

Sixtieth
Legislative Assembly
of North Dakota

ENGROSSED 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
16 appointment of a trustee will be in the best interest of all owners of an interest in the mineral,
17 leasehold, or royalty interest. After determining that these conditions have been met, the court
18 shall appoint the county treasurer as trustee and shall authorize the county treasurer to execute
19 and deliver an oil, gas, or other mineral lease, a ratification, a division order, or any other
20 related document or instrument on the terms and the conditions as the court may approve. A
21 trust in existence on the effective date of this Act may be transferred to the county treasurer of
22 the county in which the mineral, leasehold, or royalty interest is located.

23 **38-13.1-02. No further liability for petitioner.** If a trust in favor of unlocatable owners
24 or claimants of an interest the mineral, leasehold, or royalty interest has been created and all

1 bonuses, rental payments, royalties, and other income due to the unlocatable owners being or
2 have been paid to the trustee, the person petitioning for creation of the trust is not liable for
3 further claims by unlocatable owners for bonuses, rental payments, royalties, and other income
4 produced after the creation of the trust.

5 **38-13.1-03. Administration of trust.** The administration of the trust must comply with
6 the appropriate provisions regulating trusts contained in title 59. Except as provided in this
7 section, trustee or attorney's fees may not be paid from the trust proceeds. All bonuses, rental
8 payments, royalties, and other income must be paid to the trustee until the trust is terminated
9 and notice of its termination is given to all interested parties. The trustee shall distribute all
10 moneys held in the trust to the person entitled to the money upon the order of the district court.
11 A trust in favor of unlocatable owners must be kept in force until the unlocatable owners of the
12 mineral interests in question have successfully claimed their share of the funds held in trust and
13 have filed the notice as provided in section 38-13.1-04. The creation of a trust in favor of
14 unlocatable owners does not affect the right of a surface owner who succeeds to ownership of
15 a mineral interest upon its lapse under chapter 38-18.1. A person who succeeds to ownership
16 under chapter 38-18.1 owns the mineral interest and the proceeds from the mineral interest
17 from the date of succession. The trustee shall invest funds in a prudent manner. Upon receipt,
18 fifty percent of the moneys paid to the trustee must be credited to the general fund of the
19 county in which the mineral interest is located to defray the costs of administration. Funds held
20 in trust are subject to the laws governing abandoned property as provided in chapter 47-30.1.

21 **38-13.1-04. Filing of addresses - Fee.** A person claiming an interest in the mineral,
22 leasehold, or royalty interest underlying a tract of land that is the subject of a trust proceeding
23 under section 38-13.1-01 may record with the recorder of each county in which the land is
24 located a notice containing the person's address and a description of the person's mineral,
25 leasehold, or royalty interest. Recording the notice creates a rebuttable presumption that the
26 person owns the interest claimed.

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