

Fifty-fifth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2191

Introduced by

Senators Holmberg, W. Stenehjem, Traynor

1 A BILL for an Act to amend and reenact subsection 3 of section 57-02-08.3, sections 57-38-49,  
2 57-38-50, subsections 3, 4, 5, and 6 of section 57-39.2-13, subsections 3, 4, 5, and 6 of section  
3 57-40.2-16, subsections 2, 3, and 4 of section 57-40.3-07.1, subsections 3, 4, and 6 of section  
4 57-43.1-17.4, and subsections 3, 4, and 6 of section 57-43.2-16.3 of the North Dakota Century  
5 Code, relating to filing of tax liens; and to provide an effective date.

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

7 **SECTION 1. AMENDMENT.** Subsection 3 of section 57-02-08.3 of the 1995  
8 Supplement to the North Dakota Century Code is amended and reenacted as follows:

9 3. a. Any credit allowed under subsection 1, plus interest in the amount of nine  
10 percent per year from the time the credit is taken, creates a lien in favor of the  
11 state against the property upon which the special assessment credit is  
12 allowed and remains a lien upon the property from the time the credit is  
13 allowed until the lien is fully satisfied by depositing the amount of the lien in  
14 the state general fund. If the amount of the lien exceeds the market value of  
15 the property, the state may accept the amount of the market value of the  
16 property as payment in full on the lien.

17 b. (1) Except as otherwise provided in this subdivision, a transfer of title to the  
18 homestead because of sale, death, or otherwise may not be made  
19 without the lien being satisfied. When a credit under subsection 1 is  
20 allowed, the county auditor shall cause a notice of lien of record to be  
21 filed against subject property with the ~~secretary of state~~ register of  
22 deeds.

1                   (2) When a transfer occurs between spouses because of the death of one  
2                   of them, the lien allowed by this section need not be satisfied until the  
3                   property is again transferred.

4                   c. This lien has precedence over all other liens except general tax liens and  
5                   prior special assessment liens and shall not be divested at any judicial sale.  
6                   A mistake in the description of the property covered by this lien or in the name  
7                   of the owner of the property does not defeat the lien if the property can be  
8                   identified by the description in the special assessment list.

9                   **SECTION 2. AMENDMENT.** Section 57-38-49 of the 1995 Supplement to the North  
10                  Dakota Century Code is amended and reenacted as follows:

11                  **57-38-49. Preservation of lien.** ~~In order to preserve the lien provided for in section~~  
12 ~~57-38-48 against subsequent mortgagees, purchasers, or~~ Any mortgagee, purchaser, judgment  
13 ~~creditors, for value and without notice of the lien, creditor, or lien claimant acquiring any interest~~  
14 in, or lien on, any property situated in the state, prior to the commissioner shall file with filing in  
15 the central notice system maintained by the secretary of state a notice of the lien provided for in  
16 section 57-38-48, takes free of, or has priority over, the lien. ~~The secretary of state~~  
17 commissioner shall enter index in the central indexing notice system the following data, ~~under~~  
18 ~~the names of taxpayers arranged alphabetically:~~

- 19                  1. The name of the taxpayer.
- 20                  2. The tax identification number or social security number of the taxpayer.
- 21                  3. The name "State of North Dakota" as claimant.
- 22                  ~~3.~~ 4. Time The date and time the notice of lien was received indexed.
- 23                  4. ~~Date of notice.~~
- 24                  5. ~~Amount~~ The amount of the lien then due.
- 25                  6. ~~When satisfied.~~

26 ~~The secretary of state shall endorse on each notice of lien the day, hour, and minute when~~  
27 ~~received and shall preserve the same, and shall index the notice in the central indexing system.~~  
28 ~~The notice of lien is effective as against subsequent creditors, purchasers, and encumbrances~~  
29 ~~from the time of the indexing of eight a.m. next following the indexing of the notice.~~ Any notice  
30 of lien filed by the commissioner with a register of deeds ~~prior to July 1, 1996,~~ may be ~~refiled~~  
31 ~~with the secretary of state~~ indexed in the central notice system without changing its original

1 priority as to property in the county where the lien was filed. The ~~secretary of state~~  
2 commissioner shall ~~accept~~ index any notice of lien for filing ~~when it is received~~ with no payment  
3 of fees or costs to ~~be made on behalf of the commissioner~~ the secretary of state.

