

**Sixty-first Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2139  
(Natural Resources Committee)  
(At the request of the Industrial Commission)

AN ACT to create and enact a new chapter to title 47 of the North Dakota Century Code, relating to ownership of subsurface pore space; to provide for application; and to declare an emergency.

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

**SECTION 1.** A new chapter to title 47 of the North Dakota Century Code is created and enacted as follows:

**Policy.** Undivided estates in land and clarity in land titles reduce litigation, enhance comprehensive management, and promote the security and stability useful for economic development, environmental protection, and government operations.

**Pore space defined.** In this chapter "pore space" means a cavity or void, whether natural or artificially created, in a subsurface sedimentary stratum.

**Title to pore space.** Title to pore space in all strata underlying the surface of lands and waters is vested in the owner of the overlying surface estate.

**Conveyance of real property conveys pore space.** A conveyance of title to the surface of real property conveys the pore space in all strata underlying the surface of the real property.

**Severing pore space prohibited.** Title to pore space may not be severed from title to the surface of the real property overlying the pore space. An instrument or arrangement that seeks to sever title to pore space from title to the surface is void as to the severance of the pore space from the surface interest.

**Transactions allowed.** Leasing pore space is not a severance prohibited by this chapter.

**Application.** This chapter does not affect transactions before the effective date of this chapter that severed pore space from title to the surface estate.

**Mineral and pore space estates - Relationship.** In the relationship between a severed mineral owner and a pore space estate, this chapter does not change or alter the common law as of the effective date of this chapter as it relates to the rights belonging to, or the dominance of, the mineral estate.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2139 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:      Yeas          46              Nays          0              Absent        1

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:      Yeas          93              Nays          0              Absent        1

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2009.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2009.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2009,  
at \_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State