CHAPTER 1-04
VALIDATION OF INSTRUMENTS

1-04-01. Execution, acknowledgment, filing, and recording legalized.

The execution, acknowledgment, filing, and recording of all deeds, leases, mortgages, assignments, satisfactions, and other written instruments affecting the title to real property in this state, in good faith made, taken, or certified, and which have been filed or recorded in the proper counties of this state for a period of five years or more, are declared to be legal and valid for all purposes, anything in the laws of this state, or of any other state, territory, or country at the time of the execution, acknowledgment, filing, or recording to the contrary notwithstanding.

1-04-02. Acts of executors, administrators, deputies, officers, or attorneys in fact legalized.

The acts of each properly appointed and constituted executor, administrator, guardian, officer of a corporation, manager of a limited liability company, deputy public officer, and attorney in fact, done in good faith, in the execution and acknowledgment of any instrument mentioned in section 1-04-01, hereby are declared to be valid for all purposes, notwithstanding the fact that such executor, administrator, guardian, officer of a corporation, manager of a limited liability company, deputy public officer, or attorney in fact may not have signed the same in the form required by the law in force at the time of execution, or that the same was not sealed or stamped as required by laws in force at such time, or that the certificate of acknowledgment thereon may not be in the form required by law at the time of making the same.

1-04-03. Acts of notary public and other officers legalized.

The acts of every notary public, county justice, or other officer, done in good faith in taking or certifying to the acknowledgment of any instrument mentioned in section 1-04-01, whether within or without the state, and whether such officer was qualified by law at the time to do so or not, hereby are declared legal and valid for all purposes.

1-04-04. Good faith presumed.

Good faith is presumed on the part of each person and officer in the execution, acknowledgment, filing, and recording of such instruments as are mentioned in section 1-04-01, and it is presumed prima facie that each officer acted therein within the scope of that officer's authority.

1-04-05. Prior instruments legalized.

Any instrument affecting a lien upon, title to, or interest in, real estate executed and acknowledged in good faith by the treasurer or cashier in behalf of any loan, trust, or banking corporation, or by the regional treasurer of any United States corporation, prior to July 1, 1937, is declared valid and effectual to the same extent as it would have been had sections 6-08-21, 10-07-01, and 10-07-02 been in force at the time of its execution.

1-04-06. Instruments affecting real or personal property by representative legalized.

If any instrument affecting real or personal property in this state heretofore executed by or to any person purporting to act in a representative capacity fails clearly to identify the beneficiary and the nature of the trust, the person by or to whom such instrument was executed, within six months after the taking effect of this code, may file and have recorded in the office of the recorder of the county in which such instrument was recorded, a statement in writing, referring to any such instrument by date, name of the parties, when and where recorded, the nature of the instrument, a description of the property affected thereby, and fully and clearly by name identifying the beneficiary and the nature of the trust. Such statement must be acknowledged so as to entitle the same to record.

1-04-07. Assignment of mortgage by foreign executor, administrator, or guardian.

Any assignment of a mortgage upon property within this state heretofore made by any executor or administrator appointed in any other state or foreign country on the estate of any person where no executor or administrator had been appointed in this state, if such executor or administrator has filed in the office of the recorder of any county in which any such mortgage was filed or recorded an authenticated copy of the person's appointment, and any assignment of a mortgage upon property within this state heretofore made by any heir or legatee of such deceased person, if such heir or legatee has recorded in the office of the recorder an authenticated copy of the judgment or decree of the foreign court transferring to such heir or legatee the ownership of such mortgage, and any assignment of a mortgage upon property within this state heretofore made by any guardian appointed in any other state or foreign country, of a minor, spendthrift, or an individual who is incompetent, holding and owning a mortgage upon property in this state, if such guardian has filed in the office of the recorder of the county in which the property is situated an authenticated copy of the person's appointment as guardian, and an authenticated copy of the judgment or decree of the foreign court, if any, transferring to the guardian's ward the ownership of such mortgage, if such assignment was made prior to the date of the taking effect of this code, hereby is declared to be legal and valid for all purposes, and of the same force and effect as though such executor, administrator, guardian, heir, or legatee had been authorized specifically by law to make such assignment. The provisions of this section apply to all mortgages, judgments, or other liens upon real or personal property, and to the foreclosure of any such mortgage or lien on real or personal property.

1-04-08. Deed to real property by receiver of foreign corporation.

Any deed to real property in this state made by the duly appointed and qualified receiver of a foreign corporation prior to January 1, 1943, under order of a foreign court having jurisdiction of such corporation, hereby is declared valid and sufficient. In any such case there shall be recorded in the office of the recorder where such real property is situated a properly authenticated copy of the order of appointment of such receiver and the order of the foreign court having jurisdiction of such foreign corporation authorizing or approving the conveyance.

1-04-09. Curing defects in title to real property.

Any corporation organized otherwise than under the laws of this state, having acquired, or attempted to acquire, or to convey legal title by deed or lease to any real property in this state, before complying with the provisions of North Dakota law governing foreign corporations, which prior to July 1, 1959, has complied with those laws is relieved from any disability or prohibition relating to the acquisition and holding of the property so acquired, or attempted to be acquired, and the title so acquired, or attempted to be acquired, hereby is confirmed.

1-04-10. Deeds, judgments, decrees, mortgage foreclosures, and other transfers legalized.

Any deed, judgment, decree, mortgage foreclosure, or other transfer, including a sheriff's certificate of sale, affecting the title to real property in this state, in good faith taken, made, or rendered in favor or in the name of a deceased person, or in the name of the estate of a deceased person, or to the executor or administrator thereof, prior to January 1, 1943, must be construed and held to be made and to be in favor of the domestic or foreign executor or administrator, as the case may be, of the estate of such deceased person, and the same hereby is declared to be legal and valid for all purposes. Such executor or administrator hereby is authorized and empowered to assign, transfer, and set over any such property to the person entitled thereto. If a final decree of distribution has been issued by any domestic or foreign court relating to any property so acquired, assigning or transferring any such property to any person, such final decree of distribution shall vest in and transfer to such person so designated, fully and completely, all right, title, interest, claim, or demand thereto of the deceased and the estate of the deceased person.