4 **SECTION 3. AMENDMENT.** Section 57-38-50 of the 1995 Supplement to the North  
5 Dakota Century Code is amended and reenacted as follows:

6 **57-38-50. Satisfaction of lien.** Upon the payment of a the tax, together with any  
7 accrued penalties and interest ~~attached~~, as to which the commissioner has filed a notice of lien  
8 ~~with the secretary of state~~, the commissioner shall ~~file with the secretary of state~~ index a  
9 satisfaction of the ~~tax and lien and the secretary of state shall enter the satisfaction on the~~  
10 ~~notice on file and shall indicate that fact on~~ in the central indexing notice system ~~with no~~  
11 ~~payment of~~ without fees or costs to ~~be made on behalf of the tax commissioner~~.

12 **SECTION 4. AMENDMENT.** Subsections 3, 4, 5, and 6 of section 57-39.2-13 of the  
13 1995 Supplement to the North Dakota Century Code are amended and reenacted as follows:

14 3. ~~In order to preserve the lien against subsequent mortgagees, purchasers, or Any~~  
15 mortgagee, purchaser, judgment creditors, for value and without notice of the lien,  
16 creditor, or lien claimant acquiring any interest in, or lien on, any property situated  
17 in the state, prior to the commissioner shall file with filing in the central notice  
18 system maintained by the secretary of state, a notice of the lien provided for in  
19 section 57-39.2-12, takes free of, or has priority over, the lien.

20 4. The ~~secretary of state~~ commissioner shall ~~enter~~ index in the central indexing  
21 notice system the following data, ~~under the names of taxpayers, arranged~~  
22 alphabetically:

23 a. The name of the taxpayer.

24 b. The tax identification number or social security number of the taxpayer.

25 c. The name "State of North Dakota" as claimant.

26 e- d. Time The date and time the notice of lien was received indexed.

27 d. ~~Date of notice.~~

28 e. Amount The amount of the lien then due.

29 f. ~~When satisfied.~~

30 ~~The secretary of state shall endorse on each notice of lien the day, hour, and~~  
31 ~~minute when received and preserve the same, and shall index the notice in the~~

- 1           ~~central indexing system and the~~ The notice of lien is effective ~~from the time of~~  
2           ~~indexing~~ as of eight a.m. next following the indexing of the notice. Any notice of  
3           lien filed by the commissioner with a register of deeds ~~before July 1, 1996,~~ may be  
4           ~~refiled with the secretary of state~~ indexed in the central notice system without  
5           changing its original priority as to property in the county where the lien was filed.
- 6           5. The commissioner is exempt from the payment of the filing fees as otherwise  
7           provided by law for the ~~filing~~ indexing of the notice of lien, or for its satisfaction.
- 8           6. Upon ~~the~~ payment of a the tax as to which the commissioner has ~~filed~~ indexed  
9           ~~notice with the secretary of state~~ in the central notice system, the commissioner  
10          shall ~~file with the secretary of state~~ index a satisfaction of the ~~tax and the secretary~~  
11          ~~of state shall enter the satisfaction on the notice on file and indicate that fact~~ lien in  
12          the central ~~indexing~~ notice system.

13           **SECTION 5. AMENDMENT.** Subsections 3, 4, 5, and 6 of section 57-40.2-16 of the  
14   1995 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- 15          3. ~~In order to preserve the lien against subsequent mortgagees, purchasers, or~~ Any  
16          ~~mortgagee, purchaser, judgment creditors, for value and without notice of the lien,~~  
17          ~~creditor, or lien claimant acquiring any interest in, or lien on,~~ any property situated  
18          in the state, prior to the commissioner ~~shall file with~~ filing in the central notice  
19          system maintained by the secretary of state, a notice of the lien provided for in this  
20          section, takes free of, or has priority over, the lien.
- 21          4. The ~~secretary of state~~ commissioner shall ~~enter~~ index in the central ~~indexing~~  
22          notice system the following data, ~~under the names of taxpayers, arranged~~  
23          ~~alphabetically:~~
- 24           a. The name of the taxpayer.
- 25           b. The tax identification number or social security number of the taxpayer.
- 26           c. The name "State of North Dakota" as claimant.
- 27          e. ~~d.~~ Time The date and time the notice of lien was received indexed.
- 28           ~~d.~~ ~~Date of notice.~~
- 29           e. ~~Amount~~ The amount of the lien then due.
- 30           ~~f.~~ ~~When satisfied.~~

