

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1366
(Representatives Vigesaa, D. Ruby, Weisz, Westlind)
(Senators Bakke, Clemens, Dwyer)

AN ACT to create and enact a new section to chapter 35-13 of the North Dakota Century Code, relating to the nonjudicial disposition of property by lienholders; and to amend and reenact sections 35-13-01, 35-13-04, 35-13-05, and 35-13-06 of the North Dakota Century Code, relating to repairman's liens, priority of liens, notice requirements, and assignments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 35-13-01 of the North Dakota Century Code is amended and reenacted as follows:

35-13-01. Repairman's lien authorized.

Any blacksmith, machinist, farm equipment dealer, construction equipment dealer, welder, garage keeper, mechanic, or aviation operator, having an established place of business in this state who makes, alters, or repairs any automobile, truck, engine, combine, tractor, farm equipment, construction equipment, well machine, aircraft, or watercraft at the request of the owner or legal possessor of the property has a lien on that property, and on any accessories and parts placed upon the property, for reasonable charges for work done and materials furnished, storage fees, and transportation costs, until the charges are paid. If the cost of repair would exceed ~~four~~six thousand dollars or thirty percent or, ~~nine~~fifteen thousand dollars or thirty percent for property used for agricultural or construction purposes, of the value of the property, in the property's repaired condition, whichever is greater, and the repairman intends to have the entire repair bill constitute a lien with priority over ~~the mortgage or financing statement~~any liens of record, the repairman shall give notice by registered or certified mail to the ~~recordholder of the mortgage or financing statement~~lienholders of record of the proposed repair, the estimated cost of repair, and the estimated value of the property in its repaired condition. Storage fees under this chapter may not begin to accrue until fifteen days after the owner is requested to take possession of the property.

SECTION 2. AMENDMENT. Section 35-13-04 of the North Dakota Century Code is amended and reenacted as follows:

35-13-04. Priority of lien.

A lien obtained under this chapter has priority over all other liens, chattel mortgages, or encumbrances against the personal property upon which the lien is secured, but if the repairman has failed to notify the ~~recordholder of the mortgage or financing statement~~lienholder of record as provided in section 35-13-01, or if such notice was given and the ~~holder of the mortgage or financing statement~~lienholder of record, within five days after receiving such notice, communicated in writing to the repairman an objection to all the proposed repair costs becoming a lien against the property with priority over the ~~mortgage or financing statement~~existing liens of record, then only that portion of the repairman's lien up to ~~four~~six thousand dollars or thirty percent, or ~~nine~~fifteen thousand dollars or thirty percent for property used for agricultural or construction purposes, of the retail value, whichever is greater, in the property's repaired condition, has priority over the ~~mortgage or financing statement~~existing lien of record.

SECTION 3. AMENDMENT. Section 35-13-05 of the North Dakota Century Code is amended and reenacted as follows:

35-13-05. Notice before foreclosure to prior mortgagee.

1. A person holding a lien under this chapter on property which has been encumbered previously by mortgage, by prior liens of record or before beginning any action or proceeding for the foreclosure of the lien, shall give ~~twenty~~ten days' notice in writing of the lienholder's intention to foreclose the lien to the ~~recordholder of the mortgage~~lienholders of record and the owner of the property. The notice may be served by registered or certified mail addressed to the ~~recordholder~~lienholders of record and property owner at the ~~recordholder's~~lienholders and property owner's last-known post-office address.
2. The notice before foreclosure must include:
 - a. A description of the property subject to the lien;
 - b. The grounds for the lien;
 - c. The name, address, and telephone number of the lienholder;
 - d. The amount owed;
 - e. The date after which the property subject to the lien will be offered for sale; and
 - f. A statement that the lienholder of record or property owner may reclaim the property subject to the lien before the property is offered for sale by paying the amount owed.

SECTION 4. AMENDMENT. Section 35-13-06 of the North Dakota Century Code is amended and reenacted as follows:

35-13-06. MortgageeLienholder may pay amount of lien - Assignment of lien.

The holder of any ~~mortgage~~record lienholder of any lien against property on which a lien has been filed under the provisions of this chapter may pay the amount due on the lien at any time ~~previous to~~before a sale upon the foreclosure thereof of the property. Upon payment of the lien by a ~~mortgageholder~~lienholder, the holder of the lien shall assign it to such ~~mortgageholder~~the lienholder, and thereafter the ~~mortgageholder~~lienholder then is entitled to all the rights which the person filing the lien had before the lien was paid.

SECTION 5. A new section to chapter 35-13 of the North Dakota Century Code is created and enacted as follows:

Nonjudicial disposition of property.

The person holding a lien under this chapter has the rights of a secured party under article nine of the Uniform Commercial Code for purposes of nonjudicial disposition of the property. A person holding a lien under this chapter who chooses to use nonjudicial disposition of the property shall dispose of the property in the manner prescribed for security interests under article nine of the Uniform Commercial Code.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1366.

House Vote: Yeas 94 Nays 0 Absent 0

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State