1-04-11. Issuance of sheriff's deed pursuant to decree of court.

If a sheriff's certificate of sale of any real property in this state, made in favor or in the name of a deceased person, or of the estate of a deceased person, or the executor or administrator thereof, prior to January 1, 1943, on which a sheriff's deed has not been issued, it is lawful and proper in case of the issuance of a sheriff's deed upon such certificate, to issue the same to the domestic or foreign executor or administrator of said estate, as the case may be, or if a final decree of distribution has been issued by any domestic or foreign court having jurisdiction and control of a mortgage under and through which a sheriff's certificate was obtained assigning or transferring such sheriff's certificate to any person, it is lawful and proper to issue a sheriff's deed to the person to whom such certificate has been assigned or transferred, upon the recording of an authenticated copy of such decree in the office of the recorder of the county in which such property is located. The fact that any such deed, judgment, decree, or other transfer has been issued, is in itself presumptive evidence of good faith.

1-04-12. Separate deeds of husband and wife to same property legalized.

In any case where a married man or woman, prior to January 1, 1943, conveyed real property which may have been the homestead of the husband, or the wife, or the family, by a deed duly signed and acknowledged by the husband or wife only, but not signed by the other, and the husband or wife who did not join the other in executing a deed, either before or after, by a deed duly signed and acknowledged, conveys the same real estate to the same grantee or a subsequent grantee, the conveyance by such separate deed is declared to be valid and effectual to pass the title to such grantee or subsequent grantee the same as if the conveyance had been made by a single instrument duly executed and acknowledged by both husband and wife.

1-04-13. Validating deed or mortgage.

The record in the office of the recorder, prior to January 1, 1943, of a deed, mortgage, or assignment of mortgage which has failed to contain the post-office address of the grantee, mortgagee, or assignee named in such deed, mortgage, or assignment as provided by section 35-03-04, if such deed, mortgage, or assignment otherwise was entitled to record, is hereby validated and declared to be operative fully as constructive notice.

1-04-14. Validation of mineral reservations and deeds.

Notwithstanding the provisions of sections 47-10-21 and 47-10-22:

1. All reservations of minerals or mineral deposits other than coal, contained in all deeds and transfers of real property in this state; and
2. All conveyances and transfers of minerals or mineral deposits other than coal, separate from the surface rights, by mineral deed or otherwise, executed prior to January 1, 1943, hereby are declared legal and valid for all purposes. No action to contest the validity or legality of such reservations or conveyances or transfers by reason of any of the said provisions may be brought in the courts of this state unless commenced within ninety days after the taking effect of this code.

1-04-15. Validation of oil and gas leases adopted by board of county commissioners prior to July 1, 1941.

All confirmations, approvals, and adoptions of oil and gas leases made by any board of county commissioners prior to July 1, 1941, and which comply substantially with the terms and conditions of chapter 38-09, are declared valid.

1-04-16. Validation of oil and gas leases made by executor, administrator, or guardian prior to March 7, 1941.

A lease made for any of the purposes mentioned in section 30-13-05 and which has been executed and delivered under the authority of an order of a county court having jurisdiction, or which was approved by such court prior to March 7, 1941, is declared legal and valid.

1-04-17. Validation of oil and gas leases adopted by governing body of township, city, school district, or park district.

All oil and gas leases executed prior to July 1, 1941, by the governing body of a township, city, school district, or park district, covering lands under its control, are declared to be valid.

1-04-18. Validating certain mineral deeds.

Any record of a mineral deed actually made in the office of the recorder of any county of this state prior to March 7, 1941, is declared to be valid and fully operative as constructive notice though it was not certified for transfer by the county auditor as provided by section 11-13-12, and though at the time such deed was filed for record and actually recorded there may have been delinquent taxes or special assessments on the land described in such deed.

1-04-19. Validation of conveyances made under decree of specific performance.

Every conveyance of real estate made prior to January 1, 1943, by an executor or administrator of an estate pursuant to a decree of specific performance rendered by any county court of this state, as provided by section 30-13-12, without the entry of a subsequent order or judgment approving or confirming such conveyance, is hereby declared valid and of full force and effect if:

1. Such estate has been closed;
2. The executor or administrator has been discharged; and
3. The conveyance was legal.

1-04-20. Validating transfers in joint tenancy.

Any transfer of any legal or equitable title to or interest in any real property in the state of North Dakota made prior to March 5, 1943, by any person, firm, or corporation to himself, herself, or such firm or corporation and any other person or persons, firm or firms, corporation or corporations, including the spouse or spouses of said grantor or grantors, in joint tenancy with right of survivorship, is declared legal and valid.

1-04-21. Validation of acknowledgments heretofore taken.

Any and all acknowledgments taken before March 5, 1943, and subsequent to September 16, 1940, in substantial compliance with the provisions of sections 47-19-17 and 47-19-31 are hereby declared legal and valid for all purposes and to the same extent as acknowledgments taken subsequent to the effective date of said sections.

1-04-22. Validating deed or mortgage.

The record in the office of the recorder, prior to January 1, 1955, of a deed, mortgage, or assignment of mortgage which has failed to contain the post-office address of the grantee, mortgagee, or assignee named in such deed, mortgage, or assignment as provided by section 35-03-04, if such deed, mortgage, or assignment otherwise was entitled to record, is hereby validated and declared to be operative fully as constructive notice.