

HOUSE BILL NO. 1366

Introduced by

Representatives Vigesaa, D. Ruby, Weisz, Westlind

Senators Bakke, Clemens, Dwyer

1 A BILL for an Act to create and enact two new sections to chapter 35-13 of the North Dakota
2 Century Code, relating to the sale of property subject to a repairman's lien and sale proceeds;
3 and to amend and reenact sections 35-13-01, 35-13-05, and 35-13-06 of the North Dakota
4 Century Code, relating to repairman's liens, notice requirements, and assignments.

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

6 **SECTION 1. AMENDMENT.** Section 35-13-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **35-13-01. Repairman's lien authorized.**

9 Any blacksmith, machinist, farm equipment dealer, construction equipment dealer, welder,
10 garage keeper, mechanic, or aviation operator, having an established place of business in this
11 state who makes, alters, or repairs any automobile, truck, engine, combine, tractor, farm
12 equipment, construction equipment, well machine, aircraft, or watercraft at the request of the
13 owner or legal possessor of the property has a lien on that property, and on any accessories
14 and parts placed upon the property, for reasonable charges for work done ~~and~~ materials
15 furnished, ~~storage fees, and transportation costs,~~ until the charges are paid. If the cost of repair
16 ~~would exceed~~exceeds four thousand dollars or thirty percent or, nine thousand dollars or thirty
17 percent for property used for agricultural or construction purposes, of the value of the property,
18 in the property's repaired condition, whichever is greater, and the repairman intends to have the
19 entire repair bill constitute a lien with priority over the mortgage or financing statement of record,
20 the repairman shall give notice by registered or certified mail to the recordholder of the
21 mortgage or financing statement of the proposed repair, the estimated cost of repair, and the
22 estimated value of the property in its repaired condition.

23 **SECTION 2. AMENDMENT.** Section 35-13-05 of the North Dakota Century Code is
24 amended and reenacted as follows:

1 **35-13-05. Notice before foreclosure to prior mortgagee.**

2 1. A person holding a lien under this chapter on property ~~which has been~~ encumbered
3 previously by mortgage, before beginning any action or proceeding for the foreclosure
4 of the lien, or for sale of the property under sections 3 and 4 of this Act, shall give
5 twenty days' notice in writing of the lienholder's intention to foreclose the lien, or
6 intention to initiate a sale of the property under sections 3 and 4 of this Act, to the
7 recordholder of the mortgage and the owner of the property. The notice may be served
8 by registered or certified mail addressed to the recordholder and property owner at the
9 recordholder's and property owner's last-known post-office address.

10 2. The notice must include:

11 a. A description of the property subject to the lien;

12 b. The grounds for the lien;

13 c. The name, address, and telephone number of the lienholder;

14 d. The amount owed;

15 e. The date after which the property subject to the lien will be offered for sale; and

16 f. A statement that the recordholder or property owner may reclaim the property
17 subject to the lien before the property is offered for sale by paying the amount
18 owed.

19 **SECTION 3. AMENDMENT.** Section 35-13-06 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **35-13-06. Mortgagee may pay amount of lien - Assignment of lien.**

22 The ~~holder~~recordholder of any mortgage against property on which a lien has been filed
23 under the ~~provisions of~~ this chapter may pay the amount due on the lien at any time ~~previous-~~
24 ~~to~~before a sale upon the foreclosure ~~thereof~~ of the property. Upon payment of the lien by a
25 ~~mortgageholder~~recordholder, the holder of the lien shall assign it to such ~~mortgageholder~~the
26 recordholder, and thereafter the ~~mortgageholder~~recordholder then is entitled to all the rights
27 which the person filing the lien had before the lien was paid.

28 **SECTION 4.** A new section to chapter 35-13 of the North Dakota Century Code is created
29 and enacted as follows:

1 **Sale of property.**

- 2 1. A lienholder in possession of property may sell the property as provided under this
3 chapter if:
- 4 a. The recordholder of the property subject to the lien does not pay the amount due
5 pursuant to section 35-13-06 within the time specified under section 35-13-05; or
6 b. The property owner does not reclaim the property before the date the property is
7 offered for sale under section 35-13-05.
- 8 2. A lienholder that sells property under this chapter may retain from the sale proceeds:
- 9 a. The amount owed on the lien;
10 b. The reasonable costs of transporting, storing, and maintaining the property;
11 c. The notice and publication costs incurred by the lienholder under this chapter;
12 and
13 d. The costs associated with the sale of the property.
- 14 3. After a lienholder has been compensated as authorized under subsection 2, the
15 lienholder shall remit any remaining proceeds to entitled lienholders and secured
16 parties.
- 17 4. If sale proceeds remain after satisfying entitled lienholders and secured parties under
18 subsection 3, the lienholder shall hold the remaining sale proceeds for the benefit of
19 the property owner for ninety days after the date of the sale. If the property owner fails
20 to claim the remaining sale proceeds within the ninety-day period, the lienholder shall
21 deliver the proceeds to the administrator of the state abandoned property office in
22 accordance with chapter 47-30.1.

23 **SECTION 5.** A new section to chapter 35-13 of the North Dakota Century Code is created
24 and enacted as follows:

25 **Sale proceeds - Vehicle title.**

26 If a lien is not satisfied under subsection 1 of section 4 of this Act, a lienholder in possession
27 of a motor vehicle that is subject to chapter 39-05 may obtain from the department of
28 transportation a certificate of title for the motor vehicle, free and clear of all liens,
29 encumbrances, and other claims of ownership. Upon receipt of the title to the motor vehicle, the
30 lienholder shall remove and destroy the original number plates displayed on the motor vehicle.