Century Code is amended and reenacted as follows:

2. Filing does not occur with respect to a record that a filing office refuses to accept because:

- a. The record is not communicated by a method or medium of communication authorized by the filing office;
- b. An amount equal to or greater than the applicable filing fee is not tendered;
- c. The filing office is unable to index the record because:
  - (1) In the case of an initial financing statement, the record does not provide a name for the debtor;
  - (2) In the case of an amendment or correction statement, the record:
    - (a) Does not identify the initial financing statement as required by section 41-09-83 or 41-09-89, as applicable; or
    - (b) Identifies an initial financing statement whose effectiveness has lapsed under section 41-09-86;
  - (3) In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or
  - (4) In the case of a record filed or recorded in the filing office described in subdivision a of subsection 1 of section 41-09-72, the record does not provide a sufficient description of the real property to which it relates;
- d. In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;
- e. In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:
  - (1) Provide a mailing address for the debtor;
  - (2) Indicate whether the debtor is an individual or an organization; or
  - (3) If the financing statement indicates that the debtor is an organization, provide:
    - (a) A type of organization for the debtor;
    - (b) A jurisdiction of organization for the debtor; or
    - (c) An organizational identification number for the debtor or indicate that the debtor has none;
- f. In the case of an assignment reflected in an initial financing statement under subsection 1 of section 41-09-85 or an amendment filed under

subsection 2 of section 41-09-85, the record does not provide a name and mailing address for the assignee; ~~or~~

- g. In the case of a continuation statement, the record is not filed within the six-month period prescribed by subsection 4 of section 41-09-86; or
- h. The record does not contain the social security number or the internal revenue service taxpayer identification number of the debtor.

**SECTION 26. AMENDMENT.** Section 41-09-94 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-94. (9-523) Information from filing office - Sale or license of records.**

1. ~~If a~~Any person that files a written record ~~requests~~may request ~~electronically an acknowledgment of the filing, the filing office a filing.~~ The central indexing system shall send~~provide~~ to the person detailed information and an image of the record, if not filed electronically, showing the number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90 and the date and time of the filing of the record. ~~However, if the person furnishes a copy of the record to the filing office, the filing office may instead:~~
  - a. ~~Note upon the copy the number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90 and the date and time of the filing of the record; and~~
  - b. ~~Send the copy to the person.~~
2. ~~If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:~~
  - a. ~~The information in the record;~~
  - b. ~~The number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90; and~~
  - c. ~~The date and time of the filing of the record.~~
3. ~~The filing office~~central indexing system shall communicate ~~or otherwise make available in a record~~electronically the following information to any person that requests it:
  - a. Whether there is on file on a date and time specified by the ~~filing office~~central indexing system, ~~but not a date earlier than three business days before the filing office receives the request,~~ any verified statement of an agricultural lien created under chapter 35-17, 35-30, or 35-31 or any financing statement that:
    - (1) Designates a particular debtor or, if the request so states, designates a particular debtor at the address specified in the request;
    - (2) Has not lapsed under section 41-09-86 with respect to all secured parties of record; and

- (3) Effective January 1, 2002, if the request so states, has lapsed under section 41-09-86 and a record of which is maintained by the filing office central indexing system under subsection 1 of section 41-09-93;
- b. The date and time of filing of each ~~verified~~ statement and each financing statement; and
- c. The information provided in each ~~verified~~ statement and each financing statement.
- 4. ~~In complying with its duty under subsection 3, the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing a written certificate.~~
- ~~5.3.~~ The filing office if a request to the central indexing system cannot be automatically accepted, the secretary of state shall perform the acts required by subsections 1 through 4 at the time and in the manner prescribed by filing office rule, but and 2 not later than two business days after the filing office central indexing system receives the request.
- ~~6.4.~~ At least weekly, the secretary of state shall offer to sell or license to the public on a nonexclusive basis, in bulk, ~~copies~~ detailed information of all records filed in it under this part, in every medium from time to time filed within the central indexing system.

**SECTION 27. AMENDMENT.** Section 41-09-96 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-96. (9-525) Fees.**

- 1. The fee for filing and indexing an original statement under this title is ~~fifteen~~ forty-five dollars plus one dollar per additional page. When a nonstandard statement is presented for filing, an additional fee of five dollars must be paid. An additional fee may not be charged for the same statement to gain protection under the central notice system.
- 2. The fee for filing and indexing an amendment, including continuations, assignments, releases, or correction statements under this title is ~~ten~~ forty-five dollars plus one dollar per additional page. An additional fee may not be charged for the same document to gain protection under the central notice system.
- 3. A fee may not be charged for ~~responding to a~~ central indexing system response to an electronic request for information;
  - a. Information from the filing office central indexing system communicating whether there is on file any financing statement or ~~verified~~ statement naming a particular debtor.
  - b. Information on specific filings on a particular debtor.
  - c. Copies of each filing on a particular debtor.
  - d. Certified copies of filings on a particular debtor.

4. ~~The fee for a filing office central indexing response providing information on specific filings on submitted by a particular debtor secured party is seven five hundred dollars per debtor for the first five entries, plus two dollars for each additional five entries or fraction thereafter.~~
5. ~~The fee for a filing office providing copies of each filing for a particular debtor is seven dollars per debtor plus two dollars per page for each page over three pages.~~
6. ~~The fee for a filing office providing certified copies of filings on a particular debtor is ten dollars plus two dollars per page for attachments.~~
7. ~~Any fees collected by the secretary of state pursuant to this chapter and all other filings entered into the central indexing system must be deposited in the general fund in the state treasury, except with the exception of the fees collected under subsection 64 of section 41-09-94, subsection 4 of this section, and a portion of the filing fees specifically identified in section 54-09-11, which must be deposited in the secretary of state's general services operating fund.~~

**SECTION 28. AMENDMENT.** Subsection 3 of section 41-09-135 of the North Dakota Century Code is amended and reenacted as follows:

3. The filing of a continuation statement after this Act takes effect does not continue the effectiveness of the financing statement filed before this Act takes effect. However, upon the timely filing of a continuation statement after this Act takes effect, no later than is required by section 41-09-86, and in accordance with the law of the jurisdiction governing perfection as provided in this chapter as amended by this Act, the effectiveness of a financing statement filed in the same office in that jurisdiction before this Act takes effect continues for the period provided by the law of that jurisdiction.

**SECTION 29. AMENDMENT.** Section 41-10-01 of the North Dakota Century Code is amended and reenacted as follows:

**41-10-01. Definitions.**

As used in this chapter:

1. "Authorized", when used with reference to a financing statement record, means that the financing statement record was filed by a person authorized to do so as provided in sections 41-09-80 and 41-09-130.
2. "Debtor" means a natural person whose name was provided in a financing statement record as an individual debtor or one of the types of persons listed in section 41-09-76.
3. "Filing office" or "filing officer" refers to the ~~appropriate office or officer~~ central indexing system, which must be provided by the secretary of state, where a financing statement record is to be filed electronically as provided by section 41-09-72, ~~including the county recorder, the secretary of state, and other designated filing officers.~~

4. "Financing statement record" means an initial financing statement, an amendment that adds collateral covered by a financing statement, and an amendment that adds a debtor to a financing statement as such terms are used in this title.

**SECTION 30. AMENDMENT.** Section 41-10-05 of the North Dakota Century Code is amended and reenacted as follows:

**41-10-05. Venue.**

An action under this chapter may be brought in any district court in the county in which the financing statement record is presented for filing or in a county where any of the persons who may bring an action under this chapter reside.

**SECTION 31. AMENDMENT.** Section 47-16-03 of the North Dakota Century Code is amended and reenacted as follows:

**47-16-03. Filing farm lease containing reservation of title to crop - Waiver of rights on failure to file.**

1. When a lease of a farm contains a provision reserving title in the lessor to any part of the crops in excess of the rental share of the lessor until the stated conditions of the lease have been complied with by the lessee, such lease must be filed in the office of the recorder in the county in which the land described therein is located if notice by a real estate recording is sought, and must be filed electronically in the central indexing system if recording in the central notice system is sought, prior to July first in the year in which the crops are raised to render such reservation of title effective as to subsequent purchasers or encumbrancers of any part of the grain over and above the lessor's rental share produced upon the land.
2. The failure to file such lease or contract in accordance with this section constitutes a waiver by the lessor of all rights reserved by that person over and above that person's rental share in such crops as against any subsequent purchaser or encumbrancer of the lessee.
3. The secretary of state may ~~prescribe a form which shall provide an~~ electronic system that includes the pertinent information from the lease that may be filed in the central notice system. A lessor may file this ~~form with the recorder~~ electronic statement and obtain the same rights under this section as if the lessor had filed the lease.
4. The fee required to file and index this notice of lease is:
  - a. As provided in section 11-18-05, if the notice of lease is only a real estate recording;
  - b. As provided in section ~~41-09-06~~ 41-09-96, if the notice of lease is filed only to gain protection under the central notice system; or
  - c. As provided in section 11-18-05, if ~~the notice of lease is both a real estate recording and filed to gain protection under the central notice system. An additional fee may not be charged for the same~~ statements a real estate recording is sought and according to section

41-09-96 if electronically filed to gain protection under the central notice system.

**SECTION 32. AMENDMENT.** Section 54-09-08 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-08. Secretary of state's general services operating fund.**

The secretary of state's general services operating fund is a special fund in the state treasury. Moneys in the fund are to be used pursuant to legislative appropriations for the provision of services under section 16.1-02-15, subsection 64 of section 41-09-94, subsection 4 of section 41-09-96, subsection 87 of section 54-09-04, and sections 10-35-33, 54-09-10, and 54-09-11. At the close of each biennium, the secretary of state shall transfer any unobligated balance remaining in the fund exceeding seventy-five thousand dollars to the general fund.

**SECTION 33. AMENDMENT.** Section 54-09-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-09.**

**Computerized central indexing system - Rules.**

1. The secretary of state shall maintain a computerized central indexing system that contains the information filed ~~with the office of the secretary of state or with any of the offices of the recorder in this state~~ pursuant to sections 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, 35-34-04, 35-34-06, 41-09-72, ~~57-28-29, 57-38-49, 57-39.2-13, 57-40.2-16, 57-40.3-07.1, 57-43.1-17.4, 57-43.2-16.3, and 57-51-11.~~ The system must connect each recorder's office to the secretary of state's office through the information technology department. The system must allow access to financing statement information by equipment that conforms to requirements determined by the information technology department. The system must have safeguards to allow access to information that is in the system relating to security interests or liens and to prevent unauthorized alteration or deletion of that information and to allow access to other information in the system as prescribed by the secretary of state.
2. Within two working days of receipt of a financing statement, continuation statement, amendment, or termination statement filed electronically pursuant to chapter 41-09 or a statement filed electronically pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, or 35-31-02, the ~~recorder or secretary of state shall file the information contained in the statement~~ must be filed in the computerized central indexing system. A computer printout of information from the system is prima facie evidence of the existence or nonexistence of the filing of a financing statement or lien. The secretary of state shall ~~prescribe one form~~ provide an electronic means that can be used to perfect a security interest in farm products or gain protection under the central notice system, or both.
3. The secretary of state may adopt rules necessary to implement this section and sections 54-09-10 and 54-09-11.

**SECTION 34. AMENDMENT.** Section 54-09-10 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-10. Secretary of state to compile lists for crops and livestock - Distribution of lists.**

1. From the computerized central indexing system, the secretary of state or a designee shall produce ~~each month one~~ electronically a list for crops and ~~one~~ a list for livestock that each contain the information as filed ~~on the forms~~ pursuant to section 41-09-72. The secretary of state shall also include on the lists the information filed for crops and livestock pursuant to sections 35-17-04, 35-30-02, and 35-31-02. The lists must be in alphabetical order according to the last name of, or in numerical order according to the social security number of, the person engaged in farming operations. The lists may be prepared in categories according to county, regions as designated by the secretary of state, or on a statewide basis. If requested, the lists must be in printed form. Each list must conspicuously note the effective date of the list.
2. The secretary of state shall distribute ~~monthly by mail or deliver~~ electronically the lists prepared pursuant to subsection 1, ~~at least five business days in advance of the effective date of each of the lists.~~ If requested, the secretary of state shall ~~mail or deliver~~ electronically the lists to any person making a request at a fee as provided in section 54-09-11.
3. Upon a verbal request of any person, the secretary of state, ~~or a designee of the secretary of state, or a recorder~~ shall verbally provide information contained on a list generated through the computerized central indexing system if the collateral is crops or livestock. The requesting party may request electronically a certificate ~~from the secretary of state or the recorder and the secretary of state or the recorder shall~~ from the central indexing system to confirm the information given. Direct computer access is equivalent to oral confirmation, and a computer printout constitutes the written confirmation of the secretary of state, if use of this method of confirmation does not cause the central indexing system to lose federal certification. A computer printout from the computerized central indexing system constitutes the certificate of the secretary of state ~~or the recorder~~ as to whether there is on file, on the date and hour stated on the computer printout, a financing statement.

**SECTION 35. AMENDMENT.** Section 54-09-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-11. Fees.**

1. The secretary of state shall establish fees for ~~placing data in the computerized central indexing system; for obtaining computer access to the computerized central indexing system, to the computerized Uniform Commercial Code central filing database, or to the computerized statutory liens database; for receiving printouts; for direct access to all or parts of the central indexing system; for lists sold or licensed under subsection 6 of section 41-09-94; for any other list provided by the secretary of state; for any programming charges specifically incurred to provide information requested by persons which is related to the central indexing system; and for other services provided through the computerized system.~~

2. ~~The~~A fee may not be required for furnishing information on a verbal request pursuant to subsection 3 of section 54-09-10 ~~is seven dollars~~, and the fee for furnishing a certificate under subsection 3 of section 54-09-10 is ~~seven~~fifteen dollars.
3. The secretary of state shall establish the fee for furnishing lists ~~under subsection 1 of section 54-09-10~~from the central indexing system based on actual costs to produce the lists for distribution.
4. Fees collected by the secretary of state ~~under subsections 1 and 3 and this section~~, under subsection ~~64~~ of section 41-09-94, and subsection 4 of section 41-09-96, and ten dollars from each filing entered into the central indexing system must be deposited in the secretary of state's general services operating fund. Fees collected by the secretary of state under subsection 2 ~~must be deposited in the general fund in the state treasury~~this section must be used for the programming and maintenance of the central indexing system.
5. The secretary of state ~~may adopt rules regarding what portion of the filing fees and search fees collected by the recorder under section 41-09-96 must be submitted to the secretary of state for deposit into the secretary of state's general operating fund to meet the cost of the provision of services required under sections 54-09-09 and 54-09-10 shall pay ten dollars to the county recorder of the county of residence for the first debtor listed on each statement filed pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, or 41-09-72. The payment must be made monthly from the general fund in the state treasury.~~

**SECTION 36. AMENDMENT.** Subsection 5 of section 57-34-10 of the North Dakota Century Code is amended and reenacted as follows:

5. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the tax commissioner filing in the central indexing system maintained by the secretary of state a notice of the lien provided for in subsection 4, takes free of, or has priority over, the lien. The tax commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. the next day following the indexing of the notice. The tax commissioner shall index any notice of lien with no payment of fees or costs to the secretary of state.

**SECTION 37. AMENDMENT.** Subsection 4 of section 57-36-09.5 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next day following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 38. AMENDMENT.** Section 57-38-49 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-49. Preservation of lien.**

Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the commissioner filing in the central indexing system maintained by the secretary of state a notice of the lien provided for in section 57-38-48, takes free of, or has priority over, the lien. The commissioner shall index in the central indexing system the following data:

1. The name of the taxpayer.
2. The name "State of North Dakota" as claimant.
3. The date and time the notice of lien was indexed.
4. The amount of the lien.
5. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed. The commissioner shall index any notice of lien with no payment of fees or costs to the secretary of state.

**SECTION 39. AMENDMENT.** Subsection 4 of section 57-39.2-13 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.

- c. The date and time the notice of lien was indexed.
- d. The amount of the lien.
- e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 40. AMENDMENT.** Subsection 4 of section 57-40.2-16 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 41. AMENDMENT.** Subsection 3 of section 57-40.3-07.1 of the North Dakota Century Code is amended and reenacted as follows:

3. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed. The commissioner is exempt from the payment of fees otherwise provided by law for the indexing or the satisfaction of the lien.

