

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2160

Introduced by

Senators Bekkedahl, Armstrong, Kannianen, G. Lee

Representatives Hatlestad, Longmuir

1 A BILL for an Act to amend and reenact sections 11-18-01 and 57-28-04 of the North Dakota
2 Century Code, relating to the duties of a recorder and providing notice of foreclosure of tax
3 liens; and to provide an effective date.

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

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

7 **11-18-01. Recorder's duties - Recording and filing instruments - Abstracts**

8 The recorder shall:

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

21 **SECTION 2. AMENDMENT.** Section 57-28-04 of the North Dakota Century Code is
22 amended and reenacted as follows:

1 **57-28-04. Service of notice of foreclosure of lien.**

- 2 1. If the current assessment records show that a residential building is located on the
3 property, the county auditor shall deliver the notice of foreclosure of tax lien to the
4 sheriff who shall serve it or cause it to be served personally upon the owner, if known
5 to be a resident of this state. If the owner is a nonresident of this state, the county
6 auditor shall serve the notice by certified mail addressed to the owner at the owner's
7 last-known post-office address and determine whether personal service upon any
8 person is required under subsection 3. If the current assessment records show that no
9 residential building is located on the property, the auditor shall serve the notice by
10 certified mail addressed to the owner at the owner's last-known post-office address.
- 11 2. By March first, the county auditor shall request from the recorder and the clerk of the
12 district court a certified list giving the names and addresses of all persons who appear
13 to be interested as owners, mortgagees, lienholders, or ~~otherwise in the property~~
14 ~~except a person whose only interest is in judgment creditors. Ownership does not~~
15 include an easement or right of way recorded, or a mineral interest that was severed
16 from the surface estate, ~~before filing of any unsatisfied lien or mortgage or before~~
17 ~~January first of the year following the year for which the taxes were levied and to~~
18 ~~which the tax lien relates, upon whom the notice of foreclosures must be served.~~ The
19 recorder and the clerk of the district court shall provide the county auditor with the
20 requested lists by April fifteenth following the request.
- 21 3. ~~The notice must be served~~On or before June first, the county auditor shall serve the
22 notice of tax lien foreclosure personally upon any person actually residing upon the
23 property subject to tax lien and by certified mail upon any tenant or other person
24 entitled to the possession of the property as may appear from the records of the
25 recorder or clerk of the district court.
- 26 4. The county auditor shall serve the notice of foreclosure of tax lien upon each
27 mortgagee, lienholder, and other person with an interest in the property except a
28 person whose only interest is in a mineral interest that was severed from the surface
29 estate before the filing of any unsatisfied lien or mortgage or before January first of the
30 year following the year for which the taxes were levied and to which the notice of
31 foreclosure of tax lien relates, and upon whom personal service is not required by this

1 section, as shown by the records of the recorder or the clerk of the district court of the
2 county. The notice must be served by certified mail. If a mortgagee, lienholder, or other
3 person entitled to notice under this subsection has an agent registered with the
4 secretary of state for the purpose of accepting service, the notice required under this
5 subsection must be served on that registered agent.

- 6 5. The expense of service of the notice, publication, and other foreclosure costs under
7 this chapter in the amount of fifty dollars or actual costs whichever is higher must be
8 added to the amount required to satisfy the tax lien. The auditor or sheriff shall make
9 proof of service by mail by affidavit showing the names and addresses of all parties
10 upon whom the notice was served with the date of mailing in each case and shall
11 attach the registry, certification, and return receipts and file the affidavit and receipts
12 with the original notice of foreclosure of tax lien. Service by publication under this
13 chapter must be shown of record by filing of an affidavit of publication.

14 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
15 December 31, 2016.