

HOUSE BILL NO. 1180

Introduced by

Agriculture Committee

(At the request of the Secretary of State)

1 A BILL for an Act to amend and reenact subsection 1 of section 35-13-02, section 35-20-16,
2 subsection 2 of section 35-34-04, subsection 2 of section 35-34-06, subsections 3, 5, and 6 of
3 section 41-09-46, sections 57-38-49, 57-38-50, subsections 3, 4, and 6 of section 57-39.2-13,
4 subsections 3, 4, and 6 of section 57-40.2-16, subsections 2, 3, and 4 of section 57-40.3-07.1,
5 subsections 3, 4, and 6 of section 57-43.1-17.4, subsections 3, 4, and 6 of section
6 57-43.2-16.3, and subsections 2 and 3 of section 57-51-11 of the North Dakota Century Code,
7 relating to the filings indexed in the central indexing system.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. AMENDMENT.** Subsection 1 of section 35-13-02 of the 1997 Supplement
10 to the North Dakota Century Code is amended and reenacted as follows:

11 1. The secretary of state shall prescribe one form that ~~must~~ can be used to obtain a
12 lien under this section and ~~gain protection under~~ also be entered in the central
13 ~~notice~~ indexing system. A person entitled to a lien under this chapter who retains
14 possession of the property made, altered, or repaired is not required to file any
15 statement to perfect the lien. If the possession of the property so made, altered, or
16 repaired is relinquished, the person shall file, within ninety days, or if the property is
17 used for agricultural purposes within one hundred twenty days, or in the exploration
18 for or the production of oil or gas within six months, after the materials are
19 furnished or the labor is completed, in the office of the register of deeds of the
20 county in which the owner or legal possessor of the property resides, a verified
21 written statement showing:

- 22 a. The labor performed.
23 b. The materials furnished.

- 1 c. The price agreed upon for the labor performed or materials furnished, or, if no
- 2 price was agreed upon, the reasonable value thereof.
- 3 d. The name of the person for whom the labor was performed or to whom the
- 4 materials were furnished.
- 5 e. The social security number, ~~if available~~, or, in the case of a debtor doing
- 6 business other than as an individual, the internal revenue service taxpayer
- 7 identification number, ~~if available~~, of the person for whom the labor was
- 8 performed or to whom the materials were furnished.
- 9 f. The name and address of the person claiming the lien.
- 10 g. A description of the property upon which the lien is claimed.

11 **SECTION 2. AMENDMENT.** Section 35-20-16 of the 1997 Supplement to the North
12 Dakota Century Code is amended and reenacted as follows:

13 **35-20-16. Procedure to obtain unpaid earned property or casualty insurance**

14 **premium lien - Filing.** The secretary of state shall prescribe a form that can be used to obtain
15 a lien under this section and also be entered in the central ~~notice~~ indexing system. Any person
16 entitled to an unpaid earned property or casualty insurance premium lien, within ninety days
17 after termination of coverage, shall file in the office of the register of deeds of the county or
18 counties in which the property covered by the policy is located and with any loss payee named
19 in the policy, a verified statement in writing stating all of the following:

- 20 1. The name and address of the policyholder.
- 21 2. The name and address of the lienholder.
- 22 3. The social security number of the debtor, or in the case of a debtor doing business
- 23 other than as an individual, the internal revenue service taxpayer identification
- 24 number of that person.
- 25 4. The nature and quantity of insurance coverage provided.
- 26 5. The amount of unpaid earned premium.
- 27 6. A description of the property covered by the insurance and subject to the lien.
- 28 7. That a lien is claimed upon the property described.

29 **SECTION 3. AMENDMENT.** Subsection 2 of section 35-34-04 of the 1997 Supplement
30 to the North Dakota Century Code is amended and reenacted as follows:

1 2. Upon filing of the notice of lien in accordance with this section, the notice of lien
2 must be indexed by the secretary of state in the central ~~notice~~ indexing system and
3 may be enforced and foreclosed in the same manner as a security agreement
4 under the provisions of title 41.

