
PROPERTY

CHAPTER 274

H. B. No. 752
(Crothers)

SUSPENSION OF POWER OF ALIENATION; RESTRICTION

AN ACT

To amend and reenact section 47-0227 of the North Dakota Revised Code of 1943, relating to suspension of power of alienation.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 47-0227 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

47-0227. POWER OF ALIENATION;.. HOW LONG SUSPENDED.) Except in the single case mentioned in section 47-0413, the absolute power of alienation cannot be suspended, by any limitation or condition whatever, for a longer period than during the continuance of the lives of persons in being at the creation of the limitation or condition and twenty-one years.

Approved March 4, 1953.

CHAPTER 275

H. B. No. 686
(Beede, Holand, Haugen, Rohde)

TITLE TO REAL PROPERTY; ADVERSE POSSESSION

AN ACT

To amend and reenact section 47-0603 of the North Dakota Revised Code of 1943, as amended and reenacted by section 1 of chapter 276 of the North Dakota Session Laws of 1951, relating to title to real property; adverse possession; and providing for an effective date.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 47-0603 of the North Dakota Revised Code of 1943, as amended and reenacted by section 1 of chapter 276 of the North Dakota session laws of 1951, is hereby amended and reenacted to read as follows:

47-0603. TITLE TO REAL PROPERTY; ADVERSE POSSESSION.) A title to real property, vested in any person who has been or hereafter shall be, either alone or including those under whom he claims, in the actual open adverse and undisputed possession of the land under such title for a period of ten years and who, either alone or including those under whom he claims, shall have paid all taxes and assessments legally levied thereon, shall be valid in law. Possession by a county under tax deed shall not be deemed adverse. A contract for deed shall constitute color of title within the meaning of this section from and after the execution of such contract.

§ 2. EFFECTIVE DATE.) This act shall take effect on January 1, 1954.

Approved March 10, 1953.

CHAPTER 276

S. B. No. 176
(Committee on Judiciary)

ISLANDS AND RELICTED LANDS IN NAVIGABLE STREAMS
BELONG TO STATE

AN ACT

To amend and reenact section 47-0608 of the North Dakota Revised Code of 1943, relating to islands and relict lands in navigable streams and the beds of such streams, and other navigable waters.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 47-0608 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

§ 47-0608. ISLAND AND RELICTED LANDS IN NAVIGABLE STREAMS BELONG TO STATE.) Islands and accumulations of land formed in the beds of streams which are navigable belong to the state, if there is no title or prescription to the contrary. The control and management, including the power to execute mineral leases, of islands, relictions and accumulations of land owned by the state of North Dakota in navigable streams and waters and the beds thereof, shall be in the Bank of North Dakota. All income and proceeds derived from such lands shall be deposited in the general fund for the purpose of defraying the general expenses of the state government. This Act shall not be construed as affecting or changing the provisions of any contract already executed by or on behalf of the state of North Dakota or any department or agency thereof concerning such lands.

Approved March 13, 1953.

CHAPTER 277

S. B. No. 91
(Nordhougen, Duffy and Baeverstad)

RELEASE OF OIL AND MINERAL LEASES

AN ACT

To amend and reenact sections 1, 3, and 4 of chapter 233 of the North Dakota Session Laws of 1951, relating to release of oil and mineral leases, and repealing sections 47-1631, 47-1632, 47-1633, 47-1634, and 47-1635 of the North Dakota Revised Code of 1943.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 1 of chapter 233 of the North Dakota session laws of 1951 is hereby amended and reenacted to read as follows:

§ 1. DUTY OF LESSEE TO HAVE TERMINATED OR FORFEITED LEASE RELEASED; PUBLICATION NOTICE: AFFIDAVIT TO BE RECORDED; NOTICE TO REAL PROPERTY OWNER; REMEDIES.) When any oil, gas or other mineral lease heretofore or hereafter given on real property situated in any county of North Dakota and recorded therein shall terminate or become forfeited it shall be the duty of the lessee, his successors or assigns and within fifteen days after the date of the termination or forfeiture of any other lease, to have such lease surrendered in writing, such surrender to be signed by the party making the same, acknowledged and placed on record in the county where the leased real property is situated without cost to the owner thereof. If the said lessee, his successors or assigns, shall fail or neglect to execute and record such surrender within the time provided for, then the owner of said real property may serve upon said lessee, his successors or assigns of record, in person or by registered letter, at his last known address, or if the post office address is not shown of record then by publication for three consecutive weeks in a newspaper of general circulation in the county where the real property is situated, a notice in writing in substantially the following form:

To.....: I, the undersigned, owner of the following described land situated in.....county, North Dakota, to-wit: (description of land) upon which a lease, dated.....day of....., 19....., was given todo hereby notify you that such lease has terminated or become forfeited by breach of the terms thereof,

that I hereby elect to declare and do declare the said lease forfeited and void and that, unless you do, within twenty days from this date, notify the register of deeds of said county as provided by law that said lease has not been forfeited, I will file with the said register of deeds affidavit of forfeiture as provided by law, and I hereby demand that you execute or have executed a proper surrender of said lease and that you put the same of record in the office of the register of deeds of said county within twenty days from this date.

