

Sixty-third
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2170

Introduced by

Senators Holmberg, Hogue, Triplett

Representative Delmore

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

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 ~~Every~~An unrecorded conveyance of real estate ~~not recorded shall be~~is void as against any
9 subsequent purchaser in good faith, and for a valuable consideration, of the same real estate,
10 or any part ~~or portion thereof of the same real estate, whose conveyance, regardless of~~ whether
11 recorded in the form of a warranty deed, ~~or deed of bargain and sale, or deed of quitclaim and~~
12 ~~release, of or~~ the form in common use ~~or otherwise, first is deposited with the proper officer for~~
13 ~~record and subsequently recorded, whether entitled to record or not, or as against an~~
14 ~~attachment levied thereon~~on the property or any judgment lawfully ~~obtained, at the suit of any~~
15 ~~party, against the person in whose name the title to such land appears~~owner of record, prior
16 ~~to~~before the recording of such ~~the~~ conveyance. The fact that such ~~the~~ first deposited and
17 recorded conveyance ~~of such subsequent purchaser for a valuable consideration is in the form,~~
18 ~~or contains the terms, of a deed of~~ is a quitclaim and release ~~aforsaid, shall~~does not
19 affect the question of good faith of the subsequent purchaser, or be of itself notice ~~to the~~
20 ~~subsequent purchaser~~ of any unrecorded conveyance of the same real estate or any part
21 ~~thereof of the same real estate.~~ This section shall be ~~legal~~is notice to all who claim under
22 unrecorded instruments that prior recording of later instruments ~~not entitled to be recorded may~~
23 nullify their ~~right, title interest, to~~ or lien, ~~to, in, or upon~~ on affected real property. ~~No~~An action
24 affecting any ~~right, title to, interest, or lien, to, in, or upon~~ on real property shall ~~may not~~ be

Sixty-third
Legislative Assembly

1 commenced ~~or maintained~~ or defense or counterclaim asserted ~~or recognized in court~~ on the
2 ground that a recorded instrument was not entitled to be recorded. The record of all instruments
3 whether or not ~~the same were~~ entitled to be recorded ~~shall be~~ is deemed valid and sufficient as
4 the legal record ~~thereof~~ of the instruments. The holder of an unrecorded conveyance may not
5 question the good faith of the first recording party unless it can be established that the first
6 recording party had actual knowledge of the existence of the unrecorded conveyance.