**SECTION 42. AMENDMENT.** Subsection 4 of section 57-43.1-17.4 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 43. AMENDMENT.** Subsection 4 of section 57-43.2-16.3 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 44. AMENDMENT.** Subsection 4 of section 57-43.3-22 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.

- e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 45. AMENDMENT.** Subsection 2 of section 57-51-11 of the North Dakota Century Code is amended and reenacted as follows:

- 2. Any judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in this state, prior to the commissioner filing in the central indexing system maintained by the secretary of state, a notice of the lien provided for in this section, takes free of, or has priority over, the lien. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. of the first day following the indexing of the notice. A notice of lien filed by the commissioner ~~with a recorder~~ before August 1, 1997, may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 46. AMENDMENT.** Subsection 4 of section 57-63-10 of the North Dakota Century Code is amended and reenacted as follows:

- 4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the facility.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number of the facility or the social security number of the owner, officer, or manager of the facility.

The notice of lien is effective as of eight a.m. the next day following the indexing of the notice. A notice of lien filed by the commissioner ~~with the recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 47. REPEAL.** Section 57-28-29 of the North Dakota Century Code is repealed.

**SECTION 48. APPLICATION.** For use during the 2013-15 interim. The secretary of state shall provide an electronic means for the central indexing system to accept an amendment to a statement filed before July 1, 2014, pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, 35-34-04, 41-09-72, 57-38-49, 57-39.2-13, 57-40.2-16, 57-40.3-07.1, 57-43.1-17.4, or 57-43.2-16. Before July 1, 2015, a secured party or lienholder may amend a filing under this section without a fee if the amendment is limited in scope to correcting the name of the debtor as required under section 41-09-135, or adding or correcting the social security or internal revenue service taxpayer identification number of the debtor, or both.

**SECTION 49. EFFECTIVE DATE.** Sections 1 through 27 and sections 29 through 48 of this Act become effective July 1, 2014."

Renumber accordingly

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Prepared by the Legislative Council staff for  
Senator Armstrong  
April 4, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1136

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 11-18-01, 11-18-05, 35-13-02, 35-17-04, 35-17-07, 35-17-08, 35-20-15.1, 35-20-16, 35-29-02, 35-29-04, 35-29-05, 35-30-02, 35-30-05, 35-30-06, 35-31-02, 35-31-05, 35-31-06, 35-34-04, 35-34-06, 35-35-03, 35-37-04, 41-09-72, 41-09-73, and 41-09-84, subsection 2 of section 41-09-87, sections 41-09-94 and 41-09-96, subsection 3 of section 41-09-135, sections 41-10-01, 41-10-05, 47-16-03, 54-09-08, 54-09-09, 54-09-10, and 54-09-11, subsection 5 of section 57-34-10, subsection 4 of section 57-36-09.5, section 57-38-49, subsection 4 of section 57-39.2-13, subsection 4 of section 57-40.2-16, subsection 3 of section 57-40.3-07.1, subsection 4 of section 57-43.1-17.4, subsection 4 of section 57-43.2-16.3, subsection 4 of section 57-43.3-22, subsection 2 of section 57-51-11, and subsection 4 of section 57-63-10 of the North Dakota Century Code, relating to filing liens and security interests electronically; to repeal section 57-28-29 of the North Dakota Century Code, relating to filing tax liens; to provide for application; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 11-18-01 of the North Dakota Century Code is amended and reenacted as follows:

**11-18-01. Recorder's duties - Recording and filing instruments - Abstracts.**

The recorder shall:

1. Keep a full and true record, in proper books or other storage media provided for that purpose, of each patent, deed, mortgage, bill of sale, security agreement, judgment, decree, lien, certificate of sale, and other instrument required to be filed or admitted to record, if the person offering the instrument for filing or recording pays to the recorder the fees provided by law for the filing or recording.
2. Endorse upon each instrument filed with the recorder for record or otherwise the date and the hour and minute of the day of the filing or recording.
3. When the instrument is recorded or filed, endorse on the instrument the book and page or document number, the date, and the hour and minute of the date when it was recorded or filed with the recorder.
4. Prepare a security agreement abstract whenever any person requests the agreement and pays the required fee.
5. ~~Furnish upon written or telephonic request to persons the information contained in financing statements filed to perfect a security interest pursuant to chapter 41-09 when the collateral is farm products, and to~~

~~provide written confirmation of the oral information provided upon receipt of a fee which shall be the same as for recording that instrument.~~

**SECTION 2. AMENDMENT.** Section 11-18-05 of the North Dakota Century Code is amended and reenacted as follows:

**11-18-05. Fees of recorder.**

The recorder shall charge and collect the following fees:

1. For recording an instrument affecting title to real estate:
  - a. Deeds, mortgages, and all other instruments not specifically provided for in this subsection, ten dollars for the first page and three dollars for each additional page. In addition, for all documents recorded under this section that list more than five sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for the first page of each instrument recorded under this subdivision must be placed in the document preservation fund.
    - (1) "Page" means one side of a single legal size sheet of paper not exceeding eight and one-half inches [21.59 centimeters] in width and fourteen inches [35.56 centimeters] in length.
    - (2) The printed, written, or typed words must be considered legible by the recorder before the page will be accepted for recording.
    - (3) Each real estate instrument must have a legal description considered to be adequate by the recorder before such instrument will be accepted for recording.
    - (4) A space of at least four inches by three and one-half inches [10.16 by 8.89 centimeters] square must be provided on the first or last page of each instrument for the recorder's recording information. If recording information can only be placed on the reverse side of an instrument, an additional page charge must be levied.
  - b. Instruments satisfying, releasing, assigning, subordinating, continuing, amending, or extending more than one instrument previously recorded in the county in which recording is requested, ten dollars for the first page and three dollars for each additional page plus three dollars for each such additional document number or book and page. In addition, for all documents recorded under this section which list more than five separate sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for the first page of each instrument recorded under this subdivision must be placed in the document preservation fund.
  - c. Plats, irregular tracts, or annexations, ten dollars for one lot plus ten cents for each additional lot, with the exception of auditor's lots which must be a single charge of seven dollars.

- d. All instruments presented for recording after June 30, 2001, must contain a one-inch [2.54-centimeter] top, bottom, or side margin on each page of the instrument for the placement of computerized recording labels. An instrument that does not conform to this margin requirement may be recorded upon payment of an additional fee of ten dollars.
2. For filing any ~~non-central indexing system~~ instrument, ten dollars.
3. For making certified copies of any recorded instrument or filed ~~non-central indexing system~~ instrument, the charge is five dollars for the first page and two dollars for each additional page. For making a noncertified copy of any recorded instrument or filed ~~non-central indexing system~~ instrument, a fee of not more than one dollar per instrument page. For providing any electronic data extracted from the recorded instrument, a fee of not more than fifty cents per instrument.
4. ~~For filing, indexing, making, or completing any statement, abstract, or certificate under the Uniform Commercial Code central filing database, the computerized central notice system or the computerized statutory liens database, for receiving printouts, and for other services provided through the computerized system, the fee is the same as that provided in sections 41-09-96 and 54-09-11.~~
5. The recorder may establish procedures for providing access for duplicating records under the recorder's control. Such records include paper, photostat, microfilm, microfiche, and electronic or computer-generated instruments created by governmental employees.
- 6.5. Duplicate recorders' records stored offsite as a security measure are not accessible for reproduction.

**SECTION 3. AMENDMENT.** Section 35-13-02 of the North Dakota Century Code, as amended by House Bill No. 1340, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

**35-13-02. Lien statement - Contents - When required - Filing.**

1. The secretary of state shall prescribe ~~one form~~ an electronic system that can be used to obtain a lien under this section and also be entered in the central indexing system. A person entitled to a lien under this chapter who retains possession of the property made, altered, or repaired is not required to file any statement to perfect the lien. If the possession of the property so made, altered, or repaired is relinquished, the person shall file electronically, within ninety days, or if the property is used for agricultural purposes within one hundred twenty days, or in the exploration for or the production of oil or gas within six months, after the materials are furnished or the labor is completed, in the ~~office of the recorder of the county in which the owner or legal possessor of the property resides~~ central indexing system, a ~~verified written~~ statement showing:
  - a. The labor performed.
  - b. The materials furnished.

- c. The price agreed upon for the labor performed or materials furnished, or, if no price was agreed upon, the reasonable value thereof.
  - d. The name and address of the person for whom the labor was performed or to whom the materials were furnished.
  - e. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the labor was performed or to whom the materials were furnished.
  - f. The name and address of the person claiming the lien.
  - f.g. A description of the property upon which the lien is claimed.
2. A person filing a ~~verified~~ statement shall within thirty days serve notice of the filing, by registered mail, upon the owner or legal possessor of the property. A person entitled to the lien who fails to file a ~~verified~~ statement within the time limited in this section is deemed to have waived the right to a lien.
  3. A lienholder may file electronically an amendment to add or correct the social security number or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~ provide a means to amend electronically the repairman's lien that has been filed pursuant to this section. The amendment of the lien does not affect the priority of the lien.

**SECTION 4. AMENDMENT.** Section 35-17-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-17-04. Procedure to obtain lien - Statement filed - Contents - Waiver.**

Any person entitled to an agister's lien, within ninety days after taking possession of the animal, may file electronically in the ~~office of the recorder in any county in this state or in the office of the secretary of state~~ central indexing system, a statement ~~signed by the filer~~ containing the following information:

1. The number of and a description of the animals subject to the lien and the legal description as to the location of the animals.
2. The name and address of the person for whom the animals are kept.
3. The name and address of the lienholder.
4. The price agreed upon for keeping the animals and, if no price was agreed upon, the reasonable value of the services.
5. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the animals are kept.

The secretary of state shall ~~prescribe one form that can be used to~~ provide a means to obtain electronically a lien under this section or gain protection under the

central notice system, or both. If the statement is not filed within ninety days as required by this section, the person entitled to the lien under section 35-17-03 waives the lien.

**SECTION 5. AMENDMENT.** Section 35-17-07 of the North Dakota Century Code is amended and reenacted as follows:

**35-17-07. Amendment of lien.**

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used to provide a means to electronically~~ amend or assign the agister's lien that has been filed pursuant to section 35-17-04. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 6. AMENDMENT.** Section 35-17-08 of the North Dakota Century Code is amended and reenacted as follows:

**35-17-08. Fees - Penalty.**

The fee for filing electronically an agister's lien and related documents ~~with the secretary of state or the county recorder in the central notice system~~ is the same as that provided for in section 41-09-96. If a lienholder fails to file electronically a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

**SECTION 7. AMENDMENT.** Section 35-20-15.1 of the North Dakota Century Code is amended and reenacted as follows:

**35-20-15.1. Amendment of lien for unpaid earned property or casualty insurance premiums.**

A lienholder may file an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used to provide a means to amend electronically~~ or assign the unpaid earned property or casualty insurance premium lien that has been filed under section 35-20-15. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 8. AMENDMENT.** Section 35-20-16 of the North Dakota Century Code is amended and reenacted as follows:

**35-20-16. Procedure to obtain unpaid earned property or casualty insurance premium lien - Filing.**

The secretary of state shall ~~prescribe a form that can be used to provide a means to obtain electronically~~ a lien under this section and also be entered in the central indexing system. Any person entitled to an unpaid earned property or casualty insurance premium lien, within ninety days after termination of coverage, shall file in the office of the recorder of the county or counties in which the property covered by the policy is located central indexing system and with any loss payee named in the policy, a ~~verified~~ an electronic statement in writing stating all of the following:

1. The name and address of the policyholder.
2. The name and address of the lienholder.
3. The nature and quantity of insurance coverage provided.
4. The amount of unpaid earned premium.
5. A description of the property covered by the insurance and subject to the lien.
6. That a lien is claimed upon the property described.
7. The name of the county or counties where the property is located.
8. The social security number of the debtor, or in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of that person.

**SECTION 9. AMENDMENT.** Section 35-29-02 of the North Dakota Century Code is amended and reenacted as follows:

**35-29-02. Place of filing.**

1. Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens must be filed in accordance with this chapter.
2. Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens must be filed in the office of the recorder of central indexing system and associated to the county in which the real property subject to the liens is situated.
3. Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens must be filed as follows:
  - a. If the person against whose interest the lien applies is a corporation, limited liability company, or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the secretary of state.
  - b. If the person against whose interest the lien applies is a trust that is not covered by subdivision a, in the office of the secretary of state.
  - c. If the person against whose interest the lien applies is the estate of a decedent, in the office of the secretary of state.
  - d. In all other cases, in the office of the recorder of the county where the person against whose interest the lien applies resides at the time of filing of the notice of lien.
4. The secretary of state shall provide a means for the United States to file any documentation according to this chapter.

**SECTION 10. AMENDMENT.** Section 35-29-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-29-04. Duties of filing officer.**

1. If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subsection 2 is presented to a filing officer who is:
  - a. The secretary of state, ~~the secretary~~ shall cause the notice to be marked, held, and indexed in accordance with the provisions of section 41-09-90 as if the notice were a financing statement within the meaning of title 41; or
  - b. ~~Any other officer described in section 35-29-02, the officer~~ The secretary of state shall endorse thereon the officer's identification and the date and time of receipt and immediately file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the title and address of the official or entity certifying the lien, and the total amount appearing on the notice of lien.
2. If a certificate of release, nonattachment, discharge, or subordination of any lien is presented to the secretary of state for filing, the secretary shall do all of the following:
  - a. Cause a certificate of release or nonattachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of title 41, but the notice of lien to which the certificate relates may not be removed from the files.
  - b. Cause a certificate of discharge or subordination to be marked, held, and indexed as if the certificate were a release of collateral within the meaning of title 41.
3. If a refiled notice of federal lien referred to in subsection 1 or any certificate or notice referred to in subsection 2 is presented for filing to ~~any other filing officer specified in section 35-29-02, the officer~~ secretary of state shall permanently attach the refiled notice or the certificate to the original notice of lien and enter the refiled notice or the certificate with the date of filing in any alphabetical lien index on the line where original notice of lien is entered.
4. ~~Upon request of any~~ Any person, ~~the filing officer shall issue the officer's certificate showing~~ may search the central indexing system to determine whether there is on file, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed under this chapter or chapter 35-28 as it existed prior to enactment of this chapter, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. ~~The fee for a certificate is one dollar and twenty five cents for each notice or certificate reported therein. Upon request, the filing officer shall furnish a copy of any notice of federal lien, or notice or certificate affecting a federal lien, for a fee of one dollar, plus seventy five cents for the second and each succeeding page.~~

5. The secretary of state shall fulfill any of the functions described in this section by electronic means with the same legal effect as if the function had been completed on a physical document.

**SECTION 11. AMENDMENT.** Section 35-29-05 of the North Dakota Century Code is amended and reenacted as follows:

**35-29-05. Fees.**

1. The fee for filing and indexing each notice of lien is:
  - a. ~~For a lien on real estate, ten dollars, plus three dollars for the second and each succeeding page.~~
  - b. ~~For a lien on tangible and intangible personal property, ten dollars, plus five dollars to record if filed with a county recorder.~~
  - c. ~~For all other notices, including a certificate of discharge, nonattachment, or subordination, ten dollars, plus ten dollars if filed toward a lien on real estate with a county recorder.~~
  - d. ~~For a nonstandard statement when presented for filing, an additional fee of five dollars plus one dollar per page, and if filed on a real estate lien with a county recorder, an additional ten dollars plus three dollars for the second and each succeeding page.~~
  - e. For a certificate of release, five dollars, which must be paid at the time the lien is filed in the central indexing system is established according to section 41-09-96. Fees to record liens with a county recorder are the same as provided for under section 11-18-05.
2. The officer may not file or record an instrument under this chapter unless the person offering the instrument for filing or recording has first paid the requisite filing or recording fee.

