15.0743.01000

Sixty-fourth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2180

Introduced by

Senator Holmberg

1   A BILL for an Act to amend and reenact section 47-19-41 of the North Dakota Century Code,

2   relating to unrecorded conveyances.

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

4   **SECTION 1. AMENDMENT.** Section 47-19-41 of the North Dakota Century Code is

5   amended and reenacted as follows:

6   **47-19-41. Effect of not recording - Priority of first record - Constructive notice -**

7   **Limitation and validation.**

8   An unrecorded conveyance of real estate is void as against any subsequent purchaser in

9   good faith, and for a valuable consideration, of the same real estate or any part of the same real

10   estate, regardless of whether recorded in the form of a warranty deed or deed of quitclaim and

11   release or the form in common use first is recorded or as against an attachment on the property

12   or judgment, against the owner of record, before the recording of the conveyance. The fact that

13   the first recorded conveyance is a quitclaim deed does not affect the question of good faith of

14   the subsequent purchaser, or be of itself notice of any unrecorded conveyance of the same real

15   estate or any part of the same real estate. This section is notice to all who claim under

16   unrecorded instruments that prior recording of later instruments may nullify their title to or lien

17   on affected real property. An action affecting any title to or lien on real property may not be

18   commenced or defense or counterclaim asserted on the ground that a recorded instrument was

19   not entitled to be recorded. The record of all instruments whether or not entitled to be recorded

20   is deemed valid and sufficient as the legal record of the instruments. ~~The holder of an~~

21   ~~unrecorded conveyance may not question the good faith of the first recording party unless it can~~

22   ~~be established that the first recording party had actual knowledge of the existence of the~~

23   ~~unrecorded conveyance.~~