

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2358

That the House recede from its amendments as printed on pages 1057-1059 of the Senate Journal and pages 1148-1150 of the House Journal and that Engrossed Senate Bill No. 2358 be amended as follows:

Page 1, line 2, replace "transfer" with "use"

Page 1, line 3, replace "and" with a comma and after "60-06-06.1" insert ", and 60-06-15"

Page 1, line 4, after the second semicolon insert "and"

Page 1, line 5, remove "; and to provide an expiration date"

Page 1, line 9, replace "**agreements**" with "**terms**"

Page 1, line 10, replace "A purchase agreement, deed, bill of sale," with "Except as provided in this section, any provision of a"

Page 1, line 11, replace "pertaining to the sale, lease, license or other" with "for the", after "use" insert "or occupancy", and after the first "of" insert "railroad"

Page 1, line 12, replace "nonrailroad purchaser," with "state or federal licensed public grain warehouse or potato warehouse"

Page 1, line 13, remove "lessee, licensee, or other contracting party"

Page 1, line 17, replace "that is" with "to the extent"

Page 1, line 19, replace "personal" with "bodily"

Page 1, line 20, replace "nonrailroad purchaser, lessee, licensee, or other contracting" with "state or federal licensed public grain warehouse or potato warehouse"

Page 1, line 21, remove "party"

Page 1, line 23, replace "that is" with "to the extent"

Page 1, line 24, replace "; or coverage or other" with an underscored period

Page 2, remove lines 1 through 4

Page 2, line 6, replace "personal" with "bodily"

Page 2, line 8, after "liability" insert "to the extent"

Page 2, line 10, remove "purchase"

Page 2, line 11, remove "agreement, deed, bill of sale,"

Page 2, replace lines 13 through 15 with:

- "3. Notwithstanding any other provision of law, a railroad may require that a state or federal licensed public grain warehouse or potato warehouse contracting for the use or occupancy of railroad right of way, or other adjoining property, provide the following:
- a. Commercial general liability insurance of not more than two million dollars per occurrence and not more than four million dollars for multiple occurrences coverage for bodily injury, death, and property damage arising out of the use or occupancy of the property by the contracting party, including:
 - (1) Damage caused by the sole or concurrent fault of the railroad, its employees, agents, and contractors;
 - (2) An endorsement naming the railroad as an additional insured; and
 - (3) An endorsement under the Federal Employers Liability Act [45 U.S.C. et seq.] if the warehouse engages in the business of transporting goods from the warehouse by means of the railroad in an annual volume in excess of two hundred fifty loaded railroad cars.
 - b. Indemnification and defense of the railroad, its employees and agents for all bodily injury, death, environmental damage, and property damage claims and liability up to two million dollars per occurrence arising out of the use or occupancy of the property, including claims and liability caused by the sole or concurrent fault of the railroad, its employees, agents, and contractors.
 - c. Indemnification and defense of the railroad, its employees and agents for all bodily injury, death, property damage, and environmental damage suffered by the lessee, licensee, or other contracting party, its employees, agents, and invitees, arising from the use or occupancy of the property, including claims and liability caused by the sole or concurrent fault of the railroad, its employees, agents, and contractors unless caused solely by the acts or omission of the railroad that are willful, wanton, or grossly negligent.
 - d. Pollution legal liability insurance up to one million dollars, unless the lessee agrees to a greater amount, to cover liabilities arising from hazardous substances or bulk storage of petroleum products brought on the property, or released on or near the property, or violations of environmental laws, by the lessee, licensee, or other contracting party, its employees, agents, and invitees.
4. Each party to the agreement is responsible for all liability resulting from the environmental condition of the property to the extent caused, aggravated, or contributed to by that party, its employees, agents, and invitees."

Page 2, line 30, remove "or to resolve disputes that arise"

Page 2, remove line 31

Page 3, line 1, remove "purchaser, lessee, or other user for any purpose, of a right of way"

Page 3, line 3, remove "If the commission finds that any term of a proposed right-of-way"

Page 3, remove lines 4 through 8

Page 3, line 9, remove "and reasonable to both parties." and overstrike "The commission shall conduct each hearing required under"

Page 3, overstrike lines 10 through 18

Page 3, line 19, overstrike "the general fund in the state treasury." and insert immediately thereafter "The value of a leaseholder's improvements may not be considered in determining a reasonable lease rate or selling price. The parties to such a proceeding shall pay the expenses of the proceeding, as determined by the commission, directly to the entities owed. The commission may adopt rules to carry out this section.

SECTION 4. AMENDMENT. Section 60-06-15 of the North Dakota Century Code is amended and reenacted as follows:

60-06-15. Application to existing leaseholds. The provisions of this chapter apply to the renewal or sale of existing leaseholds on railroad rights of way, and to existing leaseholds on lands that have ceased to be used for railroad rights of way after the leasehold was first created, and so long thereafter as the lease site remains under the ownership or control of the railroad or an entity that was or is under common ownership or control of the railroad. The value of a leaseholder's improvements may not be considered in determining annual rental or the gross sum for the right, privilege, and easement sought."

Page 3, line 21, replace "consider studying" with "study"

Page 3, line 22, remove "abandoned and surplus"

Page 3, line 25, remove "purchase agreement,"

Page 3, line 26, remove "deed, bill of sale," and after "agreement" insert "for the use or occupancy of railroad right of way or other adjoining property"

Page 3, line 27, remove "oral or" and replace ", continuation, or extension" with "or amendment"

Page 3, remove lines 29 and 30

Renumber accordingly