

LIENS

CHAPTER 381

SENATE BILL NO. 2084
(Legislative Council)
(Interim Judiciary "B" Committee)

STATUTORY LIEN FORECLOSURE — PLEDGE BY SALE

AN ACT to amend and reenact sections 35-01-29 and 35-06-11 of the North Dakota Century Code, relating to foreclosure of statutory liens on personal property and the enforcement of a pledge by sale.

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

SECTION 1. AMENDMENT. Section 35-01-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-01-29. Foreclosure of statutory lien on personal property. Upon default in the payment of a debt secured by a statutory lien on personal property, unless a different procedure is otherwise expressly prescribed by law, such lien may be foreclosed as follows:

- 1- If such lien is dependent upon possession of the personal property, it may be foreclosed in the same manner as a pledge of personal property.
- 2- If such lien is not dependent upon possession of the personal property, it may be foreclosed in the manner provided for the foreclosure of a security interest in personal property, and the lien claimant shall be entitled to possession of the property for the purpose of foreclosure.

Such lien also may be foreclosed by action as prescribed in chapter 32-20.

SECTION 2. AMENDMENT. Section 35-06-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-06-11. Pledge enforced - Sale when performance due. When performance of the act for which a pledge is given is due in whole or in part, the pledgee may collect what is due him by a sale of the property pledged, subject to the rules and exceptions prescribed in this chapter and in section 41-09-50.

Approved March 22, 1985

CHAPTER 382

HOUSE BILL NO. 1297
(Wold)

PREREQUISITES FOR MORTGAGE RECORDING

AN ACT to amend and reenact section 35-03-04 of the North Dakota Century Code, relating to the prerequisites for recordation of a mortgage.

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

SECTION 1. AMENDMENT. Section 35-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-03-04. Prerequisites for recordation - Post-office address of mortgagee or assignee - Description of indebtedness. No mortgage of real property shall be received for record by the register of deeds unless it contains the post-office address of the mortgagee and a complete description of the indebtedness secured as to the amount, rate of interest, and when and where due and an adequate statement as to the amount of indebtedness and the terms of interest. No assignment of a mortgage on real property which does not contain the post-office address of the assignee shall be received for record.

Approved March 14, 1985

CHAPTER 383

HOUSE BILL NO. 1596
(Representatives A. Williams, R. Solberg, Schindler)
(Senators Freborg, Moore, Dotzenrod)

CROP LIEN LIMITATIONS

AN ACT to create and enact a new section to chapter 35-05 of the North Dakota Century Code, relating to limitations on crop liens; and to amend and reenact subsection 1 of section 41-09-17 and subsection 2 of section 41-09-42 of the North Dakota Century Code, relating to after-acquired property and the duration of financing statement filings.

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

SECTION 1. A new section to chapter 35-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

Crop liens - Limitations - Exceptions. A security interest upon crops shall attach only to the crop next maturing after the delivery of the security agreement. The provisions of this section shall not apply to liens by contract given to secure the purchase price or the rental of land upon which the crops covered by the lien are to be grown.

SECTION 2. AMENDMENT. Subsection 1 of section 41-09-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Except as provided in subsection 2 and in section 1 of this Act, a security agreement may provide that any or all obligations covered by the security agreement are to be secured by after-acquired collateral.

SECTION 3. AMENDMENT. Subsection 2 of section 41-09-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Except as provided in subsection 6 and section 1 of this Act, a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five-year period unless a continuation statement is

filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of sixty days or until expiration of the five-year period, whichever occurs later. Upon lapse, the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

Approved March 31, 1985

CHAPTER 384

SENATE BILL NO. 2292
(Senators Tallackson, David)
(Representative Wald)

UNPAID EARNED INSURANCE PREMIUM LIENS

AN ACT to amend and reenact sections 11-18-14, 35-20-16, and 35-21-01 of the North Dakota Century Code, relating to the destruction of documents by the register of deeds and unpaid earned insurance premium liens.

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

* SECTION 1. AMENDMENT. Section 11-18-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-18-14. Register of deeds to remove and destroy certain documents - Records to be made. The register of deeds in each county in this state, unless otherwise earlier permitted by law, shall remove from the files in his office, and destroy, all seed liens, labor liens, stallion liens, chattel mortgages, threshing liens, crop production liens, combining liens, mechanic's liens, repairman's liens, unpaid earned insurance premium liens, and sales contracts together with any releases for the same upon which a cause of action has accrued and which cause of action is more than ten years old. At the time of destroying said files the register of deeds shall note on the margin of the index opposite the record of each instrument so removed and destroyed the date when the same was destroyed.

SECTION 2. AMENDMENT. Section 35-20-16 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-20-16. Procedure to obtain unpaid earned property or casualty insurance premium lien - Filing. Any person entitled to an unpaid earned property or casualty insurance premium lien, within ninety days after cancellation of the policy is effective termination of coverage, must file in the office of the register of deeds of the county or counties in which the property covered by the policy is located and with any loss payee named in the policy, a verified statement in writing stating all of the following:

1. The name of the policyholder.

* NOTE: Section 11-18-14 was also amended by section 21 of Senate Bill No. 2086, chapter 82.

2. The nature and quantity of insurance coverage provided.
3. The amount of unpaid earned premium.
4. A description of the property covered by the insurance and subject to the lien.
5. That a lien is claimed upon the property described.