- 1           ~~The secretary of state shall endorse on each notice of lien the day, hour, and~~  
2           ~~minute when received and preserve the same, and shall index the notice in the~~  
3           ~~central indexing system, and the~~ The notice of lien is effective from the time of  
4           ~~indexing~~ as of eight a.m. next following the indexing of the notice. Any notice of  
5           lien filed by the commissioner with a register of deeds ~~before July 1, 1996,~~ may be  
6           ~~refiled with the secretary of state~~ indexed in the central notice system without  
7           changing its original priority as to property in the county where the lien was filed.
- 8           5. The commissioner is exempt from the payment of the recording and filing fees as  
9           otherwise provided by law for the ~~recording and filing~~ indexing of the notice of lien,  
10          or for its satisfaction.
- 11          6. Upon ~~the~~ payment of a the tax as to which the commissioner has ~~filed~~ indexed  
12          notice ~~with the secretary of state~~ in the central notice system, the commissioner  
13          shall ~~file with the secretary of state~~ index a satisfaction of the ~~tax and the secretary~~  
14          ~~of state shall enter the satisfaction on the notice on file and indicate that fact~~ lien in  
15          the central indexing notice system.

16           **SECTION 6. AMENDMENT.** Subsections 2, 3, and 4 of section 57-40.3-07.1 of the  
17   1995 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- 18          2. ~~In order to preserve the lien against subsequent mortgagees, purchasers, or~~ Any  
19          ~~mortgagee, purchaser, judgment creditors, for value and without notice of the lien,~~  
20          ~~creditor, or lien claimant acquiring any interest in, or lien on,~~ any property situated  
21          in the state, prior to the commissioner ~~shall file with~~ filing in the central notice  
22          system maintained by the secretary of state, a notice of the lien provided for in this  
23          section, takes free of, or has priority over, the lien.
- 24          3. The ~~secretary of state~~ commissioner shall enter index in the central indexing  
25          notice system the following data, ~~under the names of taxpayers, arranged~~  
26          alphabetically:
- 27           a. The name of the taxpayer.
- 28           b. The tax identification number or social security number of the taxpayer.
- 29           c. The name "State of North Dakota" as claimant.
- 30          e- d. The date and time the notice of lien was received indexed.
- 31          d. ~~The date of notice.~~

- 1 e. The amount of the lien ~~then due~~.
- 2 f. ~~When satisfied.~~
- 3 ~~The secretary of state shall endorse on each notice of lien the day, hour, and~~  
4 ~~minute received and preserve and index the notice in the central indexing system,~~  
5 ~~and the~~ The notice of lien is effective from the time of the indexing as of eight a.m.  
6 next following the indexing of the notice. Any notice of lien filed by the  
7 commissioner with a register of deeds ~~before July 1, 1996,~~ may be ~~refiled with the~~  
8 ~~secretary of state~~ indexed in the central notice system without changing its original  
9 priority as to property in the county where the lien was filed. The commissioner is  
10 exempt from the payment of fees otherwise provided by law for the ~~filing~~ indexing  
11 or the satisfaction of the lien.
- 12 4. Upon ~~the~~ payment of a the tax relative to which the commissioner has ~~filed~~  
13 indexed notice ~~with the secretary of state in the central notice system,~~ the  
14 commissioner shall ~~file with the secretary of state~~ index a satisfaction of the ~~tax,~~  
15 ~~and the secretary of state shall enter the satisfaction on the notice on file and~~  
16 ~~indicate that fact~~ lien in the central indexing notice system.