**SECTION 12. AMENDMENT.** Section 35-30-02 of the North Dakota Century Code is amended and reenacted as follows:

**35-30-02. Procedure to obtain lien.**

1. To obtain an agricultural processor's lien, the person entitled to the lien, within ninety days after the processing is completed, shall file electronically a statement signed by the filer in the office of the recorder in any county in this state or in the office of the secretary of state central indexing system. The statement must contain the following information:
  - a. The name and address of the person for whom the processing was done.
  - b. The name and address of the processor.
  - c. A description of the crops or agricultural products and their amount, if known, subject to the lien together with a reasonable description, including the county as to the location where the crops or agricultural products were grown and the year the crop is to be harvested or was harvested.

- d. The price agreed upon for processing, or if no price was agreed upon, the reasonable value of the processing.
  - e. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the processing was done.
  - f. A description of the processing services and the first date the services were furnished.
2. ~~The secretary of state and the office of the recorder in any county in this state with which a statement signed by the filer under subsection 1 is submitted for filing shall reject the statement unless proof of mailing of notification of the lien to the debtor's last known address by registered or certified mail with return receipt requested is filed with the statement.~~
  3. The secretary of state shall ~~prescribe one form that can be used~~provide an electronic means to obtain a lien under this section or gain protection under the central notice system, or both. Before a processor's lien is filed, a billing statement for the services performed must include notice to the agricultural producer that if the amount due to the agricultural processor is not satisfied a lien may be filed.

**SECTION 13. AMENDMENT.** Section 35-30-05 of the North Dakota Century Code is amended and reenacted as follows:

**35-30-05. Amendment of lien.**

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~provide an electronic means to amend or assign the agricultural processor's lien that has been filed pursuant to section 35-30-02. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 14. AMENDMENT.** Section 35-30-06 of the North Dakota Century Code is amended and reenacted as follows:

**35-30-06. Fees - Penalty.**

The fee for filing electronically an agricultural processor's lien and related documents ~~with the secretary of state or the county recorder~~in the central indexing system is the same as that provided for in section 41-09-96. If a lienholder fails to file a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

**SECTION 15. AMENDMENT.** Section 35-31-02 of the North Dakota Century Code is amended and reenacted as follows:

**35-31-02. Procedure to obtain lien.**

To obtain an agricultural supplier's lien, except an agricultural supplier's lien for furnishing petroleum products, the person entitled to the lien, within one hundred

twenty days after the supplies are furnished or the services performed, shall file electronically a statement signed by the filer in the office of the recorder of any county in this state or in the office of the secretary of state central notice system. To obtain an agricultural supplier's lien for furnishing and delivering petroleum products, the person entitled to the lien, within one hundred fifty days after the petroleum products are furnished or delivered, shall file electronically a statement signed by the filer in the office of the recorder of any county in the state or in the office of the secretary of state central notice system. The statement must contain the following information:

1. The name and address of the person to whom the supplies were furnished.
2. The name and address of the supplier.
3. A description of the crops, agricultural products, or livestock and their amount or number, if known, subject to the lien together with a reasonable description, including the county as to the location of the crops, agricultural products, or livestock and the year the crop is to be harvested or was harvested.
4. A description and value of the supplies and the first date furnished.
5. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person to whom the supplies were furnished.

The secretary of state shall ~~prescribe one form that can be used~~ provide an electronic means to obtain a lien under this section or gain protection under the central notice system, or both. Before a supplier's lien is filed, a billing statement for the supplies furnished must include notice to the agricultural producer that if the amount due to the agricultural supplier is not satisfied a lien may be filed.

**SECTION 16. AMENDMENT.** Section 35-31-05 of the North Dakota Century Code is amended and reenacted as follows:

**35-31-05. Amendment of lien.**

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~ provide an electronic means to amend or assign the agricultural supplier's lien that has been filed pursuant to section 35-31-02. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 17. AMENDMENT.** Section 35-31-06 of the North Dakota Century Code is amended and reenacted as follows:

**35-31-06. Fees - Penalty.**

The fee for filing an agricultural supplier's lien and related documents ~~with the secretary of state or the county recorder~~ in the central notice system is the same as that provided for in section 41-09-96. If a lienholder fails to file a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

**SECTION 18. AMENDMENT.** Section 35-34-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-34-04. Vessel lien.**

1. In the case of a vessel, the child support agency may file electronically a notice of lien ~~with the secretary of state~~ in the central indexing system if the value of the vessel is estimated to be at least twice the cost of establishing the lien. The notice must contain a description of the make, model designation, and serial number of the vessel, including its identification or registration number, if any, and the name, social security number, and last-known address of the obligor. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.
2. Upon filing of the notice of lien in accordance with this section, the notice of lien must be indexed ~~by the secretary of state~~ in the central indexing system and may be enforced and foreclosed in the same manner as a security agreement under the provisions of title 41.
3. The secretary of state shall remove and destroy the lien notification statement in the same manner as provided for other liens in section 11-18-14 for the recorder.
4. The child support agency may file electronically an amendment to correct the spelling of the obligor's name, to correct the obligor's social security number, or to correct or change the address of the obligor.

**SECTION 19. AMENDMENT.** Section 35-34-06 of the North Dakota Century Code is amended and reenacted as follows:

**35-34-06. Lien on other personal property.**

1. In the case of untitled personal property other than an account maintained in a financial institution, the child support agency may establish a lien on such personal property by filing electronically a notice of lien ~~with the office of the recorder in the county in which the personal property may be found, with the secretary of state, in the central indexing system~~ or with a third party who is in possession of the personal property. The notice must particularly describe the property to be subjected to the lien and the name and last-known address of the obligor. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.
2. The information filed ~~with a recorder or with the secretary of state~~ under this section must be included in the computerized central indexing system maintained by the secretary of state under section 54-09-09 and must be accessible to the public on the same terms and conditions that apply to access other statutory lien information maintained in the computerized central indexing system.

3. Upon filing of the notice of lien in accordance with this section, the lien attaches to and is perfected against all personal property described in the notice.

**SECTION 20. AMENDMENT.** Section 35-35-03 of the North Dakota Century Code is amended and reenacted as follows:

**35-35-03. Filing officer may reject lien - Filing officer to accept notice of invalid lien - Filing officer not liable.**

1. Any filing officer may reject for filing or recording any nonconsensual common-law lien.
2. If a nonconsensual common-law lien has been accepted for filing or recording, the filing officer shall accept for filing any ~~sworn~~-notice of invalid lien ~~signed and submitted~~ electronically by the person against whom such a lien was filed or that person's attorney. The notice must be captioned "Notice of Invalid Lien" and must state the name and address of the person on whose behalf the notice is filed, the name and address of the lien claimant, and a clear reference to the document or documents the person believes constitute a nonconsensual common-law lien. The notice must be filed in such a manner that any search of the records which reveals the lien the notice refers to will also reveal the notice of invalid lien. The filing officer shall mail or deliver electronically a copy of the notice of invalid lien to the lien claimant at the lien claimant's last-known address within one business day.
3. A filing officer, county, or the state may not be held liable for filing a nonconsensual common-law lien, or for filing a ~~sworn~~-notice of invalid lien pursuant to this section.
4. A fee may not be charged for the filing of a notice of invalid lien against a field nonconsensual common-law lien.

**SECTION 21. AMENDMENT.** Section 35-37-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-37-04. Perfection of lien - Verified notice - Effect of instruments - Effective date of lien.**

1. If the proceeds for oil or gas which are required to be paid are not paid to the interest owner when due, the interest owner may perfect the security interest and lien by filing electronically a ~~form~~-UCC-1A in the central indexing system and recording the lien in the real estate records in the office of the county recorder of the county in which the well is located. If the oil and gas owner's lien is not filed within ninety days from the date of production, the security interest is not perfected and does not give the interest owner priority over a perfected security interest in the same oil, gas, or proceeds of the oil or gas.
2. ~~All instruments that are presented to a county recorder for filing in accordance with subsection 1 are effective as financing statements even though the signature of the debtor may not appear on the lien. Liens must be filed~~ electronically in the central indexing system and recorded in the real estate records of the county according to sections 11-18-01 and

11-18-05. Liens may be terminated in the same manner as financing statements.

3. Upon perfection by filing, the security interest and lien of the interest owner takes priority over the rights of all persons whose rights or claims arise or attach thereafter to the oil or gas unpaid for, or the proceeds of oil or gas if the oil or gas has been sold, including those that arise or attach between the time the security interest and lien attaches and the time of filing. The security interest and lien created pursuant to this chapter do not have priority over the security interest and lien rights previously created and perfected or an operating agreement or other voluntary agreement for the development and operation of the property.

**SECTION 22. AMENDMENT.** Section 41-09-72 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-72. (9-501) Filing office.**

1. Except as otherwise provided in subsection 2, if the local law of this state governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:
  - a. The office designated for the filing or recording of a record of a mortgage on the related real property, if:
    - (1) The collateral is as-extracted collateral or timber to be cut; or
    - (2) The financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or
  - b. The office of the recorder in any county in this state or in the office of the secretary of state, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.
2. The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the secretary of state. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.
3. The secretary of state shall provide an electronic means for filing any record required or permitted to be filed by this title. This may include use of business-to-business methods using a common data format and must include a web-based application. Any record that is not filed electronically must be rejected.

**SECTION 23. AMENDMENT.** Section 41-09-73 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-73. (9-502) (Effective through June 30, 2013) Contents of financing statement - Record of mortgage as financing statement - Time of filing financing statement - Amending financing statement.**

1. Subject to subsection 2, a financing statement is sufficient only if the statement:
  - a. Provides the name of the debtor;
  - b. Provides the name of the secured party or a representative of the secured party;
  - c. Indicates the collateral covered by the financing statement;
  - d. If it is a financing statement that is to be filed to gain protection under the central notice system, includes a reasonable description of the property, including the county in which the property is located, and any other additional information required by the Food Security Act of 1985 [Pub. L. 99-198; Stat. 1535; 7 U.S.C. 1631], as prescribed by the secretary of state, and, to be sufficient a financing statement must include the name and address of the secured party; and unless electronically filed, the signatures of the debtor and secured parties;
  - e. Provides a mailing address for the secured party; and
  - f. Provides a mailing address for the debtor.
2. Except as otherwise provided in subsection 2 of section 41-09-72, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection 1 and also:
  - a. Indicate that it covers this type of collateral;
  - b. Indicate that it is to be filed for record in the real property records;
  - c. Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and
  - d. If the debtor does not have an interest of record in the real property, provide the name of a record owner.
3. A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:
  - a. The record indicates the goods or accounts that it covers;
  - b. The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
  - c. The record satisfies the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and

- d. The record is duly recorded.
4. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.
5. A financing statement filed to gain protection under the central notice system must be amended within three months of a material change to reflect that change. The amended financing statement must be signed by both the debtor and secured party and filed in the same manner as the original financing statement. An electronically filed amendment does not need to be signed.
6. Any social security number or federal tax identification number submitted on a financing statement filed pursuant to this chapter as a central indexing filing prior to January 1, 2012, is an exempt record as defined by subsection 5 of section 44-04-17.1 and may not be disclosed as part of any search under section 41-09-94 or 41-09-96 or as part of a copy of the record. After December 31, 2011, a debtor's social security number or federal tax identification number may not be filed pursuant to this chapter in the filing office with the central indexing system and may not be recorded in the real property records.

**(Effective after June 30, 2013) Contents of financing statement - Record of mortgage as financing statement - Time of filing financing statement - Amending financing statement.**

1. Subject to subsection 2, a financing statement is sufficient only if the statement:
  - a. Provides the name and social security number or internal revenue service taxpayer identification number of the debtor;
  - b. Provides the name of the secured party or a representative of the secured party;
  - c. Indicates the collateral covered by the financing statement;
  - d. If it is a financing statement that is to be filed to gain protection under the central notice system, includes a reasonable description of the property, including the county in which the property is located, and any other additional information required by the Food Security Act of 1985 [Pub. L. 99-198; Stat. 1535; 7 U.S.C. 1631], as prescribed by the secretary of state, and, to be sufficient a financing statement must include the name and address of the secured party; and unless electronically filed, the signatures of the debtor and secured parties;
  - e. Provides a mailing address for the secured party; and
  - f. Provides a mailing address for the debtor.
2. Except as otherwise provided in subsection 2 of section 41-09-72, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection 1 and also:
  - a. Indicate that it covers this type of collateral;

- b. Indicate that it is to be filed for record in the real property records;
  - c. Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and
  - d. If the debtor does not have an interest of record in the real property, provide the name of a record owner.
3. A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:
  - a. The record indicates the goods or accounts that it covers;
  - b. The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut; and
  - c. The record satisfies the requirements for a financing statement in this section, but:
    - (1) The record need not indicate that it is to be filed in the real property records; and
    - (2) The record sufficiently provides the name of a debtor who is an individual if the record provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom subdivision d of subsection 1 of section 41-09-74 applies; and
  - d. ~~The record is duly recorded.~~
4. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.
5. A financing statement filed to gain protection under the central notice system must be amended within three months of a material change to reflect that change. The amended financing statement must be signed by both the debtor and secured party and filed in the same manner as the original financing statement. An electronically filed amendment does not need to be signed.
6. Any social security number or federal tax internal revenue service taxpayer identification number submitted on a financing statement filed pursuant to this chapter as a central indexing filing ~~prior to January 1, 2012,~~ is an exempt record as defined by subsection 5 of section 44-04-17.1 and may not be disclosed as part of any search under section 41-09-94 or 41-09-96 or as part of a copy of the record. ~~After December 31, 2011, a~~ debtor's social security number or federal tax internal revenue service taxpayer identification number ~~may not be filed pursuant to this chapter in the filing office with the central indexing system and may not be recorded in the real property records~~ as provided for under section 11-18-23.2.

**SECTION 24. AMENDMENT.** Section 41-09-84 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-84. (9-513) Termination statement - Remedies - Fees.**

1. If a financing statement covering consumer goods is filed after December 31, 1973, then within one month or within ten days following written demand by the debtor after there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party shall file ~~with each filing officer with whom the financing statement was filed~~electronically in the central indexing system, a termination statement to the effect that the secured party no longer claims a security interest under the financing statement, which must be identified by file number. In other cases when there is no outstanding secured obligation and no written commitment between the secured party and the debtor to make advances, incur obligations, or otherwise give value, the secured party, unless requested by the debtor in writing to continue the filing, ~~must send to each filing officer with whom the financing statement was filed,~~shall file electronically a termination statement to the effect that the secured party no longer claims a security interest under the financing statement nor under the central notice system, which shall be identified by file number. If the affected secured party fails to file a termination statement as required by this subsection within sixty days of when the secured obligation is fully satisfied, and the debtor has not requested in writing that the filing be continued, then under section 41-09-120 the secured party is liable to the debtor for one hundred dollars and for any loss caused to the debtor by such failure. The debtor's written request for a filing to be continued may be made at any time and be effective under this section. If the affected secured party fails to file a termination statement within ten days after proper written demand by the debtor, then under section 41-09-120 the secured party is liable to the debtor for one hundred dollars and for any loss caused to the debtor by such failure.
2. Except as otherwise provided in section 41-09-81, upon the filing of a termination statement ~~with the filing office~~, the financing statement to which the termination statement relates ceases to be effective. Except as provided in section 41-09-81, for purposes of subsection 7 of section 41-09-90, subsection 1 of section 41-09-93, and subsection ~~32~~ of section 41-09-94, the electronic filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.
3. The fee for filing and indexing a termination statement, ~~including sending or delivering the financing statement, is five dollars. For any financing statement filed after April 8, 1991, the fee must be paid at the time is included~~ in the fee for filing the financing statement is paid.

