

LIENS

CHAPTER 415

SENATE BILL NO. 2319
(Olson)

FUTURE ADVANCE LIEN PRIORITY

AN ACT to create and enact a new section to chapter 35-01 of the North Dakota Century Code, relating to priority of a lien securing future advances.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 35-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

Priority of liens securing future advances. A lien document containing a written provision securing the repayment of future advances, whether or not the lien creditor is obligated to make such future advances, has priority over all subsequent encumbrances to the extent of all sums advanced, with interest thereon, with the same effect as if the entire sum had been advanced at the time of the creation of the lien.

Approved April 12, 1989
Filed April 13, 1989

CHAPTER 416

HOUSE BILL NO. 1498
(Representatives Oban, R. Larson, Gerhardt)
(Senators Schoenwald, Heinrich)

VETERANS' ADMINISTRATION LOAN GUARANTEES

AN ACT to create and enact a new section to chapter 35-03 of the North Dakota Century Code, relating to loans insured or guaranteed by the United States veterans' administration.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 35-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

Mortgages insured or guaranteed by the United States veterans' administration - Notice. The following statement must be signed at the time of the loan application by both the borrower and lender on loans that are insured or guaranteed by the United States veterans' administration:

I understand that the veterans' administration may attempt to hold me liable for the guarantee it offers the lending institution on this mortgage. I understand that it may be alleged that I may remain liable for the amount guaranteed by the veterans' administration if this mortgage is foreclosed or if the property is sold by me without first obtaining an approved release of liability from the veterans' administration. I also understand that it may be alleged that North Dakota law governing deficiency judgments may not apply to the collection of loans guaranteed by the veterans' administration. By signing this statement, I am indicating that the contents of this statement have been explained to me by a loan officer representing the lending institution offering this mortgage loan.

Approved April 10, 1989
Filed April 11, 1989

CHAPTER 417

HOUSE BILL NO. 1287
(W. Williams, J. DeMers)

FINANCIAL INSTITUTION SECURITY INTEREST IN CROPS

AN ACT to amend and reenact section 35-05-01 of the North Dakota Century Code, relating to security agreements on crops.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 35-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-05-01. Security agreement on crops prohibited - Exceptions. Security interests in growing and unharvested crops are prohibited, and any security agreement purporting to create a security interest therein is void. The provisions of this section do not apply to any security interest or lien in favor of the United States, this state, any county, or any department or agency of any of them, including the Bank of North Dakota, nor to any banking financial institution as defined by section 6-01-02 or 21-04-01, nor to any other agricultural lending agency, nor to any security interest created by contract to secure money advanced or loaned for the purpose of paying government crop insurance premiums or to secure the purchase price or the rental or improvement of the land upon which the crops covered by the contract are to be grown.

Approved March 29, 1989
Filed March 30, 1989

CHAPTER 418

HOUSE BILL NO. 1607
(Watne, Brokaw)

CROP FINANCING STATEMENT COVERAGE

AN ACT to amend and reenact section 35-05-01.1 of the North Dakota Century Code, relating to financing statements covering crops and judicial remedies for misuse of a financing statement; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 35-05-01.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-05-01.1. Crop liens - Limitations - Exceptions - Remedies - Penalty. A security interest upon crops attaches only to the crop next maturing after the delivery of the security agreement. The effectiveness of a financing statement covering the crop lapses on the expiration of a period of five years from the date of filing unless terminated. The financing statement covering a crop cannot be used to enforce a security interest on any crop other than the crop listed in the security agreement. If the court finds a willful violation of this section, the court shall award a producer the reasonable expenses of maintaining an action, including reasonable attorney's fees. The provisions of this section do 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.

Approved March 29, 1989
Filed March 30, 1989

* NOTE: Section 35-05-01.1 was also amended by section 1 of Senate Bill No. 2339, chapter 419.

CHAPTER 419

SENATE BILL NO. 2339
(Redlin)

CROP FINANCING STATEMENT DURATION

AN ACT to amend and reenact section 35-05-01.1 and subsection 2 of section 41-09-42 of the North Dakota Century Code, relating to crop liens and filing of financing statements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 35-05-01.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-05-01.1. Crop liens - Limitations - Exceptions. A security interest upon crops attaches only to the crop next maturing after the delivery of the security agreement. ~~The effectiveness of a financing statement covering the crop lapses on the expiration of a period of five years from the date of filing unless terminated.~~ The provisions of this section do 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 2 of section 41-09-42 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Except as provided in subsection 6 ~~and section 35-05-01.1~~, 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 22, 1989
Filed March 23, 1989

* NOTE: Section 35-05-01.1 was also amended by section 1 of House Bill No. 1607, chapter 418.