5 **SECTION 4. AMENDMENT.** Subsection 2 of section 35-34-06 of the 1997 Supplement
6 to the North Dakota Century Code is amended and reenacted as follows:

7 2. The information filed with a register of deeds or with the secretary of state under
8 this section must be included in the computerized central ~~notice~~ indexing system
9 maintained by the secretary of state under section 41-09-46 and must be
10 accessible to the public on the same terms and conditions that apply to access
11 other statutory lien information maintained in the computerized central ~~notice~~
12 indexing system.

13 **SECTION 5. AMENDMENT.** Subsections 3, 5, and 6 of section 41-09-46 of the 1997
14 Supplement to the North Dakota Century Code are amended and reenacted as follows:

15 3. The secretary of state shall develop and implement a computerized central ~~notice~~
16 indexing system which must contain the information filed with the office of the
17 secretary of state or with any of the offices of the registers of deeds in this state
18 pursuant to sections 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, and
19 41-09-40. The system must connect each register of deeds' office to the secretary
20 of state's office through the information services division. The system must allow
21 access to financing statement information by equipment that conforms to
22 requirements determined by the information services division. The system must
23 have safeguards to allow access to information that is in the system relating to
24 security interests or liens and to prevent unauthorized alteration or deletion of that
25 information and to allow access to other information in the system as prescribed by
26 the secretary of state. Within one working day of receipt of a financing statement,
27 continuation statement, amendment, or termination statement filed pursuant to this
28 chapter or a statement filed pursuant to section 35-13-02, 35-17-04, 35-20-16,
29 35-30-02, or 35-31-02, the register of deeds or secretary of state shall record the
30 information contained in the statement in the computerized central ~~notice~~ indexing
31 system. A computer printout of information from the system is prima facie

- 1 evidence of the existence or nonexistence of the filing of a financing statement or
2 lien. From the computerized central ~~notice~~ indexing system, the secretary of state
3 or a designee shall produce each month one list for crops and one list for livestock
4 which contain the information as filed on the forms pursuant to section 41-09-40.
5 The secretary of state shall also include the information filed for crops and livestock
6 pursuant to sections 35-17-04, 35-30-02, and 35-31-02. The list must be in
7 alphabetical order according to the last name of, or in numerical order according to
8 the social security number of, the person engaged in farming operations. The lists
9 may be prepared in categories according to county, regions as designated by the
10 secretary of state, or on a statewide basis. If requested, the lists must be in printed
11 form and on microfiche. Each list must conspicuously note its effective date.
- 12 5. Upon a verbal request of any person, the secretary of state or a designee or a
13 register of deeds shall verbally provide information contained on the list generated
14 through the computerized central ~~notice~~ indexing system when the collateral is
15 crops or livestock. The requesting party may request a certificate from the
16 secretary of state or the register of deeds and the secretary of state or the register
17 of deeds shall confirm the information given. Direct computer access is equivalent
18 to oral confirmation and a computer printout constitutes the written confirmation of
19 the secretary of state, if use of this method of confirmation does not cause the
20 central ~~notice~~ indexing system to lose its federal certification. The fee for a verbal
21 request and such a certificate must be as provided by section 41-09-42.
- 22 6. A computer printout from the computerized central ~~notice~~ indexing system
23 constitutes the certificate of the secretary of state or the register of deeds as to
24 whether there is on file, on the date and hour stated on the computer printout, a
25 financing statement.

26 **SECTION 6. AMENDMENT.** Section 57-38-49 of the 1997 Supplement to the North
27 Dakota Century Code is amended and reenacted as follows:

28 **57-38-49. Preservation of lien.** Any mortgagee, purchaser, judgment creditor, or lien
29 claimant acquiring any interest in, or lien on, any property situated in the state, prior to the
30 commissioner filing in the central ~~notice~~ indexing system maintained by the secretary of state a

1 notice of the lien provided for in section 57-38-48, takes free of, or has priority over, the lien.

2 The commissioner shall index in the central ~~notice~~ indexing system the following data:

- 3 1. The name of the taxpayer.
- 4 2. The tax identification number or social security number of the taxpayer.
- 5 3. The name "State of North Dakota" as claimant.
- 6 4. The date and time the notice of lien was indexed.
- 7 5. The amount of the lien.

