

## MINING AND GAS AND OIL PRODUCTION

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### CHAPTER 230

H. B. No. 591  
(Bubel)

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#### MEETINGS OF BOARD OF MINE FOREMAN EXAMINERS

##### AN ACT

To amend and reenact section 38-0503 of the North Dakota revised code of 1943, relating to meeting of the board of mine foreman examiners.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. AMENDMENT.) Section 38-0503 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

38-0503. MEETINGS OF BOARD OF EXAMINERS.) The board of examiners shall meet, during the month of June of each year, at the call of the state coal mine inspector.

Approved February 9, 1951.

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### CHAPTER 231

S. B. No. 220  
(Fraser, Duffy, Schoeder and Torno)

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#### RELEASE OF MINERAL RESERVATIONS ON STATE LANDS WHEN RESALE TO FORMER OWNER, SPOUSE OR TO LINEAL DESCENDANTS; ASSIGNMENT OF MINERAL LEASES AND RENTALS

##### AN ACT

Relating to reservations of minerals; providing that where the state sells lands to the person from whom the state's title was derived, or to the spouse or lineal descendant of such person, the sale shall be made free of any reservation of minerals.

providing for the release of reservations made subsequent to March 12, 1939, and providing for the assignment of mineral leases on such lands.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1.) Whenever the state or any of its departments sell lands to any person, from whom the state derived the title to such lands, or to his spouse or to his lineal descendants in the first degree, the lands shall be sold free of any reservation of minerals provided for in section 38-0901 of the North Dakota Revised Code of 1943 or in chapter 149 of the 1939 session laws.

§ 2.) Where the state or any of its departments have, subsequent to March 12, 1939, sold lands to any person from whom the state derived title to such lands, or to his spouse or to his lineal descendants in the first degree, and such purchaser or his spouse or his lineal descendants in the first degree are the owners of such lands at the date of the passage of this Act, the state and its departments shall release to such person any reservation of minerals made under section 38-0901 of the North Dakota Revised Code of 1943, or under chapter 149 of the 1939 session laws.

§ 3.) When the purchase price of such lands has been fully paid to the state or its departments, an instrument evidencing such release shall be furnished on application and payment of fees under rules to be prescribed by the state and its departments, but in no case shall the fee therefor exceed ten cents an acre.

§ 4.) Pending application and payment of fee under section 3, the state and its departments may continue to lease reserved minerals and to collect rentals and other income from such leases, and where lands have been sold on contract for deed, such rentals and other income shall be applied as payment on the contract for deed. On release of minerals reserved, any unexpired mineral leases and rentals and income thereafter becoming due shall be assigned to the person entitled to the release as prescribed in sections 2 and 3 hereof.

Approved February 28, 1951.

## CHAPTER 232

H. B. No. 708

(Bentz and Robinson)

LEASING PUBLIC LANDS FOR MINERAL, OIL OR GAS  
EXPLORATION AND PRODUCTION

## AN ACT

Relating to leasing public lands for mineral, oil, or gas exploration and production, and declaring an emergency.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. PUBLIC LANDS; LEASING FOR EXPLORATION AND FOR PRODUCTION OF OIL AND GAS: METHOD.) No lands, owned in whole or in part, or on which a reservation of oil and gas rights has been made in a conveyance thereof, by the state of North Dakota or by any department or agency thereof or by any county or other political subdivision of this state shall be leased for oil or gas exploration or production except as provided for in this Act.

§ 2. PUBLIC OFFERING OF LEASES; STATE.) Before leasing any land or interest therein or any mineral rights reserved therein, the state of North Dakota or any of its departments or agencies shall first advertise the lands offered for lease in the official paper of the county in which such lands are situated, and in some newspaper of general circulation published in the City of Bismarck, said advertisement to be made by publication in the official newspaper of said county once each week for at least two weeks, the last publication to be at least ten days before the day of such leasing. The leasing shall be held at the office of the department or agency owning or controlling such lands and the notice as published shall contain a statement showing the legal description of the lands to be leased, the time and place where the leasing will be held and such other information as may be deemed by such state or department or agency thereof to be applicable.

