

**Sixty-fifth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2017**

SENATE BILL NO. 2160
(Senators Bekkedahl, Armstrong, Kannianen, G. Lee)
(Representatives Hatlestad, Longmuir)

AN ACT to amend and reenact sections 11-18-01 and 57-28-04 of the North Dakota Century Code, relating to the duties of a recorder and providing notice of foreclosure of tax liens; 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.~~

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

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

1. If the current assessment records show that a residential building is located on the property, the county auditor shall deliver the notice of foreclosure of tax lien to the sheriff who shall serve it or cause it to be served personally upon the owner, if known to be a resident of this state. If the owner is a nonresident of this state, the county auditor shall serve the notice by certified mail addressed to the owner at the owner's last-known post-office address and determine whether personal service upon any person is required under subsection 3. If the current assessment records show that no residential building is located on the property, the auditor shall serve the notice by certified mail addressed to the owner at the owner's last-known post-office address.
2. By March first, the county auditor shall request from the recorder and the clerk of the district court a certified list giving the names and addresses of all persons who appear to be interested as owners, mortgagees, lienholders, or otherwise in the property ~~except a person whose only interest is in judgment creditors. Ownership does not include an easement or right of way recorded; or a mineral interest that was severed from the surface estate, before filing of any unsatisfied lien or mortgage or before January first of the year following the year for which~~

~~the taxes were levied and to which the tax lien relates, upon whom the notice of foreclosures must be served.~~ The recorder and the clerk of the district court shall provide the county auditor with the requested lists by April fifteenth following the request.

3. ~~The notice must be served~~On or before June first, the county auditor shall serve the notice of tax lien foreclosure personally upon any person actually residing upon the property subject to tax lien and by certified mail upon any ~~tenant or~~ other person entitled to the possession of the property as may appear from the records of the recorder or clerk of the district court.
4. The county auditor shall serve the notice of foreclosure of tax lien upon each mortgagee, lienholder, and other person with an interest in the property except a person whose only interest is in a mineral interest that was severed from the surface estate before the filing of any unsatisfied lien or mortgage or before January first of the year following the year for which the taxes were levied and to which the notice of foreclosure of tax lien relates, and upon whom personal service is not required by this section, as shown by the records of the recorder or the clerk of the district court of the county. The notice must be served by certified mail. If a mortgagee, lienholder, or other person entitled to notice under this subsection has an agent registered with the secretary of state for the purpose of accepting service, the notice required under this subsection must be served on that registered agent.
5. The expense of service of the notice, publication, and other foreclosure costs under this chapter in the amount of fifty dollars or actual costs whichever is higher must be added to the amount required to satisfy the tax lien. The auditor or sheriff shall make proof of service by mail by affidavit showing the names and addresses of all parties upon whom the notice was served with the date of mailing in each case and shall attach the registry, certification, and return receipts and file the affidavit and receipts with the original notice of foreclosure of tax lien. Service by publication under this chapter must be shown of record by filing of an affidavit of publication.

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

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2160.

Senate Vote: Yeas 45 Nays 0 Absent 2

House Vote: Yeas 89 Nays 0 Absent 5

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2017.

Approved at _____ M. on _____, 2017.

Governor

Filed in this office this _____ day of _____, 2017,

at _____ o'clock _____ M.

Secretary of State