

Sixtieth  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO. 1048

Introduced by

Representatives Drovdal, Hatlestad, S. Meyer

Senators Tollefson, Urlacher

1 A BILL for an Act to create and enact chapter 38-13.1 of the North Dakota Century Code,  
2 relating to trusts for unlocatable mineral, leasehold, and royalty interest owners; and to repeal  
3 chapter 38-13 of the North Dakota Century Code, relating to execution of oil and gas  
4 instruments affecting interests owned by absent persons.

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

6 **SECTION 1.** Chapter 38-13.1 of the North Dakota Century Code is created and  
7 enacted as follows:

#### 8 **38-13.1-01. Trusts for unlocatable, mineral, leasehold, or royalty interest owners -**

9 **Creation.** A person that owns a mineral, leasehold, or royalty interest underlying a tract of land  
10 may petition the district court of the county in which the tract or a portion of the tract is located  
11 to declare a trust in favor of other persons also owning or claiming an interest in the mineral,  
12 leasehold, or royalty interest underlying the tract if the place of residence and present  
13 whereabouts of the other persons are unknown and cannot reasonably be ascertained. In  
14 requesting the appointment of a trustee, the petitioner must show that a diligent but  
15 unsuccessful effort to locate the absent owner or claimant has been made and that appointment  
16 of a trustee will be in the best interest of all owners of an interest in the mineral, leasehold, or  
17 royalty interest. After determining that these conditions have been met, the court shall appoint  
18 the clerk of court as trustee and shall authorize the clerk of court to execute and deliver an oil,  
19 gas, or other mineral lease, a ratification, a division order, or any other related document or  
20 instrument on the terms and the conditions as the court may approve.

21 **38-13.1-02. No further liability for petitioner.** If a trust in favor of unlocatable owners  
22 or claimants of an interest the mineral, leasehold, or royalty interest has been created and all  
23 bonuses, rental payments, royalties, and other income due to the unlocatable owners being or  
24 have been paid to the trustee, the person petitioning for creation of the trust is not liable for

1 further claims by unlocatable owners for bonuses, rental payments, royalties, and other income  
2 produced after the creation of the trust.

3       **38-13.1-03. Administration of trust.** The administration of the trust must comply with  
4 the appropriate provisions regulating trusts contained in title 59. Except as provided in this  
5 section, trustee or attorney's fees may not be paid from the trust proceeds. All bonuses, rental  
6 payments, royalties, and other income must be paid to the trustee until the trust is terminated  
7 and notice of its termination is given to all interested parties. The trustee shall distribute all  
8 moneys held in the trust to the person entitled to the money upon the order of the district court.  
9 A trust in favor of unlocatable owners must be kept in force until the unlocatable owners of the  
10 mineral interests in question have successfully claimed their share of the funds held in trust and  
11 have filed the notice as provided in section 38-13.1-04. The trustee shall invest funds in a  
12 prudent manner. Fifty percent of the moneys paid to the trustee, including interest earned,  
13 must be credited to the general fund of the county in which the mineral interest is located to  
14 defray the costs of administration. Funds held in trust are subject to the laws governing  
15 abandoned property as provided in chapter 47-30.1.

16       **38-13.1-04. Filing of addresses - Fee.** Upon the payment of a five dollar fee, a  
17 person claiming an interest in the mineral, leasehold, or royalty interest underlying a tract of  
18 land that is the subject of a trust proceeding under section 38-13.1-01 may file with the recorder  
19 of each county in which the land is located a notice containing the person's address and a  
20 description of the person's mineral, leasehold, or royalty interest. Filing the notice creates a  
21 rebuttable presumption that the person owns the interest claimed. The recorder shall forward a  
22 copy of the notice to the trustee of the trust.

23       **SECTION 2. REPEAL.** Chapter 38-13 of the North Dakota Century Code is repealed.