§ 3. LEASING; PUBLIC OFFERING COUNTIES AND POLITICAL SUBDIVISIONS.) Before leasing any lands or interest therein or any mineral rights reserved in any conveyance thereof, any county or other political subdivisions thereof shall advertise the same in like manner as provided in section 2 hereof and with like

content of such notice and the leasing shall be held at the office of the county auditor if owned by the county or if by any other political subdivision, at the office of the clerk or auditor thereof.

§ 4. BIDDING OR OFFERS.) Offers for leasing may be made in writing and such bids shall be opened at the time of the leasing and bids may be offered orally at the time of the leasing. Such bids shall be made upon the basis of acceptance of a lease upon the rental basis herein fixed, plus such bonus as the bidder may offer. The leasing agency may reject all bids and no bid shall be accepted unless the bidder shall, at the time of the leasing, tender or pay to the leasing official an amount equal to the first years rental for such oil and gas rights, plus any bonus offered for such lease.

§ 5. TERMS OF LEASE.) All leases for the purposes as hereinbefore provided shall be made by the state of North Dakota and all agencies and departments and political subdivisions thereof for twenty-five cents per acre, per year for deferred drilling and shall be made with a royalty reservation of one-eighth of all oil and gas produced from said land as long as oil and gas may be produced from said land. The term one-eighth as used herein shall be construed to mean one-eighth of such interest as may be owned by the lessor. All leases hereunder shall be made for a period of not less than five years and shall continue in effect under the terms thereof as long as oil or gas may be produced thereon in commercial quantities.

§ 6. LEASES VOID IF NOT LET AS PROVIDED HEREIN.) No lease of public land for exploration or development of oil and gas production shall be valid unless advertised and let as hereinbefore provided.

§ 7. RULES AND REGULATIONS.) The state of North Dakota and its departments and agencies, the board of county commission division are hereby authorized to establish rules and regulations for the leasing of lands for the purposes set forth in this Act, not inconsistent herewith. Such rules may require the deposit by any applicant for a lease of an amount sufficient to cover the publication costs.

§ 8. EMERGENCY.) An emergency is deemed to exist and this act shall be in full force and effect from and after its final passage and approval.

Approved March 13, 1951.

## CHAPTER 233

S. B. No. 85

(Nordhougen, Duffy and Baeverstad)

## RELEASE OF OIL AND MINERAL LEASES

## AN ACT

Relating to release of oil, gas and mineral leases.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. DUTY OF LESSEE TO HAVE TERMINATED OR FORFEITED LEASE RELEASED; PUBLICATION NOTICE: AFFIDAVIT TO BE RECORDED: NOTICE TO LAND OWNER; REMEDIES.) When any oil, gas or other mineral lease heretofore or hereafter given on land situated in any county of North Dakota and recorded therein shall terminate or become forfeited it shall be the duty of the lessee, his successors or assigns, within sixty days from the date of the taking effect of this Act, if the termination or forfeiture occurred prior thereto, and within sixty days after the date of the termination or forfeiture of any other lease, to have such lease surrendered in writing, such surrender to be signed by the party making the same, acknowledged and placed on record in the county where the leased land is situated without cost to the owner thereof. If the said lessee, his successors or assigns, shall fail or neglect to execute and record such surrender within the time provided for, then the owner of said land may serve upon said lessee, his successors or assigns, in person or by registered letter, at his last known address, or by publication for three consecutive weeks in a newspaper of general circulation in the county where the land is situated, a notice in writing in substantially the following form:

To .....: I, the undersigned, owner of the following described land situated in ..... county, North Dakota, to wit: (description of land) upon which a lease, dated ..... day of ....., 19....., was given to ..... do hereby notify you that such lease has terminated or become forfeited by breach of the terms thereof, that I hereby elect to declare and do declare the said lease forfeited and void and that, unless you do, within twenty days from this date, notify the register of deeds of said county as provided by law that said lease has not been forfeited, I will file with the said register of deeds affidavit of forfeiture as provided by law, and I hereby demand that you execute or have executed a proper

surrender of said lease and that you put the same of record in the office of the register of deeds of said county within twenty days from this date.

