

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1251

Introduced by

Representatives Dockter, Lefor

Senator Dwyer

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

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

7 **SECTION 1. AMENDMENT.** Section 28-20-13 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **28-20-13. Docketing judgment - Transcript to other counties - Lien on real property.**

- 10 1. On filing a judgment roll upon a judgment that directs the payment of money, the clerk
11 of the district court in which the judgment was rendered shall docket the judgment in a
12 separate record to be known as the "judgment docket". The judgment may be
13 docketed in any other county upon filing with the clerk of the district court of that
14 county a transcript of the original judgment docket. The
- 15 2. For a judgment docketed before the effective date of this Act, the judgment is a lien on
16 all the real property, except the homestead, of every person against whom the
17 judgment is rendered, which the person may have in any county in which the judgment
18 is docketed at the time of docketing or which the person thereafter acquires in the
19 county, for ten years from the time of docketing the judgment in the county in which it
20 was rendered.
- 21 3. For a judgment docketed after the effective date of this Act, the judgment is a lien on
22 all the real property, except the homestead, of every person against whom the
23 judgment is rendered, which the person may have in any county in which the judgment
24 is docketed at the time of docketing or which the person thereafter acquires in the

1 county, for ~~ten~~twenty years from the time of docketing the judgment in the county in
2 which it was rendered.

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

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

12 **28-20-21. Renewal of judgments by affidavit.**

13 Any

14 1. For judgments initially docketed before the effective date of this Act, any judgment
15 which~~that~~ in whole or in part directs the payment of money and which may be
16 docketed in the office of the clerk of any district court in this state may be renewed by
17 the affidavit of the judgment creditor or of the judgment creditor's personal
18 representative, agent, attorney, or assignee at any time within ninety days preceding
19 the expiration of ten years from the first docketing of such judgment.

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

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

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

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

25 ~~4.~~ d. The file number of the case in the county in which the judgment was originally
26 entered;

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

- 1 6. f. If the judgment was entered upon a certified transcript from any other court, a
2 statement of this fact;
- 3 7. g. A statement of each county in which a transcript of said judgment has been filed;
- 4 8. h. A statement that no execution is outstanding and unreturned upon said judgment,
5 or, if any execution is outstanding, that fact must be stated;
- 6 9. i. The date and amount of each payment upon said judgment, whether collected
7 under execution or otherwise, and that all payments have been duly credited
8 upon said judgment, and whether any amount has been realized that has not
9 been credited upon the judgment and upon the records in the court in which the
10 judgment was originally rendered, or in any other court to which it has been
11 transcribed;
- 12 10. j. That there are no offsets or counterclaims against the person for whose benefit
13 the renewal is sought and in favor of the judgment debtor or debtors, or, if a
14 counterclaim or offset does exist in favor of the judgment debtor, a statement of
15 the amount, if ascertained or certain, and an offer to allow the same as a credit
16 pro tanto upon the amount due from the judgment debtor, or, if the counterclaim
17 or offset is unsettled or undetermined, an offer that when the same is settled or
18 determined, by suit or otherwise, the same may be allowed as a payment or
19 credit upon said judgment to the full amount which subsequently may be
20 adjudged due the judgment debtor thereon;
- 21 11. k. The exact amount due upon said judgment, after allowing all offsets and
22 counterclaims known to the affiant; and
- 23 12. l. Any other facts or circumstances necessary to a complete disclosure as to the
24 exact condition of said judgment.

25 ~~The affidavit must be verified positively by the person making it and not on information and-~~
26 ~~belief.~~

27 **SECTION 3. AMENDMENT.** Section 28-20-22 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **28-20-22. Affidavit of renewal - Where filed - Entry.**

30 ~~For judgments initially docketed before the effective date of this Act, if the judgment was~~
31 rendered in a court of this state, the affidavit for renewal must be filed with the clerk of court

1 where the judgment was first docketed and the clerk of court shall file a copy of the affidavit for
2 renewal in each county where the judgment was transcribed as requested by the judgment
3 creditor. If the judgment filed and docketed was a foreign judgment, the affidavit for renewal
4 may be filed with the clerk of any court where the same has been docketed and the clerk of
5 court shall file a copy of the affidavit for renewal in each county where the judgment was
6 transcribed as requested by the judgment creditor. The clerk of court shall immediately enter in
7 the judgment docket the fact of renewal, the date of renewal, and the amount for which the
8 judgment is renewed.

9 **SECTION 4. AMENDMENT.** Section 28-20-23 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **28-20-23. Lien extended for ten years by renewal.**

12 ~~The~~For judgments initially docketed before the effective date of this Act, the entry and
13 docketing of an affidavit of renewal of a judgment operates to continue the lien of the judgment
14 to the extent of the balance due on said judgment as shown by the affidavit on all real property,
15 except the homestead, of the judgment debtor or debtors in the county where the same is
16 docketed which the judgment debtor or debtors may have at the time of such docketing or may
17 acquire subsequently in such county, for a period of ten years from the time of the docketing of
18 such affidavit. The filing of a certified copy of such affidavit of renewal and the docket entries
19 thereon in a county wherein a transcript of the original judgment was docketed likewise
20 continues and extends the lien of said judgment in such county. An execution may issue upon
21 said judgment as renewed under the same conditions and with the same force and effect within
22 such renewal period as upon a judgment originally rendered and entered at the date of such
23 renewal, and all other remedies for the enforcement of judgments apply to the enforcement of
24 such renewed judgment.

25 **SECTION 5. AMENDMENT.** Section 28-20-35 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **28-20-35. Cancellation of judgment of record.**

28 ~~After ten~~

29 1. For judgments initially docketed before the effective date of this Act, after ten years
30 after the entry of a judgment that has not been renewed, or after twenty years after the
31 entry of a judgment that has been renewed, the judgment must be canceled of record.

1 2. For judgments initially docketed on or after the effective date of this Act, after twenty
2 years after the entry of a judgment that has not been renewed, or after twenty years
3 after the entry of a judgment that has been renewed is docketed, the judgment must be
4 canceled of record.

5 **SECTION 6. REPEAL.** Sections 28-20-21, 28-20-22, and 28-20-23 of the North Dakota
6 Century Code are repealed.

7 **SECTION 7. EFFECTIVE DATE.** Section 6 of this Act becomes effective ten years from the
8 effective date of this Act.