SECTION 3. AMENDMENT. Section 35-21-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-21-01. Release of lien by undertaking authorized. When any mechanic's lien, garage storage lien, repairman's lien, seed lien, sugar beet production lien, crop production lien, threshing lien, ~~farm laborer's~~ unpaid earned insurance premium lien, or miner's lien is filed against the real property or personal property of a resident of this state, the property affected may be released by an undertaking in the manner provided in this chapter.

Approved March 27, 1985

CHAPTER 385

SENATE BILL NO. 2433
(Senator Waldera)
(Representatives Goetz, Wald)

OIL AND PIPELINE LIEN FILING

AN ACT to amend and reenact sections 35-24-11, 35-24-12, subsections 1, 2, and 3 of section 35-24-13, and section 35-24-22 of the North Dakota Century Code, relating to filing oil and pipeline liens with the registers of deeds.

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

SECTION 1. AMENDMENT. Section 35-24-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-24-11. Contents and filing of statement of lien. Every person claiming a lien under this chapter shall file with the ~~clerk of district court register of deeds~~ of the county in which ~~such the~~ leasehold, or pipeline, or some part thereof, is situated, a statement verified by affidavit setting forth the amount claimed and the items thereof, the dates on which labor was performed or material or services furnished, the name of the owner of the leasehold, or pipeline, if known, the name of the claimant and ~~his~~ the claimant's mailing address, a description of the leasehold, or pipeline, and if the claimant ~~be is~~ a claimant under section 35-24-04, the name of the person for whom the labor was immediately performed or the material or services were immediately furnished. ~~Said~~ The statement of lien must be filed within six months after the date on which the claimant's labor was last performed or ~~his~~ material or services were last furnished under a single contract as provided for in section 35-24-10.

* SECTION 2. AMENDMENT. Section 35-24-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-24-12. Recordation of statement of lien. Immediately upon receipt of the statement of lien ~~mentioned provided for~~ in section 35-24-11, the clerk of the district court shall give such statement a file number and shall file the same and in addition shall enter a record of the same in a book kept by him for that purpose, to be called "Oil and Gas Lien Record", which shall be ruled off into separate columns with headings as follows: "File Number", "When Filed",

* NOTE: Section 35-24-12 was also amended by section 14 of Senate Bill No. 2116, chapter 336, and amended by section 23 of Senate Bill No. 2275, chapter 337.

"Name of Owner", "Name of Claimant", "Amount Claimed", "Description of", and "Remarks", and the clerk of the district court shall make the proper entries under each column- The fee to be charged by the clerk of the district court for the filing of such lien statement shall be one dollar register of deeds shall record the statement as a lien against the real property interest which is subject to the lien pursuant to section 35-24-03.

SECTION 3. AMENDMENT. Subsections 1, 2, and 3 of section 35-24-13 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. Whenever any lien or liens shall be fixed or attempted to be fixed under the provisions of this chapter then the owner of the property on which the lien or liens are claimed or the contractor or subcontractor through whom such lien or liens are claimed, or either of them, may file a bond with the clerk of the district court register of deeds of the county in which the property is located as herein provided. Such bond shall describe the property on which lien or liens are claimed, shall refer to the lien or liens claimed in a manner sufficient to identify them, shall be in double the amount of the claimed lien or liens referred to, and shall be payable to the party or parties claiming same. Such bond shall be executed by the party filing same as principal and by a corporate surety authorized under the laws of this state to execute such bonds as surety and shall be conditioned substantially that the principal and surety will pay to the obligees named or their assigns the amounts of the liens so claimed by them with all costs in the event same shall be proven to be liens on such property.
2. Upon the filing of such bond the clerk of the district court register of deeds shall send a notice thereof, together with a copy of the bond, to all obligees named therein, by registered or certified mail addressed to such obligees at the address set forth in their respective claims for lien.
3. Such ~~bond, when filed, and such~~ notice, when mailed, shall be recorded by the clerk of the district court in filed for record by the oil and gas lien records register of deeds, and any purchaser or lender may rely upon the record of such bond and notice in acquiring any interest in said property and shall absolutely be protected thereby.

SECTION 4. AMENDMENT. Section 35-24-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-24-22. Assignment of liens and actions. All claims for liens and likewise all actions to recover therefor under this chapter shall be assignable so as to vest in the assignee all rights and remedies

herein given subject to all defenses thereto that might be raised if such assignment had not been made. Where a statement of lien has been filed as herein provided, such assignment may be made by an entry on the same page of the oil and gas lien record containing a record of the lien signed by the claimant or his lawful representative and attested by the clerk of the district court or such assignment may be made by a separate an instrument in writing, filed with the register of deeds.

Approved March 30, 1985

CHAPTER 386

SENATE BILL NO. 2110
(Olson)

WELL OR PIPELINE LIEN FORECLOSURE COSTS

AN ACT to amend and reenact section 35-24-19 of the North Dakota Century Code, relating to the allowance of attorney's fees in well or pipeline lien foreclosures.

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

SECTION 1. AMENDMENT. Section 35-24-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-24-19. Allowance of reasonable attorney's fee in foreclosure. In any action brought to enforce a lien prescribed by this chapter, the party for whom judgment is rendered shall be entitled to recover a reasonable attorney's fee, to be fixed by the court, which shall be taxed as costs in the action. No costs may be taxed against the owner when the owner has paid into court, at least ten days before trial, the maximum amount of the owner's liability as limited under section 35-24-07.

Approved March 22, 1985