

HOUSE BILL NO. 1251

Introduced by

Representatives Dockter, Lefor

Senator Dwyer

1 A BILL for an Act to amend and reenact sections 28-01-15, 28-20-13, 28-20-21, 28-20-22,
2 28-20-23, and 28-20-35 of the North Dakota Century Code, relating to actions having
3 twenty-year limitations, docketing judgments, renewal of judgments by affidavit, and
4 cancellation of judgment of record; to repeal sections 28-20-21, 28-20-22, and 28-20-23 of the
5 North Dakota Century Code, relating to renewal of judgments by affidavit; and to provide an
6 effective date.

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

8 **SECTION 1. AMENDMENT.** Section 28-01-15 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **28-01-15. Actions having ~~ten-year~~twenty-year limitations.**

11 The following actions must be commenced within ~~ten~~twenty years after the claim for relief
12 has accrued:

- 13 1. An action upon a judgment or decree of any court of the United States or of any state
14 or territory within the United States;
- 15 2. An action upon a contract contained in any conveyance or mortgage of or instrument
16 affecting the title to real property except a covenant of warranty, an action upon which
17 must be commenced within ~~ten~~twenty years after the final decision against the title of
18 the covenantor; and
- 19 3. Any action or proceeding for the foreclosure of a mortgage upon real estate.

20 **SECTION 2. AMENDMENT.** Section 28-20-13 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **28-20-13. Docketing judgment - Transcript to other counties - Lien on real property.**

- 23 1. On filing a judgment roll upon a judgment that directs the payment of money, the clerk
24 of the district court in which the judgment was rendered shall docket the judgment in a

1 separate record to be known as the "judgment docket". The judgment may be
2 docketed in any other county upon filing with the clerk of the district court of that
3 county a transcript of the original judgment docket. The

4 2. For a judgment docketed before the effective date of this Act, the judgment is a lien on
5 all the real property, except the homestead, of every person against whom the
6 judgment is rendered, which the person may have in any county in which the judgment
7 is docketed at the time of docketing or which the person thereafter acquires in the
8 county, for ten years from the time of docketing the judgment in the county in which it
9 was rendered.

10 3. For a judgment docketed after the effective date of this Act, the judgment is a lien on
11 all the real property, except the homestead, of every person against whom the
12 judgment is rendered, which the person may have in any county in which the judgment
13 is docketed at the time of docketing or which the person thereafter acquires in the
14 county, for ~~ten~~twenty years from the time of docketing the judgment in the county in
15 which it was rendered.

16 4. When a judgment is docketed in a county to which unorganized territory is attached for
17 judicial purposes, the judgment is a lien upon any real property of the judgment debtor
18 situated in the unorganized territory to the same extent as though the real property
19 were situated in the organized county. If the unorganized territory thereafter is
20 organized as a county, a transcript of the judgment docket must be filed in the office of
21 the clerk of the district court of the county within ninety days after the organization of
22 the county, or it ceases to be a lien upon any real property in the county.

23 **SECTION 3. AMENDMENT.** Section 28-20-21 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **28-20-21. Renewal of judgments by affidavit.**

26 Any

27 1. For judgments initially docketed before the effective date of this Act, any judgment
28 which~~that~~ in whole or in part directs the payment of money and which may be
29 docketed in the office of the clerk of any district court in this state may be renewed by
30 the affidavit of the judgment creditor or of the judgment creditor's personal

1 representative, agent, attorney, or assignee at any time within ninety days preceding
2 the expiration of ten years from the first docketing of such judgment.

3 2. The affidavit must be verified positively by the person making it and not on information
4 and belief. The affidavit must be entitled as in the original judgment and must set forth:

5 1. a. The names of the parties plaintiff and defendant;

6 2. b. The name of the court in which docketed;

7 3. c. The date and amount of the original judgment;

8 4. d. The file number of the case in the county in which the judgment was originally
9 entered;

10 5. e. The name of the owner of said judgment, and, if not the party in whose name the
11 judgment was entered, the source of that person's title thereto and a statement of
12 each assignment of said judgment necessary to trace the title thereof from the
13 original judgment creditor;

14 6. f. If the judgment was entered upon a certified transcript from any other court, a
15 statement of this fact;

16 7. g. A statement of each county in which a transcript of said judgment has been filed;

