

CONTRACTS AND OBLIGATIONS

CHAPTER 150

HOUSE BILL NO. 1510
(Lipsiea)

REAL ESTATE TITLE CLOUD EXTINCTION

AN ACT to create and enact two new sections to chapter 9-12 of the North Dakota Century Code, relating to discharging liens, encumbrances, and clouds affecting or related to the title to real property, where the only obligation concerns the payment of a sum certain to a specific, unlocated creditor.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) A new section to chapter 9-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

DEPOSIT IN SPECIAL FUND TO EXTINGUISH LIEN, ENCUMBRANCE, OR CLOUD AFFECTING OR RELATING TO THE TITLE TO REAL PROPERTY.) Any lien, encumbrance, or cloud affecting or related to the title to real property, where the only obligation concerns the payment of a sum certain in money to a specified creditor where the creditor, or the creditor's heirs, successors, or assigns cannot be located, may be extinguished as provided by this Act. The debtor shall deposit with the county treasurer the debtor's affidavit to the effect that the debtor has made a careful, diligent, and good faith search for the creditor and the creditor cannot be found. The debtor shall also deposit with the county treasurer the full amount of the debt, including all interest accumulated to the date of the deposit. The affidavit together with notice of the deposit, specifying the amount of the deposit, specifying that the purpose of the deposit is to discharge the lien, encumbrance, or cloud, and specifically describing the real property, shall be published at the expense of the debtor once a week for three successive weeks in the official county newspaper in all counties in which the real property is situated.

SECTION 2.) A new section to chapter 9-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

CLAIM OF MONEY BY CREDITOR - EXTINGUISHMENT OF LIEN.) The creditor is entitled to claim the amount of money from the county treasurer within nine months of the date of deposit upon a showing

to the county treasurer of a satisfaction of the lien, encumbrance, or cloud which includes an indication by the register of deeds that the satisfaction has been duly recorded. If the creditor does not claim the money in nine months from the date of first publication of the notice, the money, a copy of the debtor's affidavit, and a copy of the published notice shall be forwarded by the county treasurer to the state land commissioner for deposit to the credit of the state of North Dakota for the use and benefit of the common schools trust fund of the state. At the same time these items are forwarded to the state land commissioner, the county treasurer shall record in the office of the register of deeds a notice to the effect that the lien, encumbrance, or cloud affecting or related to the title to the real property, giving the specific legal description of the property, has been discharged by the procedures set out in this Act. The debtor shall pay the register of deeds' fees for recording the county treasurer's notice.

At any time after the original nine-month period, the creditor, or the creditor's heirs, successors, or assigns, may claim the full amount of the original deposit without any interest or penalty from the state collector of abandoned and unclaimed property in the manner specified in chapter 47-30 for claiming the proceeds of other abandoned and unclaimed property.

Approved March 15, 1979