8 The notice of lien is effective as of eight a.m. next following the indexing of the notice. Any
9 notice of lien filed by the commissioner with a register of deeds may be indexed in the central
10 ~~notice~~ indexing system without changing its original priority as to property in the county where
11 the lien was filed. The commissioner shall index any notice of lien with no payment of fees or
12 costs to the secretary of state.

13 **SECTION 7. AMENDMENT.** Section 57-38-50 of the 1997 Supplement to the North
14 Dakota Century Code is amended and reenacted as follows:

15 **57-38-50. Satisfaction of lien.** Upon payment of the tax, together with any accrued
16 penalties and interest, as to which the commissioner has filed a notice of lien, the commissioner
17 shall index a satisfaction of the lien in the central ~~notice~~ indexing system without fees or costs.

18 **SECTION 8. AMENDMENT.** Subsections 3, 4, and 6 of section 57-39.2-13 of the 1997
19 Supplement to the North Dakota Century Code are amended and reenacted as follows:

20 3. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any
21 interest in, or lien on, any property situated in the state, prior to the commissioner
22 filing in the central ~~notice~~ indexing system maintained by the secretary of state, a
23 notice of the lien provided for in section 57-39.2-12, takes free of, or has priority
24 over, the lien.

25 4. The commissioner shall index in the central ~~notice~~ indexing system the following
26 data:

- 27 a. The name of the taxpayer.
- 28 b. The tax identification number or social security number of the taxpayer.
- 29 c. The name "State of North Dakota" as claimant.
- 30 d. The date and time the notice of lien was indexed.
- 31 e. The amount of the lien.

1 The notice of lien is effective as of eight a.m. next following the indexing of the
2 notice. Any notice of lien filed by the commissioner with a register of deeds may
3 be indexed in the central ~~notice~~ indexing system without changing its original
4 priority as to property in the county where the lien was filed.

5 6. Upon payment of the tax as to which the commissioner has indexed notice in the
6 central ~~notice~~ indexing system, the commissioner shall index a satisfaction of the
7 lien in the central ~~notice~~ indexing system.

8 **SECTION 9. AMENDMENT.** Subsections 3, 4, and 6 of section 57-40.2-16 of the 1997
9 Supplement to the North Dakota Century Code are amended and reenacted as follows:

10 3. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any
11 interest in, or lien on, any property situated in the state, prior to the commissioner
12 filing in the central ~~notice~~ indexing system maintained by the secretary of state, a
13 notice of the lien provided for in this section, takes free of, or has priority over, the
14 lien.

15 4. The commissioner shall index in the central ~~notice~~ indexing system the following
16 data:

- 17 a. The name of the taxpayer.
- 18 b. The tax identification number or social security number of the taxpayer.
- 19 c. The name "State of North Dakota" as claimant.
- 20 d. The date and time the notice of lien was indexed.
- 21 e. The amount of the lien.

22 The notice of lien is effective as of eight a.m. next following the indexing of the
23 notice. Any notice of lien filed by the commissioner with a register of deeds may
24 be indexed in the central ~~notice~~ indexing system without changing its original
25 priority as to property in the county where the lien was filed.

26 6. Upon payment of the tax as to which the commissioner has indexed notice in the
27 central ~~notice~~ indexing system, the commissioner shall index a satisfaction of the
28 lien in the central ~~notice~~ indexing system.

29 **SECTION 10. AMENDMENT.** Subsections 2, 3, and 4 of section 57-40.3-07.1 of the
30 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

1 2. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any
2 interest in, or lien on, any property situated in the state, prior to the commissioner
3 filing in the central ~~notice~~ indexing system maintained by the secretary of state, a
4 notice of the lien provided for in this section, takes free of, or has priority over, the
5 lien.

6 3. The commissioner shall index in the central ~~notice~~ indexing system the following
7 data:

- 8 a. The name of the taxpayer.
- 9 b. The tax identification number or social security number of the taxpayer.
- 10 c. The name "State of North Dakota" as claimant.
- 11 d. The date and time the notice of lien was indexed.
- 12 e. The amount of the lien.

13 The notice of lien is effective as of eight a.m. next following the indexing of the
14 notice. Any notice of lien filed by the commissioner with a register of deeds may
15 be indexed in the central ~~notice~~ indexing system without changing its original
16 priority as to property in the county where the lien was filed. The commissioner is
17 exempt from the payment of fees otherwise provided by law for the indexing or the
18 satisfaction of the lien.