**SECTION 25. AMENDMENT.** Subsection 2 of section 41-09-87 of the North Dakota Century Code is amended and reenacted as follows:

2. Filing does not occur with respect to a record that a filing office refuses to accept because:

- a. The record is not communicated by a method or medium of communication authorized by the filing office;
- b. An amount equal to or greater than the applicable filing fee is not tendered;
- c. The filing office is unable to index the record because:
  - (1) In the case of an initial financing statement, the record does not provide a name for the debtor;
  - (2) In the case of an amendment or correction statement, the record:
    - (a) Does not identify the initial financing statement as required by section 41-09-83 or 41-09-89, as applicable; or
    - (b) Identifies an initial financing statement whose effectiveness has lapsed under section 41-09-86;
  - (3) In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or
  - (4) In the case of a record filed or recorded in the filing office described in subdivision a of subsection 1 of section 41-09-72, the record does not provide a sufficient description of the real property to which it relates;
- d. In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;
- e. In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:
  - (1) Provide a mailing address for the debtor;
  - (2) Indicate whether the debtor is an individual or an organization; or
  - (3) If the financing statement indicates that the debtor is an organization, provide:
    - (a) A type of organization for the debtor;
    - (b) A jurisdiction of organization for the debtor; or
    - (c) An organizational identification number for the debtor or indicate that the debtor has none;
- f. In the case of an assignment reflected in an initial financing statement under subsection 1 of section 41-09-85 or an amendment filed under

subsection 2 of section 41-09-85, the record does not provide a name and mailing address for the assignee; or

- g. In the case of a continuation statement, the record is not filed within the six-month period prescribed by subsection 4 of section 41-09-86; or
- h. The record does not contain the social security number or the internal revenue service taxpayer identification number of the debtor.

**SECTION 26. AMENDMENT.** Section 41-09-94 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-94. (9-523) Information from filing office - Sale or license of records.**

1. ~~If a~~Any person that files a written record requests ~~may request~~ electronically an acknowledgment of the filing, the filing office a filing. The central indexing system shall send provide to the person detailed information and an image of the record, if not filed electronically, showing the number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90 and the date and time of the filing of the record. However, if the person furnishes a copy of the record to the filing office, ~~the filing office may instead:~~
  - a. ~~Note upon the copy the number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90 and the date and time of the filing of the record; and~~
  - b. ~~Send the copy to the person.~~
2. ~~If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:~~
  - a. ~~The information in the record;~~
  - b. ~~The number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90; and~~
  - c. ~~The date and time of the filing of the record.~~
3. ~~The filing office~~central indexing system shall communicate ~~or otherwise make available in a record~~electronically the following information to any person that requests it:
  - a. Whether there is on file on a date and time specified by the ~~filing office~~central indexing system, ~~but not a date earlier than three business days before the filing office receives the request,~~ any verified statement of an agricultural lien created under chapter 35-17, 35-30, or 35-31 or any financing statement that:
    - (1) Designates a particular debtor or, if the request so states, designates a particular debtor at the address specified in the request;
    - (2) Has not lapsed under section 41-09-86 with respect to all secured parties of record; and

- (3) Effective January 1, 2002, if the request so states, has lapsed under section 41-09-86 and a record of which is maintained by the filing office central indexing system under subsection 1 of section 41-09-93;
- b. The date and time of filing of each ~~verified statement~~ and each financing statement; and
- c. The information provided in each ~~verified statement~~ and each financing statement.
4. ~~In complying with its duty under subsection 3, the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing a written certificate.~~
- 5.3. ~~The filing office~~ if a request to the central indexing system cannot be automatically accepted, the secretary of state shall perform the acts required by subsections 1 through 4 at the time and in the manner prescribed by ~~filing office rule~~, but and 2 not later than two business days after the ~~filing office~~ central indexing system receives the request.
- 6.4. At least weekly, the secretary of state shall offer to sell or license to the public on a nonexclusive basis, in bulk, ~~copies~~ detailed information of all records filed in it under this part, in every medium from time to time filed ~~within the central indexing system~~.

**SECTION 27. AMENDMENT.** Section 41-09-96 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-96. (9-525) Fees.**

1. The fee for filing and indexing an original statement under this title is ~~fifteen~~ forty-five dollars plus one dollar per additional page. ~~When a nonstandard statement is presented for filing, an additional fee of five dollars must be paid.~~ An additional fee may not be charged for the same statement to gain protection under the central notice system.
2. The fee for filing and indexing an amendment, including continuations, assignments, releases, or correction statements under this title is ~~ten~~ forty-five dollars plus one dollar per additional page. An additional fee may not be charged for the same document to gain protection under the central notice system.
3. A fee may not be charged for ~~responding to a~~ central indexing system response to an electronic request for information:
  - a. Information from the filing office central indexing system communicating whether there is on file any financing statement or verified statement naming a particular debtor.
  - b. Information on specific filings on a particular debtor.
  - c. Copies of each filing on a particular debtor.
  - d. Certified copies of filings on a particular debtor.

4. ~~The fee for a filing office central indexing response providing information on specific filings on submitted by a particular debtor secured party is seven five hundred dollars per debtor for the first five entries, plus two dollars for each additional five entries or fraction thereafter.~~
5. ~~The fee for a filing office providing copies of each filing for a particular debtor is seven dollars per debtor plus two dollars per page for each page over three pages.~~
6. ~~The fee for a filing office providing certified copies of filings on a particular debtor is ten dollars plus two dollars per page for attachments.~~
7. ~~Any fees collected by the secretary of state pursuant to this chapter and all other filings entered into the central indexing system must be deposited in the general fund in the state treasury, except with the exception of the fees collected under subsection 64 of section 41-09-94, subsection 4 of this section, and a portion of the filing fees specifically identified in section 54-09-11, which must be deposited in the secretary of state's general services operating fund.~~

**SECTION 28. AMENDMENT.** Subsection 3 of section 41-09-135 of the North Dakota Century Code is amended and reenacted as follows:

3. ~~The filing of a continuation statement after this Act takes effect does not continue the effectiveness of the financing statement filed before this Act takes effect. However, upon the timely filing of a continuation statement after this Act takes effect, no later than is required by section 41-09-86, and in accordance with the law of the jurisdiction governing perfection as provided in this chapter as amended by this Act, the effectiveness of a financing statement filed in the same office in that jurisdiction before this Act takes effect continues for the period provided by the law of that jurisdiction.~~

**SECTION 29. AMENDMENT.** Section 41-10-01 of the North Dakota Century Code is amended and reenacted as follows:

**41-10-01. Definitions.**

As used in this chapter:

1. "Authorized", when used with reference to a financing statement record, means that the financing statement record was filed by a person authorized to do so as provided in sections 41-09-80 and 41-09-130.
2. "Debtor" means a natural person whose name was provided in a financing statement record as an individual debtor or one of the types of persons listed in section 41-09-76.
3. "Filing office" or "filing officer" refers to the ~~appropriate office or officer~~ central indexing system, which must be provided by the secretary of state, where a financing statement record is to be filed electronically as provided by section 41-09-72, including the county recorder, the secretary of state, and other designated filing officers.

4. "Financing statement record" means an initial financing statement, an amendment that adds collateral covered by a financing statement, and an amendment that adds a debtor to a financing statement as such terms are used in this title.

**SECTION 30. AMENDMENT.** Section 41-10-05 of the North Dakota Century Code is amended and reenacted as follows:

**41-10-05. Venue.**

An action under this chapter may be brought in any district court in the county in which the financing statement record is presented for filing or in a county where any of the persons who may bring an action under this chapter reside.

**SECTION 31. AMENDMENT.** Section 47-16-03 of the North Dakota Century Code is amended and reenacted as follows:

**47-16-03. Filing farm lease containing reservation of title to crop - Waiver of rights on failure to file.**

1. When a lease of a farm contains a provision reserving title in the lessor to any part of the crops in excess of the rental share of the lessor until the stated conditions of the lease have been complied with by the lessee, such lease must be filed in the office of the recorder in the county in which the land described therein is located if notice by a real estate recording is sought, and must be filed electronically in the central indexing system if recording in the central notice system is sought, prior to July first in the year in which the crops are raised to render such reservation of title effective as to subsequent purchasers or encumbrancers of any part of the grain over and above the lessor's rental share produced upon the land.
2. The failure to file such lease or contract in accordance with this section constitutes a waiver by the lessor of all rights reserved by that person over and above that person's rental share in such crops as against any subsequent purchaser or encumbrancer of the lessee.
3. The secretary of state ~~may prescribe a form which shall provide an~~ electronic system that includes the pertinent information from the lease that may be filed in the central notice system. A lessor may file this ~~form with the recorder~~ electronic statement and obtain the same rights under this section as if the lessor had filed the lease.
4. The fee required to file and index this notice of lease is:
  - a. As provided in section 11-18-05, if the notice of lease is only a real estate recording;
  - b. As provided in section ~~41-09-06~~ 41-09-96, if the notice of lease is filed only to gain protection under the central notice system; or
  - c. As provided in section 11-18-05, if ~~the notice of lease is both a real estate recording and filed to gain protection under the central notice system. An additional fee may not be charged for the same~~ statement a real estate recording is sought and according to section

41-09-96 if electronically filed to gain protection under the central notice system.

**SECTION 32. AMENDMENT.** Section 54-09-08 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-08. Secretary of state's general services operating fund.**

The secretary of state's general services operating fund is a special fund in the state treasury. Moneys in the fund are to be used pursuant to legislative appropriations for the provision of services under section 16.1-02-15, subsection ~~64~~ of section 41-09-94, subsection 4 of section 41-09-96, subsection ~~87~~ of section 54-09-04, and sections 10-35-33, 54-09-10, and 54-09-11. At the close of each biennium, the secretary of state shall transfer any unobligated balance remaining in the fund exceeding seventy-five thousand dollars to the general fund.

**SECTION 33. AMENDMENT.** Section 54-09-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-09.**

**Computerized central indexing system - Rules.**

1. The secretary of state shall maintain a computerized central indexing system that contains the information filed ~~with the office of the secretary of state or with any of the offices of the recorder in this state~~ pursuant to sections 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, 35-34-04, 35-34-06, 41-09-72, ~~57-28-29, 57-38-49, 57-39.2-13, 57-40.2-16, 57-40.3-07.1, 57-43.1-17.4, 57-43.2-16.3, and 57-51-11.~~ The system must connect each recorder's office to the secretary of state's office through the information technology department. The system must allow access to financing statement information by equipment that conforms to requirements determined by the information technology department. The system must have safeguards to allow access to information that is in the system relating to security interests or liens and to prevent unauthorized alteration or deletion of that information and to allow access to other information in the system as prescribed by the secretary of state.
2. Within two working days of receipt of a financing statement, continuation statement, amendment, or termination statement filed electronically pursuant to chapter 41-09 or a statement filed electronically pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, or 35-31-02, the ~~recorder or secretary of state shall file the information contained in the statement~~ must be filed in the computerized central indexing system. A computer printout of information from the system is prima facie evidence of the existence or nonexistence of the filing of a financing statement or lien. The secretary of state shall ~~prescribe one form~~ provide an electronic means that can be used to perfect a security interest in farm products or gain protection under the central notice system, or both.
3. The secretary of state may adopt rules necessary to implement this section and sections 54-09-10 and 54-09-11.

**SECTION 34. AMENDMENT.** Section 54-09-10 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-10. Secretary of state to compile lists for crops and livestock - Distribution of lists.**

1. From the computerized central indexing system, the secretary of state or a designee shall produce ~~each month one~~electronically a list for crops and ~~ene~~a list for livestock that each contain the information as filed ~~on the forms~~ pursuant to section 41-09-72. The secretary of state shall also include on the lists the information filed for crops and livestock pursuant to sections 35-17-04, 35-30-02, and 35-31-02. The lists must be in alphabetical order according to the last name of, or in numerical order according to the social security number of, the person engaged in farming operations. The lists may be prepared in categories according to county, regions as designated by the secretary of state, or on a statewide basis. If requested, the lists must be in printed form. Each list must conspicuously note the effective date of the list.
2. The secretary of state shall distribute ~~monthly by mail or deliver~~ electronically the lists prepared pursuant to subsection 1, ~~at least five business days in advance of the effective date of each of the lists.~~ If requested, the secretary of state shall mail or deliver electronically the lists to any person making a request at a fee as provided in section 54-09-11.
3. Upon a verbal request of any person, the secretary of state, or a designee of the secretary of state, ~~or a recorder~~ shall verbally provide information contained on a list generated through the computerized central indexing system if the collateral is crops or livestock. The requesting party may request electronically a certificate from the secretary of state or the recorder and the secretary of state or the recorder shall from the central indexing system to confirm the information given. Direct computer access is equivalent to oral confirmation, and a computer printout constitutes the written confirmation of the secretary of state, if use of this method of confirmation does not cause the central indexing system to lose federal certification. A computer printout from the computerized central indexing system constitutes the certificate of the secretary of state ~~or the recorder~~ as to whether there is on file, on the date and hour stated on the computer printout, a financing statement.

**SECTION 35. AMENDMENT.** Section 54-09-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-11. Fees.**

1. The secretary of state shall establish fees for ~~placing data in the computerized central indexing system; for obtaining computer access to the computerized central indexing system, to the computerized Uniform Commercial Code central filing database, or to the computerized statutory liens database; for receiving printouts; for direct access to all or parts of the central indexing system; for lists sold or licensed under subsection 6 of section 41-09-94; for any other list provided by the secretary of state; for any programming charges specifically incurred to provide information requested by persons which is related to the central indexing system; and for other services provided through the computerized system.~~

2. ~~The~~A fee may not be required for furnishing information on a verbal request pursuant to subsection 3 of section 54-09-10~~is seven dollars~~, and the fee for furnishing a certificate under subsection 3 of section 54-09-10 is ~~seven~~seventeen dollars.
3. The secretary of state shall establish the fee for furnishing lists under ~~subsection 1 of section 54-09-10~~from the central indexing system based on actual costs to produce the lists for distribution.
4. Fees collected by the secretary of state under ~~subsections 1 and 3 and this section~~, under subsection 64 of section 41-09-94, and subsection 4 of section 41-09-96, and ten dollars from each filing entered into the central indexing system must be deposited in the secretary of state's general services operating fund. Fees collected by the secretary of state under ~~subsection 2~~ must be deposited in the general fund in the state treasurythis section must be used for the programming and maintenance of the central indexing system.
5. The secretary of state ~~may adopt rules regarding what portion of the filing fees and search fees collected by the recorder under section 41-09-96 must be submitted to the secretary of state for deposit into the secretary of state's general operating fund to meet the cost of the provision of services required under sections 54-09-09 and 54-09-10~~shall pay ten dollars to the county recorder of the county of residence for the first debtor listed on each statement filed pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, or 41-09-72. The payment must be made monthly from the general fund in the state treasury.

**SECTION 36. AMENDMENT.** Subsection 5 of section 57-34-10 of the North Dakota Century Code is amended and reenacted as follows:

5. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the tax commissioner filing in the central indexing system maintained by the secretary of state a notice of the lien provided for in subsection 4, takes free of, or has priority over, the lien. The tax commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. the next day following the indexing of the notice. The tax commissioner shall index any notice of lien with no payment of fees or costs to the secretary of state.

**SECTION 37. AMENDMENT.** Subsection 4 of section 57-36-09.5 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next day following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 38. AMENDMENT.** Section 57-38-49 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-49. Preservation of lien.**

Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the commissioner filing in the central indexing system maintained by the secretary of state a notice of the lien provided for in section 57-38-48, takes free of, or has priority over, the lien. The commissioner shall index in the central indexing system the following data:

1. The name of the taxpayer.
2. The name "State of North Dakota" as claimant.
3. The date and time the notice of lien was indexed.
4. The amount of the lien.
5. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed. The commissioner shall index any notice of lien with no payment of fees or costs to the secretary of state.

**SECTION 39. AMENDMENT.** Subsection 4 of section 57-39.2-13 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.

- b. The name "State of North Dakota" as claimant.
- c. The date and time the notice of lien was indexed.
- d. The amount of the lien.
- e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 40. AMENDMENT.** Subsection 4 of section 57-40.2-16 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 41. AMENDMENT.** Subsection 3 of section 57-40.3-07.1 of the North Dakota Century Code is amended and reenacted as follows:

3. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed. The commissioner is exempt from the payment of fees otherwise provided by law for the indexing or the satisfaction of the lien.

**SECTION 42. AMENDMENT.** Subsection 4 of section 57-43.1-17.4 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 43. AMENDMENT.** Subsection 4 of section 57-43.2-16.3 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 44. AMENDMENT.** Subsection 4 of section 57-43.3-22 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.

