

Fifty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1340

Introduced by

Representatives Kempenich, Drovdal, Wikenheiser

Senator Erbele

1 A BILL for an Act to create and enact a new section to chapter 47-16 of the North Dakota
2 Century Code, relating to termination of wind energy development leases; and to amend and
3 reenact sections 47-16-36 and 47-16-38 of the North Dakota Century Code, relating to
4 termination of leases.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 47-16-36 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **47-16-36. Duty of lessee to have terminated or forfeited lease released -**
9 **Publication notice - Satisfaction of lease to be recorded - Notice to real property owner -**
10 **Remedies.** When ~~any~~ an oil, gas, or other mineral lease or wind energy development lease
11 given on real property situated in ~~any~~ a county of North Dakota and recorded therein terminates
12 or is forfeited it is the duty of the lessee, the lessee's successors or assigns, within fifteen days
13 after the date of the termination or forfeiture of ~~any~~ the lease, to have the lease surrendered in
14 writing, the surrender to be signed by the party making the same, acknowledged, and placed on
15 record in the county where the leased real property is situated without cost to the owner thereof.
16 If the lessee, the lessee's successors or assigns, fails or neglects to execute and record the
17 surrender within the time provided for, then the owner of the real property may serve upon the
18 lessee, the lessee's successors or assigns of record, in person or by registered ~~or certified~~ mail,
19 at the lessee's last-known address, or if the post-office address is not shown of record then by
20 publication once a week for three consecutive weeks in a newspaper of general circulation in
21 the county where the real property is situated, a notice in writing in substantially the following
22 form:

23 To _____: I, the undersigned, owner of the following described land
24 situated in _____ County, North Dakota: (description of land) upon which a

1 lease dated _____, _____, was given to _____ notify you that the
2 lease has terminated or become forfeited by breach of the terms thereof, that I elect to
3 declare and do declare the lease forfeited and void and that, unless you do, within
4 twenty days from this date, notify the recorder of the county as provided by law that the
5 lease has not been forfeited, I will file with the recorder a satisfaction of lease as
6 provided by law, and I demand that you execute or have executed a proper surrender of
7 the lease and that you put the same of record in the office of the recorder of the county
8 within twenty days from this date.

9 Dated _____, _____.
10 _____

11 The owner of the real property may after twenty days from the date of service,
12 registration, or first publication of the notice, file with the recorder of the county where the real
13 property is situated a satisfaction of lease setting forth that the affiant is the owner of the real
14 property, that the lease has terminated or that the lessee, or the lessee's successors or
15 assigns, has failed or neglected to comply with the terms of the lease, reciting the facts
16 constituting the failure and that the same has been forfeited and is void, and setting out in
17 satisfaction of lease a copy of the notice served, as above provided and the manner and time of
18 the service thereof. If the lessee, the lessee's successors or assigns, gives notice in writing
19 within twenty days after service to the recorder of the county where the real property is located
20 that the lease has not been forfeited and that the lessee, the lessee's successors or assigns,
21 still claim that the lease is in full force and effect, then the satisfaction of lease may not be
22 recorded but the recorders shall notify the owner of the real property of the action of the lessee,
23 the lessee's successors or assigns, and the owner of the real property is entitled to the
24 remedies now provided by law for the cancellation of the disputed lease. If the lessee, the
25 lessee's successors or assigns, fails to notify the recorder, as above provided, then the
26 recorder shall record the satisfaction of lease and thereafter the record of the lease is not notice
27 to the public of the existence of the lease or of any interest therein, or rights thereunder, and the
28 record may not be received in evidence in ~~any~~ a court of the state on behalf of the lessee, the
29 lessee's successors or assigns, against the lessor, the lessor's successors or assigns.

30 **SECTION 2. AMENDMENT.** Section 47-16-38 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **47-16-38. Surrender of lease by lessee.** ~~Any~~ An oil and gas or mining lease or wind
2 energy development lease that has been or may hereafter be recorded in the office of the
3 recorder of ~~any~~ a county may be discharged and canceled of record by the recording of a
4 certificate of cancellation signed by the lessee or the lessee's assigns of record, or the lessee's
5 duly authorized attorney in fact or personal representative, including a foreign executor or
6 administrator, or a corporation or limited liability company by its duly authorized officers or
7 managers surrendering all of the lessee's right, title, and interest in and to ~~said~~ the lease, which
8 certificate ~~shall~~ must be acknowledged as prescribed by law.

9 **SECTION 3.** A new section to chapter 47-16 of the North Dakota Century Code is
10 created and enacted as follows:

11 **Wind energy development leases - Termination.** Notwithstanding any other
12 provision of law, a lease for a wind energy development project or wind turbine terminates five
13 years after the date of the lease unless at least one hundred kilovolts of electricity is produced
14 from a wind turbine located on the leasehold.