19 4. Upon payment of the tax relative to which the commissioner has indexed notice in
20 the central ~~notice~~ indexing system, the commissioner shall index a satisfaction of
21 the lien in the central ~~notice~~ indexing system.

22 **SECTION 11. AMENDMENT.** Subsections 3, 4, and 6 of section 57-43.1-17.4 of the
23 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

24 3. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any
25 interest in, or lien on, any property situated in the state, prior to the commissioner
26 filing in the central ~~notice~~ indexing system maintained by the secretary of state, a
27 notice of the lien provided for in this section, takes free of, or has priority over, the
28 lien.

29 4. The commissioner shall index in the central ~~notice~~ indexing system the following
30 data:

- 31 a. The name of the taxpayer.

- 1 b. The tax identification number or social security number of the taxpayer.
- 2 c. The name "State of North Dakota" as claimant.
- 3 d. The date and time the notice of lien was indexed.
- 4 e. The amount of the lien.

5 The notice of lien is effective as of eight a.m. next following the indexing of the
6 notice. Any notice of lien filed by the commissioner with a register of deeds may
7 be indexed in the central ~~notice~~ indexing system without changing its original
8 priority as to property in the county where the lien was filed.

- 9 6. Upon payment of the tax as to which the commissioner has indexed notice in the
10 central ~~notice~~ indexing system, the commissioner shall index a satisfaction of the
11 lien in the central ~~notice~~ indexing system.

12 **SECTION 12. AMENDMENT.** Subsections 3, 4, and 6 of section 57-43.2-16.3 of the
13 1997 Supplement to the North Dakota Century Code are amended and reenacted as follows:

- 14 3. Any mortgagee, purchaser, judgment creditor, or lien claimant acquiring any
15 interest in, or lien on, any property situated in the state, prior to the commissioner
16 filing in the central ~~notice~~ indexing system maintained by the secretary of state a
17 notice of the lien provided for in this section, takes free of, or has priority over, the
18 lien.

- 19 4. The commissioner shall index in the central ~~notice~~ indexing system the following
20 data:

- 21 a. The name of the taxpayer.
- 22 b. The tax identification number or social security number of the taxpayer.
- 23 c. The name "State of North Dakota" as claimant.
- 24 d. The date and time the notice of lien was indexed.
- 25 e. The amount of the lien.

26 The notice of lien is effective as of eight a.m. next following the indexing of the
27 notice. Any notice of lien filed by the commissioner with a register of deeds may
28 be indexed in the central ~~notice~~ indexing system without changing its original
29 priority as to property in the county where the lien was filed.

1 6. Upon payment of the tax as to which the commissioner has indexed notice in the
2 central ~~notice~~ indexing system, the commissioner shall index a satisfaction of the
3 lien in the central ~~notice~~ indexing system.

4 **SECTION 13. AMENDMENT.** Subsections 2 and 3 of section 57-51-11 of the 1997
5 Supplement to the North Dakota Century Code are amended and reenacted as follows:

6 2. Any judgment creditor, or lien claimant acquiring any interest in, or lien on, any
7 property situated in this state, prior to the commissioner filing in the central ~~notice~~
8 indexing system maintained by the secretary of state, a notice of the lien provided
9 for in this section, takes free of, or has priority over, the lien. The commissioner
10 shall index in the central ~~notice~~ indexing system the following data:

- 11 a. The name of the taxpayer.
12 b. The tax identification number or social security number of the taxpayer.
13 c. The name "State of North Dakota" as claimant.
14 d. The date and time the notice of lien was indexed.
15 e. The amount of the lien.

16 The notice of lien is effective as of eight a.m. of the first day following the indexing
17 of the notice. A notice of lien filed by the commissioner with a register of deeds
18 before August 1, 1997, may be indexed in the central ~~notice~~ indexing system
19 without changing its original priority as to property in the county where the lien was
20 filed.

21 3. Upon the payment of tax, penalty, and interest, if applicable, or a penalty assessed
22 under section 57-51-06, as to which the commissioner has indexed a notice in the
23 central ~~notice~~ indexing system, the commissioner shall index a satisfaction of the
24 lien in the central ~~notice~~ indexing system.