- e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 45. AMENDMENT.** Subsection 2 of section 57-51-11 of the North Dakota Century Code is amended and reenacted as follows:

- 2. Any judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in this state, prior to the commissioner filing in the central indexing system maintained by the secretary of state, a notice of the lien provided for in this section, takes free of, or has priority over, the lien. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. of the first day following the indexing of the notice. A notice of lien filed by the commissioner ~~with a recorder~~ before August 1, 1997, may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 46. AMENDMENT.** Subsection 4 of section 57-63-10 of the North Dakota Century Code is amended and reenacted as follows:

- 4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the facility.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number of the facility or the social security number of the owner, officer, or manager of the facility.

The notice of lien is effective as of eight a.m. the next day following the indexing of the notice. A notice of lien filed by the commissioner ~~with the recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 47. REPEAL.** Section 57-28-29 of the North Dakota Century Code is repealed.

**SECTION 48. APPLICATION.** For use during the 2013-15 interim. The secretary of state shall provide an electronic means for the central indexing system to accept an amendment to a statement filed before July 1, 2014, pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, 35-34-04, 41-09-72, 57-38-49, 57-39.2-13, 57-40.2-16, 57-40.3-07.1, 57-43.1-17.4, or 57-43.2-16. Before July 1, 2015, a secured party or lienholder may amend a filing under this section without a fee if the amendment is limited in scope to correcting the name of the debtor as required under section 41-09-135, or adding or correcting the social security or internal revenue service taxpayer identification number of the debtor, or both.

**SECTION 49. EFFECTIVE DATE.** Sections 1 through 27 and sections 29 through 48 of this Act become effective July 1, 2014."

Renumber accordingly

April 8, 2013

COMM. WL 1136  
4/9/13

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1136

Page 1, line 2, after the first "Code" insert "; to provide for a report the legislative assembly; and to provide a contingent effective date"

Page 1, after line 12, insert:

**"SECTION 2. SECRETARY OF STATE REPORT TO LEGISLATIVE ASSEMBLY.** The secretary of state shall report to the sixty-fourth legislative assembly regarding the change in filing fees provided under this Act, including a comparison of the revenue collected under the new fee system versus the revenues collected under the previous fee system.

**SECTION 3. CONTINGENT EFFECTIVE DATE.** This Act becomes effective August 1, 2015, unless the secretary of state makes a report to the legislative management and to the information technology committee certifying that the information technology components of the electronic filing system are ready for implementation of the Act, in which case this Act becomes effective ninety days following the completion of the certification requirement."

Renumber accordingly



SECRETARY OF STATE  
STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 108  
BISMARCK ND 58505-0500

April 17, 2013

TO: Rep. Klemin, Chairman, and Members of the Conference Committee

FR: Al Jaeger, Secretary of State

RE: HB 1136 – Central Indexing System for UCC and other liens

It probably is an understatement to say that a lot has happened since the House Judiciary committee heard a one-page bill on January 21 and when it was passed by the House on January 23.

However, between then and the hearing by the Senate Judiciary committee, it became apparent and was exciting to learn that an opportunity existed to significantly enhance the Secretary of State's Central Indexing System (CIS) for the benefit of secured parties and debtors.

Although the bill, as passed by the Senate has more pages, it only involves three major changes to state law.

1. The bill mandates the electronic filing of all lien documents into the CIS. That is the reason for the length of the bill because the mandate had to be added to all of the various sections of the Century Code that pertain to such liens that are now filed in the CIS. As an example, one benefit of electronic filing is that it will allow for the unlimited listing of collateral.
2. The bill reinstates the SSN/FIN as a unique identifier for searching purposes. Last session, the use of these numbers was eliminated. The decision was based on national forms being used for UCC filings would not accept SSN/FIN information. North Dakota was one of only two states that used these numbers. Consequently, filings submitted with these national forms and without the SSN/FIN would be rejected in North Dakota hindering timely commerce within the state.

Because this bill mandates liens to be filed electronically, accepted filings would no longer rely on the use of national paper forms, and it would be possible to use the SSN/FIN again for searching purposes in an environment for quick and accurate retrieval of debtor information while still prohibiting identity theft. This method of searching has been used successfully for 15 years for agricultural related liens that are filed in the Central Notice System, which is governed by federal law and requires the use of the SSN/FIN.

3. The bill creates an upfront filing fee for the initial lien document and eliminates the fee for searching and retrieval of the document. This upfront fee eliminates over 35 different fees and subscription charges (see attachment). These services will now be available at no extra cost.

In addition to the above, the passage of this bill will allow the Secretary of State to develop one software program to accommodate the electronic filing of all lien documents rather than developing a system to accommodate both paper and electronic filings, as would be required under current law. This bill has no fiscal impact because the agency already has the appropriation for its new comprehensive system.

Because of a few changes that were identified as being required in the Senate amendment, I did ask the chairman to request the Legislative Council to draft an amendment, which is attached. It was to make several technical corrections and reduce the upfront filing fee from \$45 to \$40 and to set a fee of \$30 for continuations. The requested changes are included in the amendment that the committee has in its possession and which follows the protocol that is followed with conference committee decisions.

## NORTH DAKOTA CENTRAL INDEXING FEE SCHEDULE

### UCC/CNS FILING

UCC-1/CNS-1	Financing Statement and/or Central Notice Filing (Includes Termination Fee) .....	\$ 15.00
UCC-3/CNS-3	Amendment .....	\$ 10.00
	Termination .....	NO FEE
	Assignment .....	\$ 10.00
	Continuation .....	\$ 10.00
	Release .....	\$ 10.00
	Subordination .....	\$ 10.00
	Update .....	\$ 10.00
UCC-5/CNS-5	Overflow Form .....	\$ 1.00
	Non-Standard Form - Add an Additional .....	\$ 5.00
	* Additional Attachments Per Page .....	\$ 1.00

### NATIONAL UCC FORMS

UCC1	National UCC Financing Statement (Includes Termination Fee) .....	\$ 15.00
	UCC Financing Statement Addendum .....	\$ 1.00
UCC3	National UCC Financing Statement Amendment (NO FEE for termination) .....	\$ 10.00
	UCC Financing Statement Amendment Addendum .....	\$ 1.00
	National Correction Statement .....	\$ 10.00
	*Additional Attachments Per Page .....	\$ 1.00

### AGRICULTURAL STATUTORY LIENS

ASL-1	Processor's Lien and/or Notice (Includes Termination Fee) .....	\$ 15.00
ASL-2	Supplier's Lien and/or Notice (Includes Termination Fee) .....	\$ 15.00
ASL-3	Agister's Lien and/or Notice (Includes Termination Fee).....	\$ 15.00
ASL-4	Amendment/Assignment/Termination (NO FEE for Termination) .....	\$ 10.00
ASL-5	Landlord's Agricultural Lien Notice (Includes Termination Fee .....	\$ 15.00
MSL-1	Miscellaneous Statutory Liens (Includes Termination Fee) .....	\$ 15.00
MSL-2	Miscellaneous Lien Amendment/Termination (NO FEE for Termination) .....	\$ 10.00
	Non-Standard Form - Add an Additional .....	\$ 5.00
	* Additional Attachments Per Page .....	\$ 1.00

### REAL ESTATE RECORDING/UCC -- FILE WITH COUNTY RECORDERS ONLY

UCC-1A	Recording and UCC Filing (Includes UCC Termination Fee) .....	\$ 28.00
UCC-3A	All Associated Filings .....	\$ 23.00
	Additional Attachments Per Page .....	\$ 4.00
	Satisfaction Fee (Real Estate) .....	\$ 13.00
	Non-Standard Form - Add an Additional .....	\$ 5.00
National Form	Real Estate Recording/UCC-1 .....	\$ 32.00
National Form	**Real Estate Filings Without One Inch Margin (Additional Fee) .....	\$ 10.00

### REQUESTS FOR SEARCH OF RECORDS (UCC-11)

#### Information Request With Certificate

First Five Entries .....	\$ 7.00
Each Additional Five Entries or Fraction Thereof .....	\$ 2.00

#### Copy Request With Certificate

Certificate and First Three Pages .....	\$ 7.00
Copy Per Page Thereafter .....	\$ 2.00
Faxing Fee Per Search (Maximum 20 Pages) .....	\$ 3.00

### CERTIFIED COPIES

Official Seal of True Copy Per Filing .....	\$ 10.00
Each Additional Page After First Page .....	\$ 2.00

\* Other than 8 1/2 by 11 - Filing Becomes Non-Standard

\*\*Eliminate Bar Code for one inch margin and no additional fee

07/01/2009

Direct Access Fees:

Sign Up Fee - \$50

Searches or Filings = \$150/4r

Searches and Filings = \$240/4r

PROPOSED AMENDMENTS TO HOUSE BILL 1136 with Senate Amendments

Page 19, line 9, remove "and social security number or internal revenue service"

Page 19, line 10, remove "taxpayer identification number"

Page 19, remove lines 20 through 21

Page 20, line 17, remove the overstrike over "~~and~~" insert

"(3) The mortgage must not include a social security number or internal revenue service taxpayer identification number."

Page 20, line 18, remove the overstrike over "~~d. The record is duly recorded.~~"

Page 25, line 17, replace "forty-five" with "forty"

Page 25, line 22, overstrike "including continuations,"

Page 25, line 23, replace "forty-five" with "forty"

Page 25, after line 25, insert

"3. The fee for filing and indexing a continuation under this title is thirty dollars. An additional fee may not be charged for the same document to gain protection under the central notice system."

Page 25, line 26, overstrike "3." and replace it with "4."

Page 26, line 3, overstrike "4." and replace it with "5."

Page 26, line 7, overstrike "5." and replace it with "6."

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1136

That the Senate recede from its amendments as printed on pages 1397-1422 of the House Journal and pages 1263-1288 of the Senate Journal and that House Bill No. 1136 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 11-18-01, 11-18-05, 35-13-02, 35-17-04, 35-17-07, 35-17-08, 35-20-15.1, 35-20-16, 35-29-02, 35-29-04, 35-29-05, 35-30-02, 35-30-05, 35-30-06, 35-31-02, 35-31-05, 35-31-06, 35-34-04, 35-34-06, 35-35-03, 35-37-04, 41-09-72, 41-09-73, and 41-09-84, subsection 2 of section 41-09-87, sections 41-09-94 and 41-09-96, subsection 3 of section 41-09-135, sections 41-10-01, 41-10-05, 47-16-03, 54-09-08, 54-09-09, 54-09-10, and 54-09-11, subsection 5 of section 57-34-10, subsection 4 of section 57-36-09.5, section 57-38-49, subsection 4 of section 57-39.2-13, subsection 4 of section 57-40.2-16, subsection 3 of section 57-40.3-07.1, subsection 4 of section 57-43.1-17.4, subsection 4 of section 57-43.2-16.3, subsection 4 of section 57-43.3-22, subsection 2 of section 57-51-11, and subsection 4 of section 57-63-10 of the North Dakota Century Code, relating to filing liens and security interests electronically; to repeal section 57-28-29 of the North Dakota Century Code, relating to filing tax liens; to provide for application; to provide for a report to the legislative assembly; and to provide a contingent effective date.

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

**SECTION 1. AMENDMENT.** Section 11-18-01 of the North Dakota Century Code is amended and reenacted as follows:

**11-18-01. Recorder's duties - Recording and filing instruments - Abstracts.**

The recorder shall:

1. Keep a full and true record, in proper books or other storage media provided for that purpose, of each patent, deed, mortgage, bill of sale, security agreement, judgment, decree, lien, certificate of sale, and other instrument required to be filed or admitted to record, if the person offering the instrument for filing or recording pays to the recorder the fees provided by law for the filing or recording.
2. Endorse upon each instrument filed with the recorder for record or otherwise the date and the hour and minute of the day of the filing or recording.
3. When the instrument is recorded or filed, endorse on the instrument the book and page or document number, the date, and the hour and minute of the date when it was recorded or filed with the recorder.
4. Prepare a security agreement abstract whenever any person requests the agreement and pays the required fee.

5. ~~Furnish upon written or telephonic request to persons the information contained in financing statements filed to perfect a security interest pursuant to chapter 41-09 when the collateral is farm products, and to provide written confirmation of the oral information provided upon receipt of a fee which shall be the same as for recording that instrument.~~

**SECTION 2. AMENDMENT.** Section 11-18-05 of the North Dakota Century Code is amended and reenacted as follows:

**11-18-05. Fees of recorder.**

The recorder shall charge and collect the following fees:

1. For recording an instrument affecting title to real estate:
  - a. Deeds, mortgages, and all other instruments not specifically provided for in this subsection, ten dollars for the first page and three dollars for each additional page. In addition, for all documents recorded under this section that list more than five sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for the first page of each instrument recorded under this subdivision must be placed in the document preservation fund.
    - (1) "Page" means one side of a single legal size sheet of paper not exceeding eight and one-half inches [21.59 centimeters] in width and fourteen inches [35.56 centimeters] in length.
    - (2) The printed, written, or typed words must be considered legible by the recorder before the page will be accepted for recording.
    - (3) Each real estate instrument must have a legal description considered to be adequate by the recorder before such instrument will be accepted for recording.
    - (4) A space of at least four inches by three and one-half inches [10.16 by 8.89 centimeters] square must be provided on the first or last page of each instrument for the recorder's recording information. If recording information can only be placed on the reverse side of an instrument, an additional page charge must be levied.
  - b. Instruments satisfying, releasing, assigning, subordinating, continuing, amending, or extending more than one instrument previously recorded in the county in which recording is requested, ten dollars for the first page and three dollars for each additional page plus three dollars for each such additional document number or book and page. In addition, for all documents recorded under this section which list more than five separate sections of land, a fee of one dollar for each additional section listed which is to be recorded in the tract index. Three dollars of the fee collected for the first page of each instrument recorded under this subdivision must be placed in the document preservation fund.

- c. Plats, irregular tracts, or annexations, ten dollars for one lot plus ten cents for each additional lot, with the exception of auditor's lots which must be a single charge of seven dollars.
  - d. All instruments presented for recording after June 30, 2001, must contain a one-inch [2.54-centimeter] top, bottom, or side margin on each page of the instrument for the placement of computerized recording labels. An instrument that does not conform to this margin requirement may be recorded upon payment of an additional fee of ten dollars.
2. For filing any ~~non-central indexing system~~ instrument, ten dollars.
  3. For making certified copies of any recorded instrument or filed ~~non-central indexing system~~ instrument, the charge is five dollars for the first page and two dollars for each additional page. For making a noncertified copy of any recorded instrument or filed ~~non-central indexing system~~ instrument, a fee of not more than one dollar per instrument page. For providing any electronic data extracted from the recorded instrument, a fee of not more than fifty cents per instrument.
  4. ~~For filing, indexing, making, or completing any statement, abstract, or certificate under the Uniform Commercial Code central filing database, the computerized central notice system or the computerized statutory liens database, for receiving printouts, and for other services provided through the computerized system, the fee is the same as that provided in sections 41-09-96 and 54-09-11.~~
  5. The recorder may establish procedures for providing access for duplicating records under the recorder's control. Such records include paper, photostat, microfilm, microfiche, and electronic or computer-generated instruments created by governmental employees.
  - 6-5. Duplicate recorders' records stored offsite as a security measure are not accessible for reproduction.