Dated this ..... day of ....., 19....., .....  
..... . The owner of said land may after twenty days from the date of service, registration, or first publication of said notice, file with the register of deeds of the county where said land is situated an affidavit setting forth, that the affiant is the owner of said land, that the lease has terminated or that the lessee, or his successors or assigns has failed and neglected to comply with the terms of said lease, reciting the facts constituting such failure and that the same has been forfeited and is void, and setting out in said affidavit a copy of the notice served, as above provided and the manner and time of the service thereof. If the lessee, his successors or assigns, shall within thirty days after the filing of such affidavit, give notice in writing to the register of deeds of the county where said land is located that said lease has not been forfeited and that said lessee, his successors or assigns, still claim that said lease is in full force and effect, then the said affidavit shall not be recorded but the register of deeds shall notify the owner of the land of the action of the lessee, his successors or assigns, and the owner of the land shall be entitled to the remedies now provided by law for the cancellation of such disputed lease. If the lessee, his successors or assigns, shall not notify the register of deeds, as above provided, then the register of deeds shall record said affidavit, and thereafter the record of the said lease shall not be notice to the public of the existence of said lease or of any interest therein or rights thereunder, and said record shall not be received in evidence in any court of the state on behalf of the lessee, his successors or assigns, against the lessor, his successors or assigns.

§ 2. ACTION TO OBTAIN RELEASE; DAMAGES, COSTS AND ATTORNEY'S FEES: ATTACHMENT.) Should the owner of such lease neglect or refuse to execute a release as provided by this Act, then the owner of the leased premises may sue in any court of competent jurisdiction to obtain such release, and he may also recover in such action of the lessee, his successors or assigns, the sum of one hundred dollars as damages, and all costs, together with a reasonable attorney's fee for preparing and prosecuting the suit, and he may also recover any additional damages that the evidence in the case will warrant. In all such actions, writs of attachment may issue as in other cases.

§ 3. SURRENDER OF LEASE BY LESSEE.) Any oil and gas or mining lease that has been or may hereafter be recorded in the office of the register of deeds of any county may be discharged and canceled of record by an entry on the margin of

the record thereof signed by the lessee or his assigns of record, or his duly authorized attorney in fact or personal representative, or a corporation by its duly authorized officers surrendering all of his right, title and interest in and to said lease in the presence of the register of deeds or his deputy who shall subscribe the same as witness.

§ 4. RECORD OF SURRENDER.) Any oil and gas or mining lease that has been or may hereafter be recorded in the office of the register of deeds of any county may be discharged and canceled by an endorsement made on the original lease signed by the lessee or his duly authorized attorney in fact, assignee of record or personal representative or a corporation by its duly authorized officers surrendering his right, title and interest in and to said lease, which endorsement may be entered on the margin of the record thereof, and shall have the same force and effect as the entry on the margin of the record as provided by section 3.

§ 5. RECORD OF LEASE AS NOTICE FOR DEFINITE TERM; EXTENSION UPON CONTINGENCY, AFFIDAVIT.) When an oil, gas or mineral lease is hereafter given on land situated within the state of North Dakota, the recording thereof in the office of the register of deeds of the county in which the land is located shall impart notice to the public of the validity and continuance of said lease for the definite term therein expressed, but no longer. If such lease contains the statement of any contingency upon the happening of which the term of any such lease may be extended, such as, and as much longer as oil and gas or either are produced in paying quantities, the owner of said lease may at any time before the expiration of the definite term of said lease file with said register of deeds an affidavit setting forth the description of the lease, that the affiant is the owner thereof and the facts showing that the required contingency has happened. This affidavit shall be recorded in full by the register of deeds, and such record together with that of the lease shall be due notice to the public of the existence and continuing validity of said lease, until the same shall be forfeited, canceled, set aside or surrendered according to law.

§ 6. DEMAND FOR RELEASE BEFORE BRINGING ACTION; EVIDENCE.) At least twenty days before bringing the action provided for in this Act, the owner of the leased land, either by himself or by his agent or attorney, shall demand of the holder of the lease, if such demand by ordinary diligence can be made in this state, that said lease be released of record. Such demand may be either written or oral. When written, a carbon or written copy thereof, when shown to be such, may be used as evidence in any court with the same force and effect as the original.

Approved March 7, 1951.