17 **SECTION 7. AMENDMENT.** Subsections 3, 4, and 6 of section 57-43.1-17.4 of the  
18 1995 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- 19 3. ~~To preserve the lien against subsequent mortgagees, purchasers, or~~ Any  
20 mortgagee, purchaser, judgment creditors, for value and without notice of the lien,  
21 creditor, or lien claimant acquiring any interest in, or lien on, any property situated  
22 in a county the state, prior to the commissioner shall file a notice of the lien with  
23 filing in the central notice system maintained by the secretary of state, a notice of  
24 the lien provided for in this section, takes free of, or has priority over, the lien.
- 25 4. The ~~secretary of state~~ commissioner shall ~~enter~~ index in the central indexing  
26 notice system the following data, ~~under the names of taxpayers, arranged~~  
27 alphabetically:
- 28 a. The name of the taxpayer.
- 29 b. The tax identification number or social security number of the taxpayer.
- 30 c. The name "State of North Dakota" as claimant.
- 31 e. d. The date and time the notice of lien was ~~received~~ indexed.

- 1           ~~d. The date of notice.~~  
2           e. The amount of the lien ~~then due~~.  
3           ~~f. The date of satisfaction.~~  
4           ~~The secretary of state shall endorse on each notice of lien the day, hour, and~~  
5           ~~minute when received and preserve the same, and shall index the notice in the~~  
6           ~~central indexing system and the~~ The notice of lien is effective from the time of  
7           ~~indexing~~ as of eight a.m. next following the indexing of the notice. Any notice of  
8           lien filed by the commissioner with a register of deeds ~~before July 1, 1996,~~ may be  
9           ~~refiled with the secretary of state~~ indexed in the central notice system without  
10          changing its original priority as to property in the county where the lien was filed.  
11          6. Upon payment of a the tax as to which the commissioner has ~~filed~~ indexed notice  
12          ~~with the secretary of state in the central notice system,~~ the commissioner shall file  
13          ~~with the secretary of state~~ index a satisfaction of ~~tax and the secretary of state~~  
14          ~~shall enter the satisfaction on the notice on file and indicate the fact on~~ the lien in  
15          the central ~~indexing~~ notice system.

16           **SECTION 8. AMENDMENT.** Subsections 3, 4, and 6 of section 57-43.2-16.3 of the  
17   1995 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- 18          3. ~~To preserve the lien against subsequent mortgagees, purchasers, or~~ Any  
19          ~~mortgagee, purchaser, judgment creditors, for value and without notice of the lien,~~  
20          ~~creditor, or lien claimant acquiring any interest in, or lien on,~~ any property situated  
21          in ~~a county~~ the state, prior to the commissioner ~~shall file a notice of the lien with~~  
22          filing in the central notice system maintained by the secretary of state a notice of  
23          the lien provided for in this section, takes free of, or has priority over, the lien.  
24          4. The ~~secretary of state~~ commissioner shall enter index in the central ~~indexing~~  
25          notice system the following data, ~~under the names of taxpayers, arranged~~  
26          alphabetically:  
27               a. The name of the taxpayer.  
28               b. The tax identification number or social security number of the taxpayer.  
29               c. The name "State of North Dakota" as claimant.  
30          ~~e.~~ d. The date and time ~~the~~ notice of lien was ~~received~~ indexed.  
31          ~~e.~~ d. ~~The date of notice.~~

- 1 e. The amount of the lien ~~then due~~.
- 2 f. ~~The date of satisfaction.~~
- 3 ~~The secretary of state shall endorse on each notice of lien the day, hour, and~~  
4 ~~minute when received and preserve the same, and shall index the notice in the~~  
5 ~~central indexing system and the~~ The notice of lien is effective from the time of  
6 indexing as of eight a.m. next following the indexing of the notice. Any notice of  
7 lien filed by the commissioner with a register of deeds ~~before July 1, 1996,~~ may be  
8 ~~refiled with the secretary of state~~ indexed in the central notice system without  
9 changing its original priority as to property in the county where the lien was filed.
- 10 6. Upon payment of a the tax as to which the commissioner has ~~filed~~ indexed notice  
11 ~~with the secretary of state in the central notice system,~~ the commissioner shall file  
12 ~~with the secretary of state~~ index a satisfaction of ~~tax and the secretary of state~~  
13 ~~shall enter the satisfaction on the notice on file and indicate the fact~~ the lien in the  
14 central ~~indexing~~ notice system.

15 **SECTION 9. EFFECTIVE DATE.** This Act is effective for tax liens filed after July 31,  
16 1997.