

SENATE BILL NO. 2169

Introduced by

Senators Holmberg, Hogue

Representative Delmore

1 A BILL for an Act to amend and reenact sections 47-19.1-01, 47-19.1-02, 47-19.1-03, and
2 47-19.1-07 of the North Dakota Century Code, relating to what constitutes marketable title.

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

4 **SECTION 1. AMENDMENT.** Section 47-19.1-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **47-19.1-01. What constitutes marketable title.**

7 Any person ~~having the legal capacity to own real estate in this state, who~~that has an
8 unbroken chain of title to any interest in real estate ~~by that person~~ and that person's immediate
9 or remote grantors under a deed ~~of conveyance~~ which or other title transaction that has been
10 ~~recorded of record~~ for a period of twenty years or longer, and is in possession of ~~such real-~~
11 ~~estate~~the interest, ~~shall be~~ deemed to have a marketable record title to ~~such~~the interest,
12 subject ~~only~~solely to ~~such~~the claims thereto ~~and or~~ defects of title ~~as that~~ are not extinguished or
13 barred by the application of ~~the provisions of this chapter~~, instruments ~~which~~that have been
14 recorded less than twenty years, and any encumbrances of record not barred by the statute of
15 limitations.

16 **SECTION 2. AMENDMENT.** Section 47-19.1-02 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **47-19.1-02. Definitions.**

19 As used in this chapter:

- 20 1. A person ~~shall be~~is deemed to have the unbroken chain of title to an interest in real
21 estate when the ~~official public records of the county wherein such land is-~~
22 ~~situated~~recorder disclose a conveyance or other title transaction ~~dated and recorded of~~
23 ~~record~~ twenty years or more ~~prior thereto~~, which conveyance or other title transaction
24 purports to create ~~such~~the interest in that person or that person's immediate or remote

1 grantors, with nothing appearing of record purporting to divest that person and that
2 person's immediate or remote grantors of such purported interest.

3 2. Title transaction means any transaction affecting title to real estate, including title by
4 will or descent from any person who held title of record at the date of that person's
5 death, title by a decree or order of any court, title by tax deed or by trustee's, referee's,
6 guardian's, executor's, ~~master's in chancery,~~ or sheriff's deed, as well as by direct
7 conveyance or reservation.

8 **SECTION 3. AMENDMENT.** Section 47-19.1-03 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **47-19.1-03. Notice of adverse claim of interest filed.**

11 ~~Such marketable~~Marketable title shall be held by such a person and shall be taken by that
12 person's successors in interest free and clear of all interest, claims, or any charges whatever,
13 the existence of which depends ~~in whole or in part~~ upon any act, transaction, event, or omission
14 that occurred twenty years or more ~~prior thereto~~before the present date, whether such claim or
15 charge be evidenced by a recorded instrument or otherwise, and all such interests, claims, and
16 charges affecting such the interest in real estate shall be barred and not enforceable at law
17 or equity, unless ~~any~~ a person making such makes an adverse claim or asserting such interest or
18 charge, shall, on or before twenty years from the date of recording of deed ~~of the~~ conveyance or
19 other title transaction under which title is claimed, ~~or within one year from the effective date of~~
20 ~~this section, whichever event is the latest in point of time, file for record and records a verified~~
21 ~~notice in writing, duly verified by oath, setting forth the nature of the person's adverse claim,~~
22 ~~interest, or charge; and no.~~ A disability ~~nor~~ lack of knowledge of any kind on the part of
23 anyone shall ~~operate to~~ may not extend the time for filing such claims the notice after the
24 expiration of the twenty years ~~from the recording of such deed of conveyance or one year after~~
25 ~~the effective date of this section, whichever event is the latest in point of time.~~

26 **SECTION 4. AMENDMENT.** Section 47-19.1-07 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **47-19.1-07. Evidence of possession recorded.**

29 For the purpose of this chapter, the fact of possession of an interest in real estate referred
30 to in section 47-19.1-01 may be shown of record by one or more affidavits ~~which shall~~
31 ~~contain~~containing the legal description of the real estate referred to and ~~shows~~showing that the

1 ~~record titleholder~~person is upon ~~the date thereof~~ in possession of such~~the interest in~~ real estate.
2 The recorder shall record such~~the~~ affidavits in the miscellaneous records of ~~the recorder's~~
3 ~~county~~ and index the same against the real estate. ~~No such affidavits~~An affidavit of possession
4 ~~shall~~may not be filed as to ~~any real estate~~ before the expiration of twenty years from the
5 recording of ~~deed of~~the conveyance or other title transaction under which title is claimed, ~~or~~
6 ~~before one year after the effective date of this section, whichever event is the latest in point of~~
7 ~~time, as to any real estate as to which a claim under the provisions of section 47-19.1-05 shall~~
8 ~~have been filed.~~ The holder of an interest in severed minerals is deemed in possession of the
9 minerals if that person has used the minerals as defined in section 38-18.1-03 and the use is
10 stated in the affidavit of possession provided for in this section.