

Sixty-third  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2128

Introduced by

Senators Klein, Wanzek

Representatives Dockter, Pollert, Oversen

1 A BILL for an Act to amend and reenact subdivision c of subsection 1 of section 11-18-05,  
2 ~~section~~sections 24-01-25, 35-22-16, 35-22-17, 35-22-18, and 35-22-19, and subsection 2 of  
3 section 35-24-13 of the North Dakota Century Code, relating to fees and notice requirements of  
4 the county recorder; ~~to repeal section 35-22-19 of the North Dakota Century Code, relating to a~~  
5 ~~failure to record in a foreclosure~~; and to provide for a legislative management study.

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

7 **SECTION 1. AMENDMENT.** Subdivision c of subsection 1 of section 11-18-05 of the North  
8 Dakota Century Code is amended and reenacted as follows:

9 c. Plats, irregular tracts, or annexations, ~~ten dollars for one lot plus ten cents for~~  
10 ~~each additional lot, with the exception of auditor's lots which must be a single~~  
11 ~~charge of seven~~twenty dollars for twenty lots or fewer and fifty dollars for more  
12 than twenty lots.

13 **SECTION 2. AMENDMENT.** Section 24-01-25 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **24-01-25. Fees not charged for recording instruments.**

16 ~~No fees~~The county auditor may be charged or collected by the county auditor~~not charge or~~  
17 ~~collect from the state of North Dakota~~, the recorder, or the clerk of court for any services  
18 rendered for the recording or filing of any document required under the provisions of this  
19 chapter 177 of the 1953 Session Laws.

20 **SECTION 3. AMENDMENT.** Section 35-22-16 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **35-22-16. Affidavit of publication recorded - Effect of in evidence.**

23 The affidavit of publication must be recorded ~~at length by~~in the office of the recorder of the  
24 county in which the real property is situated in a record kept for mortgages. The original

1 affidavit, the record thereof, and certified copies of the record are prima facie evidence of the  
2 facts contained in the record.

3 **SECTION 4. AMENDMENT.** Section 35-22-17 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **35-22-17. Recorder to mail copy Copy of affidavit of publication to be mailed.**

6 ~~The recorder, within~~Within ten days after the filing of the affidavit of publication of the notice  
7 of mortgage foreclosure in any foreclosure of a real estate mortgage by advertisement, ~~shall~~  
8 ~~send, by registered or certified mail,~~ a copy of the affidavit of publication must be mailed by  
9 certified mail to the record title owner and to every subsequent mortgagee whose mortgage  
10 appears on record, addressed to the person at the post office shown of record in the recorder's  
11 office. If no post-office address appears of record ~~and it is unknown to the recorder,~~ the copy  
12 must be addressed to the post office located nearest to the land described in the certificate of  
13 sale.

14 **SECTION 5. AMENDMENT.** Section 35-22-18 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **35-22-18. Recorder to make affidavit Affidavit of mailing - Recordation.**

17 ~~The recorder shall make an~~An affidavit setting forth the time and manner of the mailing of  
18 the copy of the affidavit of publication, the description of the land, and the name and post-office  
19 address of the person or persons to whom the affidavit of publication was mailed, ~~and shall~~  
20 ~~attach thereto the registry receipt or receipts, and the affidavit and registry receipt or receipts~~  
21 must be filed and recorded in the recorder's office.

22 **SECTION 6. AMENDMENT.** Section 35-22-19 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24 **35-22-19. Failure ~~of recorder~~ to mail notices - Liability.**

25 The failure ~~of the recorder~~ to comply with ~~the provisions of~~ sections 35-22-17 and 35-22-18  
26 in no way invalidates the foreclosure proceedings nor affects the title to the property involved,  
27 but such failure renders the ~~recorder~~state liable in a civil action to the person entitled to a copy  
28 of the affidavit of publication herein described for any damage sustained by the person by  
29 reason of such failure.

30 **SECTION 7. AMENDMENT.** Subsection 2 of section 35-24-13 of the North Dakota Century  
31 Code is amended and reenacted as follows:

1        2.    Upon the filing of such bond, the recorder ~~individual or entity~~ person that posted the  
2        bond shall send a notice thereof, together with a copy of the bond, to all obligees  
3        named therein, by registered or certified mail addressed to such obligees at the  
4        address set forth in their respective claims for lien.

5        ~~SECTION 4. REPEAL. Section 35-22-19 of the North Dakota Century Code is repealed.~~

6        **SECTION 8. LEGISLATIVE MANAGEMENT STUDY - BANK OF NORTH DAKOTA'S**  
7        **FORECLOSURE PROCEDURES.** During the 2013-14 interim, the legislative management may  
8        study the Bank of North Dakota's foreclosure procedures, specifically foreclosure by  
9        advertisement. The legislative management shall report its findings and recommendations,  
10       together with any legislation required to implement the recommendations, to the sixty-fourth  
11       legislative assembly.