

## **CHAPTER 47-19.1 MARKETABLE RECORD TITLE**

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

Any person that has an unbroken chain of title to any interest in real estate and that person's immediate or remote grantors under a conveyance or other title transaction that has been of record for a period of twenty years or longer, and is in possession of the interest, is deemed to have a marketable record title to the interest, subject solely to the claims or defects that are not extinguished or barred by the application of this chapter, instruments that have been recorded less than twenty years, and encumbrances of record not barred by the statute of limitations.

### **47-19.1-02. Definitions.**

As used in this chapter:

1. A person is deemed to have the unbroken chain of title to an interest in real estate when the records of the county recorder disclose a conveyance or other title transaction of record twenty years or more which purports to create the interest in that person or that person's immediate or remote grantors, with nothing appearing of record purporting to divest that purported interest.
2. Title transaction means any transaction affecting title to real estate, including by will or descent from any person who held title of record at death, title by a decree or order of any court, title by tax deed or by trustee's, referee's, guardian's, executor's, or sheriff's deed, as well as by direct conveyance or reservation.

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

Marketable title is held by a person and taken by that person's successors in interest free and clear of all interest, claims, or any charges whatever, the existence of which depends upon any act, transaction, event, or omission that occurred twenty years or more before the present date, whether evidenced by a recorded instrument or otherwise, and all interests, claims, and charges affecting the interest in real estate are barred and not enforceable, unless a person makes an adverse claim before twenty years from the date of recording of the conveyance or other title transaction under which title is claimed, and records a verified notice setting forth the nature of the person's adverse claim. A disability or lack of knowledge of any kind on the part of anyone may not extend the time for filing the notice after the expiration of the twenty years.

### **47-19.1-04. Who may file notice.**

The notice mentioned in section 47-19.1-03 may be filed for record by the claimant of any interest therein described, or by any other person acting on behalf of a claimant who is under disability, unable to assert a claim on the claimant's own behalf, or one of a class but whose identity cannot be established or is uncertain at the time of filing such claim for record.

### **47-19.1-05. Where notice filed - Contents.**

The claim referred to in sections 47-19.1-03 and 47-19.1-04 shall be filed in each county where the claimed real estate, or any part thereof, is located, and must set forth the legal description of the real estate affected by such claim together with a statement of the nature of the claim, charge, or interest asserted. The description shall be set forth in particular terms and not by general inclusion.

### **47-19.1-06. Notice recorded and indexed.**

The recorder of each county shall accept all such notices which describe real estate located within the county which the recorder serves and shall enter and record such notices in full among miscellaneous instruments and index the same against the real estate.

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

For the purpose of this chapter, the fact of possession of an interest in real estate referred to in section 47-19.1-01 may be shown of record by one or more affidavits containing the legal description of the real estate and showing that the person is in possession of the interest in real estate. The recorder shall record the affidavits in the miscellaneous records and index the same against the real estate. An affidavit of possession may not be filed before the expiration of twenty years from the recording of the conveyance or other title transaction under which title is claimed. The holder of an interest in severed minerals is deemed in possession of the minerals if that person has used the minerals as defined in section 38-18.1-03 and the use is stated in the affidavit of possession provided for in this section.

**47-19.1-08. Existing statutes of limitation not affected.**

Nothing contained in this chapter shall be construed to shorten or extend the period for bringing an action or doing any act required under any existing statute of limitations, nor to affect the operation of any existing statutes governing the effect of the recording or the failure to record any instrument affecting lands.

**47-19.1-09. Slanderous notice - Penalty.**

No person shall use the privilege of filing notices under this chapter or recording any instrument affecting title to real property for the purpose of slandering the title to real estate or to harass the owner of the real estate and in any action brought for the purpose of quieting title to real estate, if the court shall find that any person has filed a claim for the purpose of slandering title to such real estate or to harass the owner of the real estate, the court shall award the plaintiff all the costs of such action, including attorney fees to be fixed and allowed to the plaintiff by the court, and all damages that plaintiff may have sustained as the result of such notice of claim having been filed for record or the instrument having been recorded.

**47-19.1-10. Purpose of chapter.**

This chapter shall be construed to effect the legislative purpose of simplifying and facilitating real estate title transactions by allowing persons to deal with the record title owner as defined herein and to rely upon the record title covering a period of twenty years or more subsequent to the recording of a deed of conveyance as set out in section 47-19.1-01, and to that end to bar all claims that affect or may affect the interest thus dealt with, the existence of which claims arises out of or depends upon any act, transaction, event, or omission occurring before the recording of such deed of conveyance, unless a notice of such claim, as provided in section 47-19.1-05, shall have been duly filed for record. The claims hereby barred shall mean any and all interest of any nature whatever, however denominated, whether such claims are asserted by a person sui juris or under disability, whether such person is or has been within or without the state, and whether such person is natural, corporate, private, or governmental.

**47-19.1-11. Exceptions.**

This chapter shall not be:

1. Applied to bar:
  - a. The rights of any lessor or lessor's successor as reversionary of the lessor's right to possession on the expiration of any lease by reason of failure to file the notice herein required.
  - b. The rights of any remainderman upon the expiration of any life estate or trust created before the recording of a deed of conveyance as set out in section 47-19.1-01.
  - c. Rights founded upon any mortgage, trust deed, or contract for sale of lands which is not barred by the statute of limitations.
  - d. A mere possibility not coupled with an interest nor a mere right of re-entry or repossession for breach of a condition subsequent created by a conveyance of record less than forty years.

2. Deemed to affect the right, title, or interest of the state of North Dakota, or the United States, in any real estate in North Dakota.
3. Applied to the right, title, or interest of any railroad.