CHAPTER 420

SENATE BILL NO. 2281
(Senator Nalewaja)
(Representative Solberg)

CROP SECURITY AGREEMENT LIMITATIONS

AN ACT to amend and reenact section 35-05-04 of the North Dakota Century Code, relating to the invalidity of crop security agreements that claim security interests in other personal property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 35-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-05-04. Security agreement not to include other personal property. A security agreement covering specific crops is not valid to create a security interest therein, nor entitled to be filed in the office of the register of deeds, if the security agreement contains any provision by which a security interest is claimed in any other personal property. For the purpose of this section, the term "crops" means crops, crop proceeds and products, supplementary price payments and payments made in lieu of crop proceeds, including crop insurance payments, for the period of time authorized in this section, but does not include diversion payments or third-party payments made to producers which are not directly related to crop production or proceeds.

Approved April 12, 1989
Filed April 13, 1989

CHAPTER 421

SENATE BILL NO. 2450
(Senator Freborg)
(Representative O. Hanson)

REPAIRMEN'S LIEN FOR WATERCRAFT

AN ACT to amend and reenact section 35-13-01 of the North Dakota Century Code, relating to repairman's liens.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 35-13-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-13-01. Repairman's lien authorized. Any blacksmith, machinist, farm equipment dealer, welder, garage keeper, mechanic, or aviation operator, having an established place of business within this state who makes, alters, or repairs any automobile, truck, engine, combine, tractor, farm equipment, well machine, or aircraft, or watercraft at the request of the owner or legal possessor of the property has a lien thereon, and on any accessories and parts placed upon the property, for reasonable charges for work done and materials furnished, until the charges are paid. If the cost of repair would exceed one thousand dollars or twenty-five percent of the value of the property, in its repaired condition, whichever is greater, and the repairman intends to have the entire repair bill constitute a lien with priority over the mortgage or financing statement of record, the repairman shall give notice by registered or certified mail to the recordholder of the mortgage or financing statement of the proposed repair, the estimated cost of repair, and the estimated value of the property in its repaired condition.

Approved March 28, 1989
Filed March 28, 1989

CHAPTER 422

HOUSE BILL NO. 1070
(Haugen)

MECHANIC'S LIEN IMPROVEMENTS

AN ACT to amend and reenact subsection 2 of section 35-27-01 of the North Dakota Century Code, relating to improvements for the purposes of obtaining a mechanic's lien.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 35-27-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Improve" means to build, erect, place, make, alter, remove, repair, or demolish any improvement upon, connected with, or beneath the surface of any land, or excavate any land, or furnish materials for any of such purposes, or dig or construct any fences, wells, or drains upon such improvement, or perform any labor or services upon such improvement; or perform any architectural services, construction staking, engineering, land surveying, mapping, or soil testing upon or in connection with the improvement; or perform any labor or services or furnish any materials in laying upon the real estate or in the adjoining street or alley any pipes, wires, fences, curbs, gutters, paving, sewer pipes or conduit, or sidewalks, or in grading, seeding, sodding, or planting for landscaping purposes, or in equipping any such improvement with fixtures or permanent apparatus.

Approved March 15, 1989
Filed March 15, 1989

CHAPTER 423

SENATE BILL NO. 2100
(Committee on Judiciary)
(At the request of the Commission on Uniform State Laws)

UNIFORM FEDERAL LIEN REGISTRATION ACT FILINGS

AN ACT to amend and reenact subsection 3 of section 35-29-02 of the North Dakota Century Code, relating to filings under the Uniform Federal Lien Registration Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 35-29-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens must be filed as follows:
 - a. If the person against whose interest the lien applies is a corporation or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the secretary of state.
 - b. If the person against whose interest the lien applies is a trust that is not covered by subdivision a, in the office of the secretary of state.
 - c. If the person against whose interest the lien applies is the estate of a decedent, in the office of the secretary of state.
 - d. In all other cases, in the office of the register of deeds of the county where the person against whose interest the lien applies resides at the time of filing of the notice of lien.

Approved March 17, 1989
Filed March 17, 1989

CHAPTER 424

HOUSE BILL NO. 1147
(Committee on Finance and Taxation)
(At the request of the Secretary of State)

FEDERAL TAX LIEN FILING FEES

AN ACT to amend and reenact section 35-29-05 of the North Dakota Century Code, relating to filing fees for federal tax liens.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 35-29-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-29-05. Fees.

1. The fee for filing and indexing each notice of lien is:
 - a. For a lien on real estate, five dollars, plus two dollars for the second and each succeeding page.
 - b. For a lien on tangible and intangible personal property, three ~~five~~ dollars.
 - c. For a certificate of discharge or subordination, there is no fee ~~five dollars~~.
 - d. For a nonstandard statement when presented for filing, an additional fee of five dollars plus one dollar per page.
 - e. For all other notices, including a certificate of release or nonattachment, there is no fee ~~five dollars~~.
2. The officer may not file or record an instrument under this chapter unless the person offering the instrument for filing or recording has first paid the requisite filing or recording fee.

Approved March 9, 1989
Filed March 9, 1989