**SECTION 3. AMENDMENT.** Section 35-13-02 of the North Dakota Century Code, as amended by House Bill No. 1340, as approved by the sixty-third legislative assembly, is amended and reenacted as follows:

**35-13-02. Lien statement - Contents - When required - Filing.**

1. The secretary of state shall prescribe ~~one form~~ an electronic system that can be used to obtain a lien under this section and also be entered in the central indexing system. A person entitled to a lien under this chapter who retains possession of the property made, altered, or repaired is not required to file any statement to perfect the lien. If the possession of the property so made, altered, or repaired is relinquished, the person shall file electronically, within ninety days, or if the property is used for agricultural purposes within one hundred twenty days, or in the exploration for or the production of oil or gas within six months, after the materials are furnished or the labor is completed, in the ~~office of the recorder of the county in which the owner or legal possessor of the property resides~~ central indexing system, a ~~verified written statement~~ showing:

- a. The labor performed.
  - b. The materials furnished.
  - c. The price agreed upon for the labor performed or materials furnished, or, if no price was agreed upon, the reasonable value thereof.
  - d. The name and address of the person for whom the labor was performed or to whom the materials were furnished.
  - e. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the labor was performed or to whom the materials were furnished.
  - f. The name and address of the person claiming the lien.
  - f.g. A description of the property upon which the lien is claimed.
2. A person filing a ~~verified-statement~~ shall within thirty days serve notice of the filing, by registered mail, upon the owner or legal possessor of the property. A person entitled to the lien who fails to file a ~~verified-statement~~ within the time limited in this section is deemed to have waived the right to a lien.
  3. A lienholder may file electronically an amendment to add or correct the social security number or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~ provide a means to amend electronically the repairman's lien that has been filed pursuant to this section. The amendment of the lien does not affect the priority of the lien.

**SECTION 4. AMENDMENT.** Section 35-17-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-17-04. Procedure to obtain lien - Statement filed - Contents - Waiver.**

Any person entitled to an agister's lien, within ninety days after taking possession of the animal, may file electronically in the ~~office of the recorder in any county in this state or in the office of the secretary of state~~ central indexing system, a statement signed by the filer containing the following information:

1. The number of and a description of the animals subject to the lien and the legal description as to the location of the animals.
2. The name and address of the person for whom the animals are kept.
3. The name and address of the lienholder.
4. The price agreed upon for keeping the animals and, if no price was agreed upon, the reasonable value of the services.
5. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the animals are kept.

The secretary of state shall ~~prescribe one form that can be used~~ provide a means to obtain electronically a lien under this section or gain protection under the central notice system, or both. If the statement is not filed within ninety days as required by this section, the person entitled to the lien under section 35-17-03 waives the lien.

**SECTION 5. AMENDMENT.** Section 35-17-07 of the North Dakota Century Code is amended and reenacted as follows:

**35-17-07. Amendment of lien.**

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used to provide a means to electronically~~ amend or assign the agister's lien that has been filed pursuant to section 35-17-04. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 6. AMENDMENT.** Section 35-17-08 of the North Dakota Century Code is amended and reenacted as follows:

**35-17-08. Fees - Penalty.**

The fee for filing electronically an agister's lien and related documents ~~with the secretary of state or the county recorder in the central notice system~~ is the same as that provided for in section 41-09-96. If a lienholder fails to file electronically a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

**SECTION 7. AMENDMENT.** Section 35-20-15.1 of the North Dakota Century Code is amended and reenacted as follows:

**35-20-15.1. Amendment of lien for unpaid earned property or casualty insurance premiums.**

A lienholder may file an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~ provide a means to amend electronically or assign the unpaid earned property or casualty insurance premium lien that has been filed under section 35-20-15. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 8. AMENDMENT.** Section 35-20-16 of the North Dakota Century Code is amended and reenacted as follows:

**35-20-16. Procedure to obtain unpaid earned property or casualty insurance premium lien - Filing.**

The secretary of state shall ~~prescribe a form that can be used~~ provide a means to obtain electronically a lien under this section and also be entered in the central indexing system. Any person entitled to an unpaid earned property or casualty insurance premium lien, within ninety days after termination of coverage, shall file in the ~~office of the recorder of the county or counties in which the property covered by the~~

policy is located central indexing system and with any loss payee named in the policy, a verified an electronic statement in writing stating all of the following:

1. The name and address of the policyholder.
2. The name and address of the lienholder.
3. The nature and quantity of insurance coverage provided.
4. The amount of unpaid earned premium.
5. A description of the property covered by the insurance and subject to the lien.
6. That a lien is claimed upon the property described.
7. The name of the county or counties where the property is located.
8. The social security number of the debtor, or in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of that person.

**SECTION 9. AMENDMENT.** Section 35-29-02 of the North Dakota Century Code is amended and reenacted as follows:

**35-29-02. Place of filing.**

1. Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens must be filed in accordance with this chapter.
2. Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens must be filed in the office of the recorder of central indexing system and associated to the county in which the real property subject to the liens is situated.
3. Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens must be filed as follows:
  - a. If the person against whose interest the lien applies is a corporation, limited liability company, or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the secretary of state.
  - b. If the person against whose interest the lien applies is a trust that is not covered by subdivision a, in the office of the secretary of state.
  - c. If the person against whose interest the lien applies is the estate of a decedent, in the office of the secretary of state.
  - d. In all other cases, in the office of the recorder of the county where the person against whose interest the lien applies resides at the time of filing of the notice of lien.

4. The secretary of state shall provide a means for the United States to file any documentation according to this chapter.

**SECTION 10. AMENDMENT.** Section 35-29-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-29-04. Duties of filing officer.**

1. If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subsection 2 is presented to a filing officer who is:
  - a. The secretary of state, ~~the secretary~~ shall cause the notice to be marked, held, and indexed in accordance with the provisions of section 41-09-90 as if the notice were a financing statement within the meaning of title 41; or
  - b. ~~Any other officer described in section 35-29-02, the officer~~The secretary of state shall endorse thereon the officer's identification and the date and time of receipt and immediately file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the title and address of the official or entity certifying the lien, and the total amount appearing on the notice of lien.
2. If a certificate of release, nonattachment, discharge, or subordination of any lien is presented to the secretary of state for filing, the secretary shall do all of the following:
  - a. Cause a certificate of release or nonattachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of title 41, but the notice of lien to which the certificate relates may not be removed from the files.
  - b. Cause a certificate of discharge or subordination to be marked, held, and indexed as if the certificate were a release of collateral within the meaning of title 41.
3. If a refiled notice of federal lien referred to in subsection 1 or any certificate or notice referred to in subsection 2 is presented for filing to ~~any other filing officer specified in section 35-29-02, the officer~~secretary of state shall permanently attach the refiled notice or the certificate to the original notice of lien and enter the refiled notice or the certificate with the date of filing in any alphabetical lien index on the line where original notice of lien is entered.
4. ~~Upon request of any~~Any person, ~~the filing officer shall issue the officer's certificate showing~~ may search the central indexing system to determine whether there is on file, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed under this chapter or chapter 35-28 as it existed prior to enactment of this chapter, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. ~~The fee for a certificate is one dollar and twenty-five cents for each notice or certificate reported therein.~~ Upon request, the filing officer shall furnish a copy of any notice of federal

~~lien, or notice or certificate affecting a federal lien, for a fee of one dollar, plus seventy five cents for the second and each succeeding page.~~

5. The secretary of state shall fulfill any of the functions described in this section by electronic means with the same legal effect as if the function had been completed on a physical document.

**SECTION 11. AMENDMENT.** Section 35-29-05 of the North Dakota Century Code is amended and reenacted as follows:

**35-29-05. Fees.**

1. The fee for filing and indexing each notice of lien is:
  - a. ~~For a lien on real estate, ten dollars, plus three dollars for the second and each succeeding page.~~
  - b. ~~For a lien on tangible and intangible personal property, ten dollars, plus five dollars to record if filed with a county recorder.~~
  - c. ~~For all other notices, including a certificate of discharge, nonattachment, or subordination, ten dollars, plus ten dollars if filed toward a lien on real estate with a county recorder.~~
  - d. ~~For a nonstandard statement when presented for filing, an additional fee of five dollars plus one dollar per page, and if filed on a real estate lien with a county recorder, an additional ten dollars plus three dollars for the second and each succeeding page.~~
  - e. ~~For a certificate of release, five dollars, which must be paid at the time the lien is filed in the central indexing system is established according to section 41-09-96. Fees to record liens with a county recorder are the same as provided for under section 11-18-05.~~
2. The officer may not file or record an instrument under this chapter unless the person offering the instrument for filing or recording has first paid the requisite filing or recording fee.

**SECTION 12. AMENDMENT.** Section 35-30-02 of the North Dakota Century Code is amended and reenacted as follows:

**35-30-02. Procedure to obtain lien.**

1. To obtain an agricultural processor's lien, the person entitled to the lien, within ninety days after the processing is completed, shall file electronically a statement signed by the filer in the office of the recorder in any county in this state or in the office of the secretary of state central indexing system. The statement must contain the following information:
  - a. The name and address of the person for whom the processing was done.
  - b. The name and address of the processor.
  - c. A description of the crops or agricultural products and their amount, if known, subject to the lien together with a reasonable description, including the county as to the location where the crops or agricultural

products were grown and the year the crop is to be harvested or was harvested.

- d. The price agreed upon for processing, or if no price was agreed upon, the reasonable value of the processing.
  - e. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the processing was done.
  - f. A description of the processing services and the first date the services were furnished.
2. ~~The secretary of state and the office of the recorder in any county in this state with which a statement signed by the filer under subsection 1 is submitted for filing shall reject the statement unless proof of mailing of notification of the lien to the debtor's last known address by registered or certified mail with return receipt requested is filed with the statement.~~
  3. The secretary of state shall prescribe one form that can be used provide an electronic means to obtain a lien under this section or gain protection under the central notice system, or both. Before a processor's lien is filed, a billing statement for the services performed must include notice to the agricultural producer that if the amount due to the agricultural processor is not satisfied a lien may be filed.

**SECTION 13. AMENDMENT.** Section 35-30-05 of the North Dakota Century Code is amended and reenacted as follows:

**35-30-05. Amendment of lien.**

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~ provide an electronic means to amend or assign the agricultural processor's lien that has been filed pursuant to section 35-30-02. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 14. AMENDMENT.** Section 35-30-06 of the North Dakota Century Code is amended and reenacted as follows:

**35-30-06. Fees - Penalty.**

The fee for filing electronically an agricultural processor's lien and related documents ~~with the secretary of state or the county recorder in the central indexing system~~ is the same as that provided for in section 41-09-96. If a lienholder fails to file a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

**SECTION 15. AMENDMENT.** Section 35-31-02 of the North Dakota Century Code is amended and reenacted as follows:

### **35-31-02. Procedure to obtain lien.**

To obtain an agricultural supplier's lien, except an agricultural supplier's lien for furnishing petroleum products, the person entitled to the lien, within one hundred twenty days after the supplies are furnished or the services performed, shall file electronically a statement signed by the filer in the office of the recorder of any county in this state or in the office of the secretary of state central notice system. To obtain an agricultural supplier's lien for furnishing and delivering petroleum products, the person entitled to the lien, within one hundred fifty days after the petroleum products are furnished or delivered, shall file electronically a statement signed by the filer in the office of the recorder of any county in the state or in the office of the secretary of state central notice system. The statement must contain the following information:

1. The name and address of the person to whom the supplies were furnished.
2. The name and address of the supplier.
3. A description of the crops, agricultural products, or livestock and their amount or number, if known, subject to the lien together with a reasonable description, including the county as to the location of the crops, agricultural products, or livestock and the year the crop is to be harvested or was harvested.
4. A description and value of the supplies and the first date furnished.
5. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person to whom the supplies were furnished.

The secretary of state shall ~~prescribe one form that can be used~~ provide an electronic means to obtain a lien under this section or gain protection under the central notice system, or both. Before a supplier's lien is filed, a billing statement for the supplies furnished must include notice to the agricultural producer that if the amount due to the agricultural supplier is not satisfied a lien may be filed.

**SECTION 16. AMENDMENT.** Section 35-31-05 of the North Dakota Century Code is amended and reenacted as follows:

#### **35-31-05. Amendment of lien.**

A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall ~~prescribe a form that may be used~~ provide an electronic means to amend or assign the agricultural supplier's lien that has been filed pursuant to section 35-31-02. The amendment or assignment of a lien does not affect the priority of the lien.

**SECTION 17. AMENDMENT.** Section 35-31-06 of the North Dakota Century Code is amended and reenacted as follows:

#### **35-31-06. Fees - Penalty.**

The fee for filing an agricultural supplier's lien and related documents ~~with the secretary of state or the county recorder~~ in the central notice system is the same as that

provided for in section 41-09-96. If a lienholder fails to file a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

**SECTION 18. AMENDMENT.** Section 35-34-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-34-04. Vessel lien.**

1. In the case of a vessel, the child support agency may file electronically a notice of lien ~~with the secretary of state in the central indexing system~~ if the value of the vessel is estimated to be at least twice the cost of establishing the lien. The notice must contain a description of the make, model designation, and serial number of the vessel, including its identification or registration number, if any, and the name, social security number, and last-known address of the obligor. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.
2. Upon filing of the notice of lien in accordance with this section, the notice of lien must be indexed ~~by the secretary of state in the central indexing system~~ and may be enforced and foreclosed in the same manner as a security agreement under the provisions of title 41.
3. The secretary of state shall remove and destroy the lien notification statement in the same manner as provided for other liens in section 11-18-14 for the recorder.
4. The child support agency may file electronically an amendment to correct the spelling of the obligor's name, to correct the obligor's social security number, or to correct or change the address of the obligor.

**SECTION 19. AMENDMENT.** Section 35-34-06 of the North Dakota Century Code is amended and reenacted as follows:

**35-34-06. Lien on other personal property.**

1. In the case of untitled personal property other than an account maintained in a financial institution, the child support agency may establish a lien on such personal property by filing electronically a notice of lien ~~with the office of the recorder in the county in which the personal property may be found, with the secretary of state, in the central indexing system~~ or with a third party who is in possession of the personal property. The notice must particularly describe the property to be subjected to the lien and the name and last-known address of the obligor. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last-known address.
2. The information filed ~~with a recorder or with the secretary of state~~ under this section must be included in the computerized central indexing system maintained by the secretary of state under section 54-09-09 and must be accessible to the public on the same terms and conditions that apply to

access other statutory lien information maintained in the computerized central indexing system.

3. Upon filing of the notice of lien in accordance with this section, the lien attaches to and is perfected against all personal property described in the notice.

**SECTION 20. AMENDMENT.** Section 35-35-03 of the North Dakota Century Code is amended and reenacted as follows:

**35-35-03. Filing officer may reject lien - Filing officer to accept notice of invalid lien - Filing officer not liable.**

1. Any filing officer may reject for filing or recording any nonconsensual common-law lien.
2. If a nonconsensual common-law lien has been accepted for filing or recording, the filing officer shall accept for filing any ~~sworn~~ notice of invalid lien signed and submitted electronically by the person against whom such a lien was filed or that person's attorney. The notice must be captioned "Notice of Invalid Lien" and must state the name and address of the person on whose behalf the notice is filed, the name and address of the lien claimant, and a clear reference to the document or documents the person believes constitute a nonconsensual common-law lien. The notice must be filed in such a manner that any search of the records which reveals the lien the notice refers to will also reveal the notice of invalid lien. The filing officer shall mail or deliver electronically a copy of the notice of invalid lien to the lien claimant at the lien claimant's last-known address within one business day.
3. A filing officer, county, or the state may not be held liable for filing a nonconsensual common-law lien, or for filing a ~~sworn~~ notice of invalid lien pursuant to this section.
4. A fee may not be charged for the filing of a notice of invalid lien against a field nonconsensual common-law lien.

**SECTION 21. AMENDMENT.** Section 35-37-04 of the North Dakota Century Code is amended and reenacted as follows:

**35-37-04. Perfection of lien - Verified notice - Effect of instruments - Effective date of lien.**

1. If the proceeds for oil or gas which are required to be paid are not paid to the interest owner when due, the interest owner may perfect the security interest and lien by filing electronically a form-UCC-1A in the central indexing system and recording the lien in the real estate records in the office of the county recorder of the county in which the well is located. If the oil and gas owner's lien is not filed within ninety days from the date of production, the security interest is not perfected and does not give the interest owner priority over a perfected security interest in the same oil, gas, or proceeds of the oil or gas.
2. ~~All instruments that are presented to a county recorder for filing in accordance with subsection 1 are effective as financing statements even~~

~~though the signature of the debtor may not appear on the lien.~~ Liens must be filed electronically in the central indexing system and recorded in the real estate records of the county according to sections 11-18-01 and 11-18-05. Liens may be terminated in the same manner as financing statements.