17 8. h. A statement that no execution is outstanding and unreturned upon said judgment,
18 or, if any execution is outstanding, that fact must be stated;

19 9. i. The date and amount of each payment upon said judgment, whether collected
20 under execution or otherwise, and that all payments have been duly credited
21 upon said judgment, and whether any amount has been realized that has not
22 been credited upon the judgment and upon the records in the court in which the
23 judgment was originally rendered, or in any other court to which it has been
24 transcribed;

25 10. j. That there are no offsets or counterclaims against the person for whose benefit
26 the renewal is sought and in favor of the judgment debtor or debtors, or, if a
27 counterclaim or offset does exist in favor of the judgment debtor, a statement of
28 the amount, if ascertained or certain, and an offer to allow the same as a credit
29 pro tanto upon the amount due from the judgment debtor, or, if the counterclaim
30 or offset is unsettled or undetermined, an offer that when the same is settled or
31 determined, by suit or otherwise, the same may be allowed as a payment or

1 credit upon said judgment to the full amount which subsequently may be
2 adjudged due the judgment debtor thereon;

3 41. k. The exact amount due upon said judgment, after allowing all offsets and
4 counterclaims known to the affiant; and

5 42. l. Any other facts or circumstances necessary to a complete disclosure as to the
6 exact condition of said judgment.

7 ~~The affidavit must be verified positively by the person making it and not on information and~~
8 ~~belief.~~

9 **SECTION 4. AMENDMENT.** Section 28-20-22 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **28-20-22. Affidavit of renewal - Where filed - Entry.**

12 ~~For judgments initially docketed before the effective date of this Act,~~ if the judgment was
13 rendered in a court of this state, the affidavit for renewal must be filed with the clerk of court
14 where the judgment was first docketed and the clerk of court shall file a copy of the affidavit for
15 renewal in each county where the judgment was transcribed as requested by the judgment
16 creditor. If the judgment filed and docketed was a foreign judgment, the affidavit for renewal
17 may be filed with the clerk of any court where the same has been docketed and the clerk of
18 court shall file a copy of the affidavit for renewal in each county where the judgment was
19 transcribed as requested by the judgment creditor. The clerk of court shall immediately enter in
20 the judgment docket the fact of renewal, the date of renewal, and the amount for which the
21 judgment is renewed.

22 **SECTION 5. AMENDMENT.** Section 28-20-23 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **28-20-23. Lien extended for ten years by renewal.**

25 ~~The~~For judgments initially docketed before the effective date of this Act, the entry and
26 docketing of an affidavit of renewal of a judgment operates to continue the lien of the judgment
27 to the extent of the balance due on said judgment as shown by the affidavit on all real property,
28 except the homestead, of the judgment debtor or debtors in the county where the same is
29 docketed which the judgment debtor or debtors may have at the time of such docketing or may
30 acquire subsequently in such county, for a period of ten years from the time of the docketing of
31 such affidavit. The filing of a certified copy of such affidavit of renewal and the docket entries

1 thereon in a county wherein a transcript of the original judgment was docketed likewise
2 continues and extends the lien of said judgment in such county. An execution may issue upon
3 said judgment as renewed under the same conditions and with the same force and effect within
4 such renewal period as upon a judgment originally rendered and entered at the date of such
5 renewal, and all other remedies for the enforcement of judgments apply to the enforcement of
6 such renewed judgment.

7 **SECTION 6. AMENDMENT.** Section 28-20-35 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **28-20-35. Cancellation of judgment of record.**

10 After ten

- 11 1. For judgments initially docketed before the effective date of this Act, after ten years
12 after the entry of a judgment that has not been renewed, or after twenty years after the
13 entry of a judgment that has been renewed, the judgment must be canceled of record.
14 2. For judgments initially docketed on or after the effective date of this Act, after twenty
15 years after the entry of a judgment that has not been renewed, or after twenty years
16 after the entry of a judgment that has been renewed is docketed, the judgment must be
17 canceled of record.

18 **SECTION 7. REPEAL.** Sections 28-20-21, 28-20-22, and 28-20-23 of the North Dakota
19 Century Code are repealed.

20 **SECTION 8. EFFECTIVE DATE.** Section 7 of this Act becomes effective ten years from the
21 effective date of this Act.