

Introduced by

Senators Bekkedahl, Armstrong, Kannianen, G. Lee

Representatives Hatlestad, Longmuir

1 A BILL for an Act to amend and reenact sections 11-18-01 and 57-28-04 of the North Dakota  
2 Century Code, relating to the duties of a recorder and providing notice of foreclosure of tax  
3 liens; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 11-18-01 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **11-18-01. Recorder's duties - Recording and filing instruments - Abstracts**

8 The recorder shall:

- 9 1. Keep a full and true record, in proper books or other storage media provided for that  
10 purpose, of each patent, deed, mortgage, bill of sale, security agreement, judgment,  
11 decree, lien, certificate of sale, and other instrument required to be filed or admitted to  
12 record, if the person offering the instrument for filing or recording pays to the recorder  
13 the fees provided by law for the filing or recording.
- 14 2. Endorse upon each instrument filed with the recorder for record or otherwise the date  
15 and the hour and minute of the day of the filing or recording.
- 16 3. When the instrument is recorded or filed, endorse on the instrument the book and  
17 page or document number, the date, and the hour and minute of the date when it was  
18 recorded or filed with the recorder.
- 19 4. ~~Prepare a security agreement abstract whenever any person requests the agreement~~  
20 ~~and pays the required fee.~~

21 **SECTION 2. AMENDMENT.** Section 57-28-04 of the North Dakota Century Code is  
22 amended and reenacted as follows:

1       **57-28-04. Service of notice of foreclosure of lien.**

2       1. If the current assessment records show that a residential building is located on the  
3       property, the county auditor shall deliver the notice of foreclosure of tax lien to the  
4       sheriff who shall serve it or cause it to be served personally upon the owner, if known  
5       to be a resident of this state. If the owner is a nonresident of this state, the county  
6       auditor shall serve the notice by certified mail addressed to the owner at the owner's  
7       last-known post-office address and determine whether personal service upon any  
8       person is required under subsection 3. If the current assessment records show that no  
9       residential building is located on the property, the auditor shall serve the notice by  
10      certified mail addressed to the owner at the owner's last-known post-office address.

11      2. By March first, the county auditor shall request from the recorder and the clerk of the  
12      district court a certified list giving the names and addresses of all persons who appear  
13      to be interested as owners, mortgagees, lienholders, or ~~otherwise in the property~~  
14      ~~except a person whose only interest is in judgment creditors. Ownership does not~~  
15      include an easement or right of way recorded, or a mineral interest that was severed  
16      from the surface estate, ~~before filing of any unsatisfied lien or mortgage or before~~  
17      ~~January first of the year following the year for which the taxes were levied and to~~  
18      ~~which the tax lien relates, upon whom the notice of foreclosures must be served.~~ The  
19      recorder and the clerk of the district court shall provide the county auditor with the  
20      requested lists by April fifteenth following the request.

21      3. ~~The notice must be served~~ By On or before June first, the county auditor shall serve the  
22      notice of tax lien foreclosure personally upon any person actually residing upon the  
23      property subject to tax lien and by certified mail upon any tenant or other person  
24      entitled to the possession of the property as may appear from the records of the  
25      recorder or clerk of the district court.

26      4. The county auditor shall serve the notice of foreclosure of tax lien upon each  
27      mortgagee, lienholder, and other person with an interest in the property except a  
28      person whose only interest is in a mineral interest that was severed from the surface  
29      estate before the filing of any unsatisfied lien or mortgage or before January first of the  
30      year following the year for which the taxes were levied and to which the notice of  
31      foreclosure of tax lien relates, and upon whom personal service is not required by this

1 section, as shown by the records of the recorder or the clerk of the district court of the  
2 county. The notice must be served by certified mail. If a mortgagee, lienholder, or other  
3 person entitled to notice under this subsection has an agent registered with the  
4 secretary of state for the purpose of accepting service, the notice required under this  
5 subsection must be served on that registered agent.

- 6 5. The expense of service of the notice, publication, and other foreclosure costs under  
7 this chapter in the amount of fifty dollars or actual costs whichever is higher must be  
8 added to the amount required to satisfy the tax lien. The auditor or sheriff shall make  
9 proof of service by mail by affidavit showing the names and addresses of all parties  
10 upon whom the notice was served with the date of mailing in each case and shall  
11 attach the registry, certification, and return receipts and file the affidavit and receipts  
12 with the original notice of foreclosure of tax lien. Service by publication under this  
13 chapter must be shown of record by filing of an affidavit of publication.

14 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
15 December 31, 2016.