

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2311

Introduced by

Senators Beard, Bekkedahl, Kessel, Patten

Representatives Dyk, Rios

1 A BILL for an Act to amend and reenact subsection 11 of section 35-24-01 and sections
2 ~~35-24-02~~35-24-03 and 35-27-02 of the North Dakota Century Code, relating to well or pipeline
3 construction liens and construction liens.

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

5 ~~SECTION 1. AMENDMENT. Section 35-24-02 of the North Dakota Century Code is~~
6 ~~amended and reenacted as follows:~~

7 ~~SECTION 35-24-02. Who entitled to lien - Amount of lien.~~

8 ~~1. Any person who shall, under contract with the owner of any leasehold for oil or gas~~
9 ~~purposes or any pipeline, perform any labor or furnish any material or services used or~~
10 ~~employed, or furnished to be used or employed in the drilling or operating of any oil or~~
11 ~~gas well upon such leasehold, or in the construction of any pipeline, or in the~~
12 ~~constructing, putting together, or repairing of any material so used or employed, or~~
13 ~~furnished to be used or employed, is entitled to a lien under this chapter, whether or~~
14 ~~not a producing well is obtained and whether or not such material is incorporated in or~~
15 ~~becomes a part of the completed oil or gas well, or pipeline, for the amount due that~~
16 ~~person for the performance of such labor or the furnishing of such material or services,~~
17 ~~including without limitation transportation and mileage charges connected therewith,~~
18 ~~and interest from the date the same was due.~~

19 ~~2. Notwithstanding any provision in this section, a lien created under this section~~
20 ~~does not apply to or constitute a lien against the owner of the surface estate where the~~
21 ~~oil and gas well or pipeline is located, or against a mineral owner's royalty interest~~
22 ~~subject to an oil and gas lease.~~

23 **SECTION 1. AMENDMENT.** Subsection 11 of section 35-24-01 of the North Dakota Century
24 Code is amended and reenacted as follows:

11. "Pipeline" means any pipeline and related facilities laid and designed as a means of transporting ~~natural gas, oil, or gasoline, or their components or derivatives,~~ liquid or gaseous substances of any kind and the right of way ~~therefor~~ where the pipeline is situated.

SECTION 2. AMENDMENT. Section 35-24-03 of the North Dakota Century Code is amended and reenacted as follows:

35-24-03. Property subject to lien.

1. Liens created under section 35-24-02 extend to:

~~1.a.~~ The whole of the leasehold for oil or gas purposes to which the materials or services were furnished, or for which the labor was performed, and the appurtenances thereunto belonging; and

~~2.b.~~ All materials and fixtures owned by the owner or owners of such leasehold and used or employed, or furnished to be used or employed in the drilling or operating of any oil or gas well located thereon; and

~~3.c.~~ All oil or gas wells located on such leasehold, and the oil or gas produced therefrom, and the proceeds thereof inuring to the working interest therein as such working interest existed on the date such labor was first performed or such material or services were first furnished; or

~~4.d.~~ The whole of the pipeline to which the materials or services were furnished, or for which labor was performed, and all buildings and appurtenances thereunto belonging, including, without limiting the generality of the foregoing, gates, valves, pumps, pump stations, and booster stations, and upon all materials and fixtures owned by the owner of such pipeline and used or employed or furnished to be used or employed in the construction thereof.

2. Notwithstanding any provision in this chapter, liens created under section 35-24-02 may not extend to a freehold estate unless that freehold estate is owned by the owner of the leasehold for oil and gas purposes or a pipeline for which the labor, materials, or services were supplied.

SECTION 3. AMENDMENT. Section 35-27-02 of the North Dakota Century Code is amended and reenacted as follows:

1 **35-27-02. Persons entitled to construction lien - Notice.**

2 1. Any person that improves real estate, whether under contract with the owner of such
3 real estate or under contract with any agent, trustee, contractor, or subcontractor of
4 the owner, has a lien upon the improvement and upon the land on which the
5 improvement is situated or to which the improvement may be removed for the price or
6 value of such contribution. Provided, however, that the amount of the lien is only for
7 the difference between the price paid by the owner or agent and the price or value of
8 the contribution. If the owner or agent has paid the full price or value of the
9 contribution, no lien is allowed. Provided further that if the owner or an agent of the
10 owner has received a waiver of lien signed by the person that improves the real
11 estate, a lien is not allowed.

12 2. Any person that extends credit or makes a contract with any agent, trustee, contractor,
13 or subcontractor of the owner for the improvement of real estate, upon demand, has
14 the right to request and secure evidence of the legal description of the real estate
15 upon which the improvement is located, including the name of the title owner of the
16 real estate. Written notice that a lien will be claimed must be given to the owner of the
17 real estate by certified mail at least ten days before the recording of the construction
18 lien.

19 3. ~~Notwithstanding any provision in this section, a lien created under this section does~~
20 ~~not apply to or constitute a lien against the owner of the surface estate where the oil~~
21 ~~and gas well or pipeline is located, or against a mineral owner's royalty interest subject~~
22 ~~to an oil and gas lease~~any person that performs labor or furnishes materials or
23 services under chapter 35-24 is prohibited from claiming or maintaining a lien under
24 this chapter.