Dated this.....day of....., 19.....,
The owner of said real property may after twenty days from the date of service, registration, or first publication of said notice, file with the register of deeds of the county where said real property is situated an affidavit setting forth, that the affiant is the owner of said real property, that the lease has terminated or that the lessee, or his successors or assigns has failed and neglected to comply with the terms of said lease, reciting the facts constituting such failure and that the same has been forfeited and is void, and setting out in said affidavit a copy of the notice served, as above provided and the manner and time of the service thereof. If the lessee, his successors or assigns, shall within such twenty days after service, give notice in writing to the register of deeds of the county where said real property is located that said lease has not been forfeited and that said lessee, his successors or assigns, still claim that said lease is in full force and effect, then the said affidavit shall not be recorded but the register of deeds shall notify the owner of the real property of the action of the lessee, his successors or assigns, and the owner of the real property shall be entitled to the remedies now provided by law for the cancellation of such disputed lease. If the lessee, his successors or assigns, shall not notify the register of deeds, as above provided, then the register of deeds shall record said affidavit, and thereafter the record of the said lease shall not be notice to the public of the existence of said lease or of any interest therein or rights thereunder, and said record shall not be received in evidence in any court of the state on behalf of the lessee, his successors or assigns, against the lessor, his successors or assigns.

§ 2. AMENDMENT.) Section 3 of chapter 233 of the North Dakota session laws of 1951 is hereby amended and reenacted to read as follows:

§ 3. SURRENDER OF LEASE BY LESSEE.) Any oil and gas or mining lease that has been or may hereafter be recorded in the office of the register of deeds of any county may be discharged and canceled of record by the recording of a certificate of cancellation signed by the lessee or his assigns of record,

or his duly authorized attorney in fact or personal representative, including a foreign executor or administrator, or a corporation by its duly authorized officers surrendering all of his right, title and interest in and to said lease, which certificate shall be acknowledged as prescribed by law.

§ 3. AMENDMENT.) Section 4 of chapter 233 of the North Dakota session laws of 1951 is hereby amended and reenacted to read as follows:

§ 4. RECORD OF SURRENDER.) The certificate of cancellation mentioned in section 3 shall be recorded at length and shall be noted on the margin of the record of the lease.

§ 4. REPEAL.) Sections 47-1631, 47-1632, 47-1633, 47-1634, and 47-1635 of the North Dakota Revised Code of 1943 are hereby repealed.

Approved March 11, 1953.

CHAPTER 278

S. B. No. 50
(Legislative Research Committee)
(at the request of the Public Welfare Board)

WHEN HOMESTEAD SUBJECT TO EXECUTION

AN ACT

To amend and reenact section 47-1804 of the North Dakota Revised Code of 1943, relating to homesteads.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 47-1804 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

47-1804. WHEN HOMESTEAD SUBJECT TO EXECUTION.) A homestead is subject to execution or forced sale in satisfaction of judgments obtained in the following cases:

1. On debts secured by mechanics' or laborers' liens for work or labor done or performed or material furnished exclusively for the improvement of the same;
2. On debts secured by mortgage on the premises executed and acknowledged by both husband and wife, or an unmarried claimant;

3. On debts created for the purchase thereof and for all taxes accruing and levied thereon; and
4. On all other debts when it appears that said homestead is within a town plat and, upon an appraisal as provided by section 47-1806, it appears that the value of said homestead is more than twenty-five thousand dollars over and above liens or encumbrances thereon, and then only to the extent of any value in excess of the sum total of such liens and encumbrances plus said twenty-five thousand dollars.

Approved March 13, 1953.

CHAPTER 279

H. B. No. 532
(Legislative Research Committee)

PROCEEDS OF HOMESTEAD SALE EXEMPT; DISPOSITION

AN ACT

To amend and reenact section 47-1814 of the North Dakota Revised Code of 1943, relating to homesteads.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 47-1814 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

47-1814. PROCEEDS OF SALE EXEMPT; DISPOSITION.) If the sale of a homestead is made as provided in section 47-1813, the proceeds thereof to the amount of the homestead exemption must be paid to the claimant and the residue applied to the satisfaction of the execution. When the execution is against a husband whose wife is living, the court may direct the twenty-five thousand dollars be deposited in court to be paid out only on the joint receipt of the husband and wife, and it shall possess all the protection against legal process and voluntary disposition by the husband as did the original homestead premises whether paid directly to the claimant or to the husband and wife jointly.

Approved March 14, 1953.

CHAPTER 280

S. B. No. 36
(Legislative Research Committee)

PETITION FOR SALE OR LEASE OF HOMESTEAD
IN CASE OF INSANITY

AN ACT

To amend and reenact section 47-1823 of the North Dakota Revised Code of 1943, relating to sale or lease in case of insanity.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 47-1823 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

47-1823. REQUISITES OF A PETITION IN CASE OF INSANITY.) An application in connection with the insanity of the husband or wife of the owner of a homestead for an order permitting the sale, conveyance, lease, including oil and gas leases, or mortgage of the homestead by the owner, shall be made by a petition to the court subscribed and sworn to by the applicant, setting forth:

1. The name and age of the insane husband or wife;
2. The number, age, and sex of the children of such husband or wife;
3. A description of the premises constituting the homestead;
4. The value of the homestead;
5. The county in which the homestead is situated; and
6. Such facts, in addition to that of the insanity of the husband or wife, relating to the circumstances or necessities of the applicant and his family as he may rely upon in support of the petition.

Approved March 4, 1953.