3. Upon perfection by filing, the security interest and lien of the interest owner takes priority over the rights of all persons whose rights or claims arise or attach thereafter to the oil or gas unpaid for, or the proceeds of oil or gas if the oil or gas has been sold, including those that arise or attach between the time the security interest and lien attaches and the time of filing. The security interest and lien created pursuant to this chapter do not have priority over the security interest and lien rights previously created and perfected or an operating agreement or other voluntary agreement for the development and operation of the property.

**SECTION 22. AMENDMENT.** Section 41-09-72 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-72. (9-501) Filing office.**

1. Except as otherwise provided in subsection 2, if the local law of this state governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:
  - a. The office designated for the filing or recording of a record of a mortgage on the related real property, if:
    - (1) The collateral is as-extracted collateral or timber to be cut; or
    - (2) The financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or
  - b. The office of the recorder in any county in this state or in the office of the secretary of state, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.
2. The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the secretary of state. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.
3. The secretary of state shall provide an electronic means for filing any record required or permitted to be filed by this title. This may include use of business-to-business methods using a common data format and must include a web-based application. Any record that is not filed electronically must be rejected.

**SECTION 23. AMENDMENT.** Section 41-09-73 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-73. (9-502) (Effective through June 30, 2013) Contents of financing statement - Record of mortgage as financing statement - Time of filing financing statement - Amending financing statement.**

1. Subject to subsection 2, a financing statement is sufficient only if the statement:
  - a. Provides the name of the debtor;
  - b. Provides the name of the secured party or a representative of the secured party;
  - c. Indicates the collateral covered by the financing statement;
  - d. If it is a financing statement that is to be filed to gain protection under the central notice system, includes a reasonable description of the property, including the county in which the property is located, and any other additional information required by the Food Security Act of 1985 [Pub. L. 99-198; Stat. 1535; 7 U.S.C. 1631], as prescribed by the secretary of state, and, to be sufficient a financing statement must include the name and address of the secured party; and unless electronically filed, the signatures of the debtor and secured parties;
  - e. Provides a mailing address for the secured party; and
  - f. Provides a mailing address for the debtor.
2. Except as otherwise provided in subsection 2 of section 41-09-72, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection 1 and also:
  - a. Indicate that it covers this type of collateral;
  - b. Indicate that it is to be filed for record in the real property records;
  - c. Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and
  - d. If the debtor does not have an interest of record in the real property, provide the name of a record owner.
3. A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:
  - a. The record indicates the goods or accounts that it covers;
  - b. The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
  - c. The record satisfies the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and

- d. The record is duly recorded.
4. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.
5. A financing statement filed to gain protection under the central notice system must be amended within three months of a material change to reflect that change. The amended financing statement must be signed by both the debtor and secured party and filed in the same manner as the original financing statement. An electronically filed amendment does not need to be signed.
6. Any social security number or federal tax identification number submitted on a financing statement filed pursuant to this chapter as a central indexing filing prior to January 1, 2012, is an exempt record as defined by subsection 5 of section 44-04-17.1 and may not be disclosed as part of any search under section 41-09-94 or 41-09-96 or as part of a copy of the record. After December 31, 2011, a debtor's social security number or federal tax identification number may not be filed pursuant to this chapter in the filing office with the central indexing system and may not be recorded in the real property records.

**(Effective after June 30, 2013) Contents of financing statement - Record of mortgage as financing statement - Time of filing financing statement - Amending financing statement.**

1. Subject to subsection 2, a financing statement is sufficient only if the statement:
  - a. Provides the name of the debtor;
  - b. Provides the name of the secured party or a representative of the secured party;
  - c. Indicates the collateral covered by the financing statement; and
  - d. If it is a financing statement that is to be filed to gain protection under the central notice system, includes a reasonable description of the property, including the county in which the property is located, and any other additional information required by the Food Security Act of 1985 [Pub. L. 99-198; Stat. 1535; 7 U.S.C. 1631], as prescribed by the secretary of state, and, to be sufficient a financing statement must include the name and address of the secured party; and unless electronically filed, the signatures of the debtor and secured parties;
  - e. ~~Provides a mailing address for the secured party; and~~
  - f. ~~Provides a mailing address for the debtor.~~
2. Except as otherwise provided in subsection 2 of section 41-09-72, to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection 1 and also:
  - a. Indicate that it covers this type of collateral;
  - b. Indicate that it is to be filed for record in the real property records;

- c. Provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and
  - d. If the debtor does not have an interest of record in the real property, provide the name of a record owner.
3. A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:
  - a. The record indicates the goods or accounts that it covers;
  - b. The goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;
  - c. The record satisfies the requirements for a financing statement in this section, but:
    - (1) The record need not indicate that it is to be filed in the real property records; and
    - (2) The record sufficiently provides the name of a debtor who is an individual if the record provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom subdivision d of subsection 1 of section 41-09-74 applies; and
    - (3) The mortgage may not include a social security number or internal revenue service taxpayer identification number; and
  - d. The record is duly recorded.
4. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.
5. A financing statement filed to gain protection under the central notice system must be amended within three months of a material change to reflect that change. The amended financing statement must be signed by both the debtor and secured party and filed in the same manner as the original financing statement. An electronically filed amendment does not need to be signed.
6. Any social security number or ~~federal tax~~internal revenue service taxpayer identification number submitted on a financing statement filed pursuant to this chapter as a central indexing filing ~~prior to January 1, 2012,~~ is an exempt record as defined by subsection 5 of section 44-04-17.1 and may not be disclosed as part of any search under section 41-09-94 or 41-09-96 or as part of a copy of the record. ~~After December 31, 2011, a~~A debtor's social security number or ~~federal tax~~internal revenue service taxpayer identification number ~~may not be filed pursuant to this chapter in the filing office with the central indexing system and may not be recorded in the real property records as provided for under section 11-18-23.2.~~

**SECTION 24. AMENDMENT.** Section 41-09-84 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-84. (9-513) Termination statement - Remedies - Fees.**

1. If a financing statement covering consumer goods is filed after December 31, 1973, then within one month or within ten days following written demand by the debtor after there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party shall file ~~with each filing officer with whom the financing statement was filed~~electronically in the central indexing system, a termination statement to the effect that the secured party no longer claims a security interest under the financing statement, which must be identified by file number. In other cases when there is no outstanding secured obligation and no written commitment between the secured party and the debtor to make advances, incur obligations, or otherwise give value, the secured party, unless requested by the debtor in writing to continue the filing, ~~must send to each filing officer with whom the financing statement was filed,~~shall file electronically a termination statement to the effect that the secured party no longer claims a security interest under the financing statement nor under the central notice system, which shall be identified by file number. If the affected secured party fails to file a termination statement as required by this subsection within sixty days of when the secured obligation is fully satisfied, and the debtor has not requested in writing that the filing be continued, then under section 41-09-120 the secured party is liable to the debtor for one hundred dollars and for any loss caused to the debtor by such failure. The debtor's written request for a filing to be continued may be made at any time and be effective under this section. If the affected secured party fails to file a termination statement within ten days after proper written demand by the debtor, then under section 41-09-120 the secured party is liable to the debtor for one hundred dollars and for any loss caused to the debtor by such failure.
2. Except as otherwise provided in section 41-09-81, upon the filing of a termination statement ~~with the filing office~~, the financing statement to which the termination statement relates ceases to be effective. Except as provided in section 41-09-81, for purposes of subsection 7 of section 41-09-90, subsection 1 of section 41-09-93, and subsection ~~3~~2 of section 41-09-94, the electronic filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.
3. The fee for filing and indexing a termination statement, ~~including sending or delivering the financing statement, is five dollars. For any financing statement filed after April 8, 1991, the fee must be paid at the time is~~ included in the fee for filing the financing statement is paid.

**SECTION 25. AMENDMENT.** Subsection 2 of section 41-09-87 of the North Dakota Century Code is amended and reenacted as follows:

2. Filing does not occur with respect to a record that a filing office refuses to accept because:

- a. The record is not communicated by a method or medium of communication authorized by the filing office;
- b. An amount equal to or greater than the applicable filing fee is not tendered;
- c. The filing office is unable to index the record because:
  - (1) In the case of an initial financing statement, the record does not provide a name for the debtor;
  - (2) In the case of an amendment or correction statement, the record:
    - (a) Does not identify the initial financing statement as required by section 41-09-83 or 41-09-89, as applicable; or
    - (b) Identifies an initial financing statement whose effectiveness has lapsed under section 41-09-86;
  - (3) In the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or
  - (4) In the case of a record filed or recorded in the filing office described in subdivision a of subsection 1 of section 41-09-72, the record does not provide a sufficient description of the real property to which it relates;
- d. In the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;
- e. In the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:
  - (1) Provide a mailing address for the debtor;
  - (2) Indicate whether the debtor is an individual or an organization; or
  - (3) If the financing statement indicates that the debtor is an organization, provide:
    - (a) A type of organization for the debtor;
    - (b) A jurisdiction of organization for the debtor; or
    - (c) An organizational identification number for the debtor or indicate that the debtor has none;
- f. In the case of an assignment reflected in an initial financing statement under subsection 1 of section 41-09-85 or an amendment filed under

subsection 2 of section 41-09-85, the record does not provide a name and mailing address for the assignee; ~~or~~

- g. In the case of a continuation statement, the record is not filed within the six-month period prescribed by subsection 4 of section 41-09-86; ~~or~~
- h. The record does not contain the social security number or the internal revenue service taxpayer identification number of the debtor.

**SECTION 26. AMENDMENT.** Section 41-09-94 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-94. (9-523) Information from filing office - Sale or license of records.**

1. ~~If a~~Any person that files a written record requests ~~may request~~ electronically an acknowledgment of the filing, ~~the filing office~~ a filing. The central indexing system shall send ~~provide~~ to the person detailed information and an image of the record, if not filed electronically, showing the number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90 and the date and time of the filing of the record. However, ~~if the person furnishes a copy of the record to the filing office, the filing office may instead:~~
  - a. ~~Note upon the copy the number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90 and the date and time of the filing of the record; and~~
  - b. ~~Send the copy to the person.~~
2. ~~If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:~~
  - a. ~~The information in the record;~~
  - b. ~~The number assigned to the record pursuant to subdivision a of subsection 1 of section 41-09-90; and~~
  - c. ~~The date and time of the filing of the record.~~
3. ~~The filing office~~ central indexing system shall communicate ~~or otherwise make available in a record~~ electronically the following information to any person that requests it:
  - a. Whether there is on file on a date and time specified by the ~~filing office~~ central indexing system, ~~but not a date earlier than three business days before the filing office receives the request,~~ any verified statement of an agricultural lien created under chapter 35-17, 35-30, or 35-31 or any financing statement that:
    - (1) Designates a particular debtor or, if the request so states, designates a particular debtor at the address specified in the request;
    - (2) Has not lapsed under section 41-09-86 with respect to all secured parties of record; and

- (3) Effective January 1, 2002, if the request so states, has lapsed under section 41-09-86 and a record of which is maintained by the filing office central indexing system under subsection 1 of section 41-09-93;
- b. The date and time of filing of each ~~verified statement~~ and each financing statement; and
- c. The information provided in each ~~verified statement~~ and each financing statement.
4. ~~In complying with its duty under subsection 3, the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing a written certificate.~~
- 5.3. ~~The filing office if a request to the central indexing system cannot be automatically accepted, the secretary of state shall perform the acts required by subsections 1 through 4 at the time and in the manner prescribed by filing office rule, but and 2 not later than two business days after the filing office central indexing system receives the request.~~
- 6.4. At least weekly, the secretary of state shall offer to sell or license to the public on a nonexclusive basis, in bulk, copies detailed information of all records filed in it under this part, in every medium from time to time filed within the central indexing system.

**SECTION 27. AMENDMENT.** Section 41-09-96 of the North Dakota Century Code is amended and reenacted as follows:

**41-09-96. (9-525) Fees.**

1. The fee for filing and indexing an original statement under this title is ~~fifteen~~forty dollars plus one dollar per additional page. ~~When a nonstandard statement is presented for filing, an additional fee of five dollars must be paid.~~ An additional fee may not be charged for the same statement to gain protection under the central notice system.
2. The fee for filing and indexing an amendment, including continuations, assignments, releases, or correction statements under this title is ~~ten~~forty dollars plus one dollar per additional page. An additional fee may not be charged for the same document to gain protection under the central notice system.
3. The fee for filing and indexing a continuation under this title is thirty dollars. An additional fee may not be charged for the same document to gain protection under the central notice system.
4. A fee may not be charged for ~~responding to a~~ central indexing system response to an electronic request for information:
  - a. Information from the filing office central indexing system communicating whether there is on file any financing statement or verified statement naming a particular debtor.
  - b. Information on specific filings on a particular debtor.

- c. Copies of each filing on a particular debtor.
  - d. Certified copies of filings on a particular debtor.
- 4.5. ~~The fee for a filing office~~central indexing response providing information on specific filings ~~on submitted by a particular debtor~~secured party is ~~seven~~five hundred dollars per debtor for the first five entries, plus two dollars for each additional five entries or fraction thereafter.
5. ~~The fee for a filing office providing copies of each filing for a particular debtor is seven dollars per debtor plus two dollars per page for each page over three pages.~~
6. ~~The fee for a filing office providing certified copies of filings on a particular debtor is ten dollars plus two dollars per page for attachments.~~
- 7.6. Any fees collected by the secretary of state pursuant to this chapter and all other filings entered into the central indexing system must be deposited in the general fund in the state treasury, ~~except with the exception of the fees collected under subsection 64 of section 41-09-94, subsection 4 of this section, and a portion of the filing fees specifically identified in section 54-09-11, which~~ must be deposited in the secretary of state's general services operating fund.

**SECTION 28. AMENDMENT.** Subsection 3 of section 41-09-135 of the North Dakota Century Code is amended and reenacted as follows:

- 3. The filing of a continuation statement after this Act takes effect does not continue the effectiveness of the financing statement filed before this Act takes effect. However, upon the timely filing of a continuation statement after this Act takes effect, no later than is required by section 41-09-86, and in accordance with the law of the jurisdiction governing perfection as provided in this chapter as amended by this Act, the effectiveness of a financing statement filed in the same office in that jurisdiction before this Act takes effect continues for the period provided by the law of that jurisdiction.

**SECTION 29. AMENDMENT.** Section 41-10-01 of the North Dakota Century Code is amended and reenacted as follows:

**41-10-01. Definitions.**

As used in this chapter:

- 1. "Authorized", when used with reference to a financing statement record, means that the financing statement record was filed by a person authorized to do so as provided in sections 41-09-80 and 41-09-130.
- 2. "Debtor" means a natural person whose name was provided in a financing statement record as an individual debtor or one of the types of persons listed in section 41-09-76.
- 3. "Filing office" or "filing officer" refers to the ~~appropriate office or officer~~central indexing system, which must be provided by the secretary of state, where a financing statement record is to be filed electronically as

provided by section 41-09-72, including the county recorder, the secretary of state, and other designated filing officers.

4. "Financing statement record" means an initial financing statement, an amendment that adds collateral covered by a financing statement, and an amendment that adds a debtor to a financing statement as such terms are used in this title.

**SECTION 30. AMENDMENT.** Section 41-10-05 of the North Dakota Century Code is amended and reenacted as follows:

**41-10-05. Venue.**

An action under this chapter may be brought in any district court in the county in which the financing statement record is presented for filing or in a county where any of the persons who may bring an action under this chapter reside.

