

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1251
(Representatives Dockter, Lefor)
(Senator Dwyer)

AN ACT to amend and reenact sections 28-20-13, 28-20-21, 28-20-22, 28-20-23, and 28-20-35 of the North Dakota Century Code, relating to actions having twenty-year limitations, docketing judgments, renewal of judgments by affidavit, and cancellation of judgment of record; to repeal sections 28-20-21, 28-20-22, and 28-20-23 of the North Dakota Century Code, relating to renewal of judgments by affidavit; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. On filing a judgment roll upon a judgment that directs the payment of money, the clerk of the district court in which the judgment was rendered shall docket the judgment in a separate record to be known as the "judgment docket". The judgment may be docketed in any other county upon filing with the clerk of the district court of that county a transcript of the original judgment docket. ~~The~~
2. For a judgment docketed before the effective date of this Act, the judgment is a lien on all the real property, except the homestead, of every person against whom the judgment is rendered, which the person may have in any county in which the judgment is docketed at the time of docketing or which the person thereafter acquires in the county, for ten years from the time of docketing the judgment in the county in which it was rendered.
3. For a judgment docketed after the effective date of this Act, the judgment is a lien on all the real property, except the homestead, of every person against whom the judgment is rendered, which the person may have in any county in which the judgment is docketed at the time of docketing or which the person thereafter acquires in the county, for ~~ten~~twenty years from the time of docketing the judgment in the county in which it was rendered.
4. When a judgment is docketed in a county to which unorganized territory is attached for judicial purposes, the judgment is a lien upon any real property of the judgment debtor situated in the unorganized territory to the same extent as though the real property were situated in the organized county. If the unorganized territory thereafter is organized as a county, a transcript of the judgment docket must be filed in the office of the clerk of the district court of the county within ninety days after the organization of the county, or it ceases to be a lien upon any real property in the county.

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

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

Any

1. For judgments initially docketed before the effective date of this Act, any judgment which that in whole or in part directs the payment of money and which may be docketed in the office of the clerk of any district court in this state may be renewed by the affidavit of the judgment creditor or of the judgment creditor's personal representative, agent, attorney, or assignee at any time

within ninety days preceding the expiration of ten years from the first docketing of such judgment.

2. The affidavit must be verified positively by the person making it and not on information and belief. The affidavit must be entitled as in the original judgment and must set forth:
1. a. The names of the parties plaintiff and defendant;
 2. b. The name of the court in which docketed;
 3. c. The date and amount of the original judgment;
 4. d. The file number of the case in the county in which the judgment was originally entered;
 5. e. The name of the owner of said judgment, and, if not the party in whose name the judgment was entered, the source of that person's title thereto and a statement of each assignment of said judgment necessary to trace the title thereof from the original judgment creditor;
 6. f. If the judgment was entered upon a certified transcript from any other court, a statement of this fact;
 7. g. A statement of each county in which a transcript of said judgment has been filed;
 8. h. A statement that no execution is outstanding and unreturned upon said judgment, or, if any execution is outstanding, that fact must be stated;
 9. i. The date and amount of each payment upon said judgment, whether collected under execution or otherwise, and that all payments have been duly credited upon said judgment, and whether any amount has been realized that has not been credited upon the judgment and upon the records in the court in which the judgment was originally rendered, or in any other court to which it has been transcribed;
 10. j. That there are no offsets or counterclaims against the person for whose benefit the renewal is sought and in favor of the judgment debtor or debtors, or, if a counterclaim or offset does exist in favor of the judgment debtor, a statement of the amount, if ascertained or certain, and an offer to allow the same as a credit pro tanto upon the amount due from the judgment debtor, or, if the counterclaim or offset is unsettled or undetermined, an offer that when the same is settled or determined, by suit or otherwise, the same may be allowed as a payment or credit upon said judgment to the full amount which subsequently may be adjudged due the judgment debtor thereon;
 11. k. The exact amount due upon said judgment, after allowing all offsets and counterclaims known to the affiant; and
 12. l. Any other facts or circumstances necessary to a complete disclosure as to the exact condition of said judgment.

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

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

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

~~For judgments initially docketed before the effective date of this Act,~~ if the judgment was rendered in a court of this state, the affidavit for renewal must be filed with the clerk of court where the judgment was first docketed and the clerk of court shall file a copy of the affidavit for renewal in each county where the judgment was transcribed as requested by the judgment creditor. If the judgment filed and

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

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

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

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

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

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

After ten

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

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

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1251.

House Vote: Yeas 92 Nays 2 Absent 0

Senate Vote: Yeas 46 Nays 1 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State