

Date Issued: May 18, 1981 (AGO 81-47)

Requested by: Kent Conrad, State Tax Commissioner

- QUESTION PRESENTED -

Whether section 11-18-02.2 of the North Dakota Century Code allows a transition period after its effective date during which deeds may be recorded without containing one of the required statements of full consideration.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that section 11-18-02.2, N.D.C.C., which was enacted with an emergency clause and which became law at 2:38 p.m. on March 26, 1981, allows no transition period and that all deeds after that time cannot be recorded unless they contain one of the required statements of full consideration.

- ANALYSIS -

Senate Bill No. 2323 as passed by the Forty-seventh Legislative Assembly, provides for the assessment of property for the purpose of property taxation. Section 4 of that bill created a new section of law, now codified as section 11-18-02.2, N.D.C.C., which provides that before any deed may be filed in the office of the register of deeds, it must contain one of four statements relating to the consideration paid for the property conveyed by the deed.

Section 41 of Article IV of the Constitution of North Dakota provides as follows:

No Act of the legislative assembly shall take effect until July first after the close of the session, unless the legislature by a vote of two-thirds of the members present and voting, in each house, shall declare it an emergency measure, which declaration shall be set forth in the Act, provided, however, that no Act granting a franchise or special privilege, or Act creating any vested right or interest other than in the state, shall be declared an emergency measure. An emergency measure shall take effect and be in force from and after its passage and approval by the governor.

Section 12 of Senate Bill No. 2323 contains the standard language used by the Legislature to declare an emergency and the bill was approved by a vote of thirty-nine to eleven in the Senate and seventy-one to twenty-seven in the House. As such, the bill is a validly enacted emergency measure which took effect upon its approval by the Governor, at 2:38 p.m. on March 26, 1981.

Section 11-18-02.2, N.D.C.C., provides that a register of deeds "shall not record any deed" unless it contains one of the required statements relating to full consideration or unless it fits within one of a number of exceptions. The section does not, by its own terms, permit a transition period after its effective date during which deeds not falling within one of the

exceptions could be filed without the required statement of full consideration. To allow such a transition period to be read into the section would result in an unreasonably liberal construction of this statute.

The general rule of statutory construction as expressed in section 1-02-01, N.D.C.C., is that statutes "are to be construed liberally, with a view to effecting its objects and to promoting justice." However, words are also to be understood in their ordinary sense (section 1-02-02, N.D.C.C.) and even under a liberal construction the terms of a statute cannot be extended unreasonably. City of Mayville v. Rosing, 19 N.D. 98, 123 N.W. 393 (1909). Furthermore, when a statute is clear and unambiguous, "the letter of it is not to be disregarded under the pretext of pursuing its spirit." Section 1-02-05, N.D.C.C.

Section 11-18-02.2, N.D.C.C., is worded clearly and unambiguously. If the Legislature had intended a transition period for deeds executed on or before the date the Act took effect, it could easily have so provided. As such, there is no room for an interpretation of the Act which would delay its effective date.

- EFFECT -

This opinion is issued pursuant to section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

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