**SECTION 31. AMENDMENT.** Section 47-16-03 of the North Dakota Century Code is amended and reenacted as follows:

**47-16-03. Filing farm lease containing reservation of title to crop - Waiver of rights on failure to file.**

1. When a lease of a farm contains a provision reserving title in the lessor to any part of the crops in excess of the rental share of the lessor until the stated conditions of the lease have been complied with by the lessee, such lease must be filed in the office of the recorder in the county in which the land described therein is located if notice by a real estate recording is sought, and must be filed electronically in the central indexing system if recording in the central notice system is sought, prior to July first in the year in which the crops are raised to render such reservation of title effective as to subsequent purchasers or encumbrancers of any part of the grain over and above the lessor's rental share produced upon the land.
2. The failure to file such lease or contract in accordance with this section constitutes a waiver by the lessor of all rights reserved by that person over and above that person's rental share in such crops as against any subsequent purchaser or encumbrancer of the lessee.
3. The secretary of state ~~may prescribe a form which shall provide an~~ electronic system that includes the pertinent information from the lease that may be filed in the central notice system. A lessor may file this ~~form with the recorder~~ electronic statement and obtain the same rights under this section as if the lessor had filed the lease.
4. The fee required to file and index this notice of lease is:
  - a. As provided in section 11-18-05, if the notice of lease is only a real estate recording;
  - b. As provided in section ~~41-09-06~~ 41-09-96, if the notice of lease is filed only to gain protection under the central notice system; or
  - c. As provided in section 11-18-05, if ~~the notice of lease is both a real estate recording and filed to gain protection under the central notice~~

~~system. An additional fee may not be charged for the same~~  
statement a real estate recording is sought and according to section  
41-09-96 if electronically filed to gain protection under the central  
notice system.

**SECTION 32. AMENDMENT.** Section 54-09-08 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-08. Secretary of state's general services operating fund.**

The secretary of state's general services operating fund is a special fund in the state treasury. Moneys in the fund are to be used pursuant to legislative appropriations for the provision of services under section 16.1-02-15, subsection ~~64~~ of section 41-09-94, subsection 4 of section 41-09-96, subsection ~~87~~ of section 54-09-04, and sections 10-35-33, 54-09-10, and 54-09-11. At the close of each biennium, the secretary of state shall transfer any unobligated balance remaining in the fund exceeding seventy-five thousand dollars to the general fund.

**SECTION 33. AMENDMENT.** Section 54-09-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-09.**

**Computerized central indexing system - Rules.**

1. The secretary of state shall maintain a computerized central indexing system that contains the information filed ~~with the office of the secretary of state or with any of the offices of the recorder in this state~~ pursuant to sections 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, 35-34-04, 35-34-06, 41-09-72, ~~57-28-29~~, 57-38-49, 57-39.2-13, 57-40.2-16, 57-40.3-07.1, 57-43.1-17.4, 57-43.2-16.3, and 57-51-11. ~~The system must connect each recorder's office to the secretary of state's office through the information technology department.~~ The system must allow access to financing statement information by equipment that conforms to requirements determined by the information technology department. The system must have safeguards to allow access to information that is in the system relating to security interests or liens and to prevent unauthorized alteration or deletion of that information and to allow access to other information in the system as prescribed by the secretary of state.
2. Within two working days of receipt of a financing statement, continuation statement, amendment, or termination statement filed electronically pursuant to chapter 41-09 or a statement filed electronically pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, or 35-31-02, the recorder ~~or secretary of state shall file the information contained in the statement~~ must be filed in the computerized central indexing system. A computer printout of information from the system is prima facie evidence of the existence or nonexistence of the filing of a financing statement or lien. The secretary of state shall ~~prescribe one form~~ provide an electronic means that can be used to perfect a security interest in farm products or gain protection under the central notice system, or both.
3. The secretary of state may adopt rules necessary to implement this section and sections 54-09-10 and 54-09-11.

**SECTION 34. AMENDMENT.** Section 54-09-10 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-10. Secretary of state to compile lists for crops and livestock - Distribution of lists.**

1. From the computerized central indexing system, the secretary of state or a designee shall produce ~~each month one~~electronically a list for crops and ~~one~~a list for livestock that each contain the information as filed ~~on the forms~~ pursuant to section 41-09-72. The secretary of state shall also include on the lists the information filed for crops and livestock pursuant to sections 35-17-04, 35-30-02, and 35-31-02. The lists must be in alphabetical order according to the last name of, or in numerical order according to the social security number of, the person engaged in farming operations. The lists may be prepared in categories according to county, regions as designated by the secretary of state, or on a statewide basis. If requested, the lists must be in printed form. Each list must conspicuously note the effective date of the list.
2. The secretary of state shall distribute ~~monthly by mail or deliver~~ electronically the lists prepared pursuant to subsection 1, ~~at least five business days in advance of the effective date of each of the lists.~~ If requested, the secretary of state shall mail or deliver electronically the lists to any person making a request at a fee as provided in section 54-09-11.
3. Upon a verbal request of any person, the secretary of state, ~~or a designee of the secretary of state, or a recorder~~ shall verbally provide information contained on a list generated through the computerized central indexing system if the collateral is crops or livestock. The requesting party may request electronically a certificate from the secretary of state or the recorder and the secretary of state or the recorder shall ~~the central indexing system to~~ confirm the information given. Direct computer access is equivalent to oral confirmation, and a computer printout constitutes the written confirmation of the secretary of state, if use of this method of confirmation does not cause the central indexing system to lose federal certification. A computer printout from the computerized central indexing system constitutes the certificate of the secretary of state ~~or the recorder~~ as to whether there is on file, on the date and hour stated on the computer printout, a financing statement.

**SECTION 35. AMENDMENT.** Section 54-09-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-09-11. Fees.**

1. The secretary of state shall establish fees for ~~placing data in the computerized central indexing system; for obtaining computer access to the computerized central indexing system, to the computerized Uniform Commercial Code central filing database, or to the computerized statutory liens database; for receiving printouts; for direct access to all or parts of the central indexing system; for lists sold or licensed under subsection 6 of section 41-09-94; for any other list provided by the secretary of state; for any programming charges specifically incurred to provide information~~

requested by persons which is related to the central indexing system; and for other services provided through the computerized system.

2. ~~The~~ A fee may not be required for furnishing information on a verbal request pursuant to subsection 3 of section 54-09-10 ~~is seven dollars~~, and the fee for furnishing a certificate under subsection 3 of section 54-09-10 is ~~seven~~ fifteen dollars.
3. The secretary of state shall establish the fee for furnishing lists under ~~subsection 1 of section 54-09-10~~ from the central indexing system based on actual costs to produce the lists for distribution.
4. Fees collected by the secretary of state under ~~subsections 1 and 3 and this section~~, under subsection 64 of section 41-09-94, and subsection 4 of section 41-09-96, and ten dollars from each filing entered into the central indexing system must be deposited in the secretary of state's general services operating fund. Fees collected by the secretary of state under ~~subsection 2 must be deposited in the general fund in the state treasury~~ this section must be used for the programming and maintenance of the central indexing system.
5. The secretary of state ~~may adopt rules regarding what portion of the filing fees and search fees collected by the recorder under section 41-09-96 must be submitted to the secretary of state for deposit into the secretary of state's general operating fund to meet the cost of the provision of services required under sections 54-09-09 and 54-09-10~~ shall pay ten dollars to the county recorder of the county of residence for the first debtor listed on each statement filed pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, or 41-09-72. The payment must be made monthly from the general fund in the state treasury.

**SECTION 36. AMENDMENT.** Subsection 5 of section 57-34-10 of the North Dakota Century Code is amended and reenacted as follows:

5. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the tax commissioner filing in the central indexing system maintained by the secretary of state a notice of the lien provided for in subsection 4, takes free of, or has priority over, the lien. The tax commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. the next day following the indexing of the notice. The tax commissioner shall index any notice of lien with no payment of fees or costs to the secretary of state.

**SECTION 37. AMENDMENT.** Subsection 4 of section 57-36-09.5 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next day following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 38. AMENDMENT.** Section 57-38-49 of the North Dakota Century Code is amended and reenacted as follows:

**57-38-49. Preservation of lien.**

Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in the state, prior to the commissioner filing in the central indexing system maintained by the secretary of state a notice of the lien provided for in section 57-38-48, takes free of, or has priority over, the lien. The commissioner shall index in the central indexing system the following data:

1. The name of the taxpayer.
2. The name "State of North Dakota" as claimant.
3. The date and time the notice of lien was indexed.
4. The amount of the lien.
5. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed. The commissioner shall index any notice of lien with no payment of fees or costs to the secretary of state.

**SECTION 39. AMENDMENT.** Subsection 4 of section 57-39.2-13 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.

- b. The name "State of North Dakota" as claimant.
- c. The date and time the notice of lien was indexed.
- d. The amount of the lien.
- e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 40. AMENDMENT.** Subsection 4 of section 57-40.2-16 of the North Dakota Century Code is amended and reenacted as follows:

- 4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 41. AMENDMENT.** Subsection 3 of section 57-40.3-07.1 of the North Dakota Century Code is amended and reenacted as follows:

- 3. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed. The commissioner is exempt from the payment of fees otherwise provided by law for the indexing or the satisfaction of the lien.

**SECTION 42. AMENDMENT.** Subsection 4 of section 57-43.1-17.4 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 43. AMENDMENT.** Subsection 4 of section 57-43.2-16.3 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 44. AMENDMENT.** Subsection 4 of section 57-43.3-22 of the North Dakota Century Code is amended and reenacted as follows:

4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.

- e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any notice of lien filed by the commissioner ~~with a recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 45. AMENDMENT.** Subsection 2 of section 57-51-11 of the North Dakota Century Code is amended and reenacted as follows:

- 2. Any judgment creditor, or lien claimant acquiring any interest in, or lien on, any property situated in this state, prior to the commissioner filing in the central indexing system maintained by the secretary of state, a notice of the lien provided for in this section, takes free of, or has priority over, the lien. The commissioner shall index in the central indexing system the following data:
  - a. The name of the taxpayer.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number or social security number of the taxpayer.

The notice of lien is effective as of eight a.m. of the first day following the indexing of the notice. A notice of lien filed by the commissioner ~~with a recorder~~ before August 1, 1997, may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 46. AMENDMENT.** Subsection 4 of section 57-63-10 of the North Dakota Century Code is amended and reenacted as follows:

- 4. The commissioner shall index in the central indexing system the following data:
  - a. The name of the facility.
  - b. The name "State of North Dakota" as claimant.
  - c. The date and time the notice of lien was indexed.
  - d. The amount of the lien.
  - e. The internal revenue service taxpayer identification number of the facility or the social security number of the owner, officer, or manager of the facility.

The notice of lien is effective as of eight a.m. the next day following the indexing of the notice. A notice of lien filed by the commissioner ~~with the recorder~~ may be indexed in the central indexing system without changing its original priority as to property in the county where the lien was filed.

**SECTION 47. REPEAL.** Section 57-28-29 of the North Dakota Century Code is repealed.

**SECTION 48. APPLICATION.** During the 2013-15 biennium, the secretary of state shall provide an electronic means for the central indexing system to accept an amendment to a statement filed before July 1, 2014, pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, 35-34-04, 41-09-72, 57-38-49, 57-39.2-13, 57-40.2-16, 57-40.3-07.1, 57-43.1-17.4, or 57-43.2-16. Before July 1, 2015, a secured party or lienholder may amend a filing under this section without a fee if the amendment is limited in scope to correcting the name of the debtor as required under section 41-09-135, or adding or correcting the social security or internal revenue service taxpayer identification number of the debtor, or both.

**SECTION 49. SECRETARY OF STATE REPORT TO LEGISLATIVE ASSEMBLY.** The secretary of state shall report to the sixty-fourth legislative assembly regarding the change in filing fees provided under this Act, including a comparison of the revenue collected under the new fee system versus the revenues collected under the previous fee system.

**SECTION 50. CONTINGENT EFFECTIVE DATE.** Sections 1 through 27 and sections 29 through 47 of this Act become effective August 1, 2015, or earlier if the secretary of state makes a report to the legislative management and to the information technology committee certifying that the information technology components of the electronic filing system are ready for implementation of those provisions of this Act, in which case those sections become effective ninety days following the completion of the certificate requirement."

Renumber accordingly

ALVIN A. JAEGER  
SECRETARY OF STATE

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STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 108  
BISMARCK ND 58505-0500

April 18, 2013

TO: Rep. Klemin, Chairman, and Members of the Conference Committee

FR: Al Jaeger, Secretary of State

RE: HB 1136 – Central Indexing System for UCC and other liens

Section 1 – eliminates a duty of a recorder

Section 2 – eliminates a duty and a fee for a recorder for providing copies because that duty will no longer exist with electronic filing.

Section 3 – prescribes the electronic filing and SSN/FIN requirements for a repairman's lien

Section 4 – for an Agister's lien

Section 5 – for an Agister's lien

Section 6 – for an Agister's lien

Section 7 – for insurance premiums

Section 8 – for insurance premiums

Section 9 – for the uniform federal lien registration act

Section 10 – for the uniform federal lien registration act

Section 11 – for the uniform federal lien registration act

Section 12 – for the uniform federal lien registration act

Section 13 – for agricultural processor's liens

Section 14 – for agricultural processor's liens

Section 15 – for agricultural supplier's liens

Section 16 – for agricultural supplier's liens

Section 17 – for agricultural supplier's liens

Section 18 – for vessel liens

Section 19 – for liens related to child support

Section 20 – for nonconsensual common law liens

Section 21 – for oil and gas owner's sales liens

Section 22 – for secured transactions commonly known as Article 9

- Section 23 – for secured transactions – mortgage may not include SSN/FIN
- Section 24 – for secured transactions termination statement
- Section 25 – for secured transactions
- Section 26 – for secured transactions
- Section 27 – to establish the fees of \$40 for a filing and \$30 for continuations
- Section 28 – for secured transactions and is page 1 of the bill as introduced in the House
- Section 29 – for fraudulent and harassing financing statement records
- Section 30 – for fraudulent and harassing financing statement records
- Section 31 – for leasing of real property
- Section 32 – for changes to chapter related to the Secretary of State's general services operating fund
- Section 33 – for changes to chapter pertaining to the central indexing system
- Section 34 – for compiling lists of crops and livestock liens
- Section 35 – for changes to chapter related to the Secretary of State's central indexing system
- Section 36 – for telecommunications carriers taxation
- Section 37 – for tobacco products tax law
- Section 38 – for income tax liens
- Section 39 – for sales tax liens
- Section 40 – for use tax liens
- Section 41 – for motor vehicle excise tax liens
- Section 42 – for motor vehicle fuels and importer for Use tax liens
- Section 43 – for special fuels and importer for Use tax liens
- Section 44 – for aviation fuel tax liens
- Section 45 – for oil and gas gross production tax liens
- Section 46 – for provider assessment for intermediate care liens
- Section 47 – repeals 57-28-29. Notice of tax delinquency - Central indexing system. The secretary of state shall prescribe a form to be used by county officials when notices of delinquent taxes owed to a county are entered in the central indexing system.
- Section 48 – provides that the Secretary of State the timeline and allowing amendments without charge for correcting the name of the debtor or adding or correcting the SSN/FIN
- Section 49 – requires the Secretary of State to report to the legislature next session regarding the fees
- Section 50 – states the bill will become law effective August 1, 2015, or earlier and ninety days after it is first certified by the Secretary of State to the Legislative Management committee and the Information technology committee that electronic filing system is ready for implementation.

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April 18, 2013

Regarding searches:

A search by debtor name without SSN/TIN will be possible. In fact, until all filings contain SSN/TINs of all debtors, a search by name alone will also be necessary to make sure that all liens are found. A search by SSN/TIN of an individual will also require the last name of the individual to obtain any results; if the debtor is an organization, a word in the organization name will be necessary. A search with only SSN/TIN will not be allowed. A user will need a state login (same as Game and Fish and other state agencies already use) and be logged into the system in order to search by SSN/TIN + name.

Regarding filings:

All CIS filings are being built to allow attachments. So, essentially, all filings will be treated the same. What used to be considered non-standard will require basic data entry with the ability to attach whatever documentation the filer deems necessary.

Regarding fees:

The fee schedule is changing. There will be one up-front fee for all initial filings, which is set at \$40 (regardless of the amount of data entered or pages attached if the filer so needs). The fee for continuations will be \$30.

The revenue collected Of the money collected from filing fees, the amendment specifically states that \$10 will go to the County Recorder's office of the county of residence for the first debtor listed on the filing, \$10 will go to the Secretary of State's general services operating fund for the maintenance and programming of the CIS, and the remainder will be deposited into the state's general fund.