

Sixty-first
Legislative Assembly
of North Dakota

HOUSE BILL NO.

Introduced by

Representative S. Meyer

1 A BILL for an Act to amend and reenact sections 38-18.1-01, 38-18.1-02, 38-18.1-03,
2 38-18.1-04, 38-18.1-05, 38-18.1-06, 38-18.1-07, and 38-18.1-08 of the North Dakota Century
3 Code, relating to termination of mineral interests.

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

5 **SECTION 1. AMENDMENT.** Section 38-18.1-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **38-18.1-01. Mineral interest defined.** In this chapter, unless context or subject matter
8 otherwise requires, "mineral interest" includes any interest in oil, gas, coal, clay, gravel,
9 uranium, and all other minerals of any kind and nature, whether created by grant, assignment,
10 reservation, or otherwise owned by a person other than the owner of the surface estate.

11 **SECTION 2. AMENDMENT.** Section 38-18.1-02 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **38-18.1-02. Statement of claims - Recording - Reversion.** Any mineral interest is, if
14 unused for a period of twenty years immediately preceding the first publication of the notice
15 required by section 38-18.1-06, deemed to be abandoned, unless a statement of claim is
16 recorded in accordance with section 38-18.1-04. Title to the abandoned mineral interest vests
17 in the owner or owners of the surface estate in the land in or under which the mineral interest is
18 located on the date of abandonment. The owner of the surface estate in the land in or under
19 which the mineral interest is located on the date of abandonment may record a statement of
20 succession in interest indicating that the owner has succeeded to ownership of the minerals
21 under this chapter.

22 **SECTION 3. AMENDMENT.** Section 38-18.1-03 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **38-18.1-03. When mineral interest deemed to be used.**

- 1 1. A mineral interest is deemed to be used when:
 - 2 a. There are any minerals produced under that interest.
 - 3 b. Operations are being conducted thereon for injection, withdrawal, storage, or
 - 4 disposal of water, gas, or other fluid substances.
 - 5 c. In the case of solid minerals, there is production from a common vein or seam
 - 6 by the owners of such mineral interest.
 - 7 d. The mineral interest on any tract is subject to a lease, mortgage, assignment,
 - 8 or conveyance of the mineral interest recorded in the office of the recorder in
 - 9 the county in which the mineral interest is located.
 - 10 e. The mineral interest on any tract is subject to an order or an agreement to
 - 11 pool or unitize, recorded in the office of the recorder in the county in which the
 - 12 mineral interest is located.
 - 13 f. Taxes are paid on the mineral interest by the owner or the owner's agent.
 - 14 g. A proper statement of claim is recorded as provided by section 38-18.1-04.
 - 15 ~~h. The owner or lessee utilizes the mineral interest in a manner pursuant to, or~~
 - 16 ~~authorized by, the instrument creating the mineral interest.~~
- 17 2. The payment of royalties, bonus payments, or any other payment to a named or
- 18 unnamed interest-bearing account, trust account, escrow account, or any similar
- 19 type of account on behalf of a person who cannot be located does not satisfy the
- 20 requirements of this section and the mineral interest is not deemed to be used for
- 21 purposes of this section. Interest on such account must be credited to the account
- 22 and may not be used for any other purpose. A named or unnamed interest-bearing
- 23 account, trust account, escrow account, or any similar type of account that has
- 24 been in existence for three years is deemed to be abandoned property and must
- 25 be treated as abandoned property under chapter 47-30.1. A lease given by a
- 26 trustee remains valid.

27 **SECTION 4. AMENDMENT.** Section 38-18.1-04 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **38-18.1-04. Statement of claim - Recording - Time.** The statement of claim provided
30 for in section 38-18.1-02 must:

1. Be recorded by the owner of the mineral interest or the owner's representative prior to the end of the twenty-year period set forth in section 38-18.1-02, ~~or within two years after July 1, 1983, whichever is later.~~ A joint tenant, but not a tenant in common, may record a claim on behalf of oneself and other joint tenants.
2. Contain the name and address of the owner of the mineral interest, and a legal description of the land on, or under which, the mineral interest is located as well as the type of mineral interest involved.
3. Be recorded in the office of the recorder in the county in which the mineral interest is located.

The mineral interest is deemed to be in use at the date of recording, if the recording is made within the time provided by this section.

SECTION 5. AMENDMENT. Section 38-18.1-05 of the North Dakota Century Code is amended and reenacted as follows:

38-18.1-05. Failure to record the statement of claim. Failure to record the statement of claim within the time period provided in section 38-18.1-04 will not cause a mineral interest to be extinguished if the owner of record owner of the mineral interest at the time of the first publication required in chapter 38-18.1-06 meets all one of the following requirements:

- ~~1. Owns one or more mineral interests in the county in which the mineral interest in question is located at the time of the expiration of the time period provided in section 38-18.1-04.~~ Within sixty days after first publication of the notice provided for in section 38-18.1-06 files a statement of claim as required in 38-18.1-04 that is properly dated and notarized to confirm that it was signed prior to such first publication of notice.
- ~~2. Has failed to preserve the mineral interest in question.~~ Within sixty days after first publication of the notice provided for in section 38-18.1-06 files documentation that at least one of the activities under 38-18.1-03(10 took place during the twenty year period immediately preceding such first publication of notice.
 - a. Such documentation of a activity may be filed by a person other than the owner of record only if it is accompanied by proof of ownership by instrument of conveyance recorded in the county in which the mineral interest in question is located.

3. ~~Within sixty days after first publication of the notice provided for in section 38-18.1-06, recorded a statement of claim.~~

SECTION 6. AMENDMENT. Section 38-18.1-06 of the North Dakota Century Code is amended and reenacted as follows:

38-18.1-06. Notice of lapse of mineral interest - Method.

1. ~~Any person~~ The owner or owners of the surface estate in the land or in or under which the mineral interest is located intending to succeed to the ownership of a mineral interest upon its lapse shall give notice of the lapse of the mineral interest by publication.
2. The publication provided for in subsection 1 must be made once each week for three weeks in the official county newspaper of the county in which the mineral interest is located; however, if the address of the mineral interest owner is shown of record or can be determined upon reasonable inquiry, notice must also be made by mailing a copy of the notice to the owner of the mineral interest within ten days after the last publication is made.
3. The notice must state:
 - a. The name of the record owner of the mineral interests;
 - b. A description of the land on which the mineral interest involved is located; and
 - c. The name of the ~~person~~ owner or owners of the surface estate in the land in or under which the mineral interest is located giving the notice.
4. A copy of the notice and an affidavit of service of the notice must be recorded in the office of the recorder of the county in which the mineral interest is located and constitutes prima facie evidence in any legal proceedings that such notice has been given.
5. ~~A person~~ The owner or owners of the surface estate in the land in or under which the mineral interest is located who succeeds to the ownership of a mineral interest upon its lapse under this chapter is ~~entitled~~ required to record a statement of succession in interest indicating that that ~~person~~ owner or owners of the surface estate in the land in or under which the mineral interest is located has succeeded to the ownership of the mineral interest.

1 **SECTION 7. AMENDMENT.** Section 38-18.1-07 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **38-18.1-07. Waiver prohibited.** The provisions of this chapter may not be waived at
4 any time prior to the expiration of the twenty-year period provided in section 38-18.1-02.

5 **SECTION 8. AMENDMENT.** Section 38-18.1-08 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **38-18.1-08. Applicability.** This chapter does not apply to any mineral interest owned
8 by any governmental body or agency thereof and this chapter is both prospective and
9 retrospective in its application.