

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1340

Introduced by

Representatives Kempenich, Drovdal, Wikenheiser

Senator Erbele

1 A BILL for an Act to provide for the termination of wind energy development leases.

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

3 **SECTION 1. Duty of lessee to have terminated or forfeited wind energy**
4 **development leases released - Publication notice - Satisfaction of lease to be recorded -**
5 **Notice to real property owner - Remedies.** When a wind energy development lease given on
6 real property situated and recorded in a county in this state terminates or is forfeited, the lessee
7 or the lessee's successors or assigns, within fifteen days after the date of the termination or
8 forfeiture, shall have the lease surrendered in writing. The surrender must be signed by the
9 party surrendering the lease, acknowledged, and placed on record in the county where the
10 leased real property is situated without cost to the property owner. If the lessee or the lessee's
11 successors or assigns fails or neglects to execute and record the surrender within the time
12 required, the property owner may serve upon the lessee or the lessee's successors or assigns
13 of record, in person or by registered mail, at the lessee's last-known address, or if the
14 post-office address is not shown of record then by publication once a week for three
15 consecutive weeks in a newspaper of general circulation in the county where the real property
16 is situated, a written notice in substantially the following form:

17 To _____: I, the undersigned, owner of the following described land
18 situated in _____ County, North Dakota: (description of land) upon which a
19 lease dated _____, _____, was given to _____ notify you that the
20 lease has terminated or become forfeited by breach of its terms, that I declare the lease
21 forfeited and void and that, unless you, within twenty days from this date, notify the
22 recorder of the county as provided by law that the lease has not been forfeited, I will file
23 with the recorder a satisfaction of lease as provided by law, and I demand that you

1 execute or have executed a proper surrender of the lease and that you put the same of
2 record in the office of the recorder of the county within twenty days from this date.

3 Dated _____, _____.
4 _____

5 After twenty days from the date of service, registration, or first publication of the notice,
6 the owner of the real property may file with the recorder of the county where the property is
7 situated a satisfaction of lease setting forth that the affiant is the owner of the property, that the
8 lease has terminated or that the lessee or the lessee's successors or assigns has failed or
9 neglected to comply with the terms of the lease, reciting the facts constituting the failure and
10 that the lease has been forfeited and is void, and setting out in satisfaction of lease a copy of
11 the notice served and time of the service. If the lessee or the lessee's successors or assigns
12 gives written notice within twenty days after service to the recorder of the county where the
13 property is located that the lease has not been forfeited and that the lessee or the lessee's
14 successors or assigns still claim that the lease is in full force and effect, the satisfaction of lease
15 may not be recorded but the recorder shall notify the owner of the property of the action of the
16 lessee or the lessee's successors or assigns and the owner of the property is entitled to the
17 remedies provided by law for the cancellation of the disputed lease. If the lessee or the
18 lessee's successors or assigns fails to notify the recorder, the recorder shall record the
19 satisfaction of lease and thereafter the record of the lease is not notice to the public of the
20 existence of the lease or of any interest therein, or rights thereunder, and the record may not be
21 received in evidence in a court of the state on behalf of the lessee or the lessee's successors or
22 assigns, against the lessor or the lessor's successors or assigns.

23 **SECTION 2. Surrender of wind energy development lease by lessee.** A wind
24 energy development lease that has been or may hereafter be recorded in the office of the
25 recorder of a county may be discharged and canceled of record by the recording of a certificate
26 of cancellation signed by the lessee or the lessee's assigns of record, or the lessee's duly
27 authorized attorney in fact or personal representative, including a foreign executor or
28 administrator, or a corporation or limited liability company by its duly authorized officers or
29 managers surrendering all of the lessee's right, title, and interest in and to the lease, which
30 certificate must be acknowledged as prescribed by law.

1 **SECTION 3. Wind energy development leases - Termination.** Notwithstanding any
2 other law, a lease for a wind energy development project or wind turbine terminates five years
3 after the date of the lease unless at least one hundred kilowatts of electricity is produced from a
4 wind turbine located on the leasehold.