

HOUSE BILL NO. 1253

Introduced by

Representatives Skarphol, Froseth, Wald

Senators Lyson, Wardner

1 A BILL for an Act to amend and reenact section 47-16-39.1 of the North Dakota Century Code,
2 relating to payment of oil and gas royalties.

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

4 **SECTION 1. AMENDMENT.** Section 47-16-39.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **47-16-39.1. Obligation to pay royalties - Breach.** The obligation arising under an oil
7 and gas lease to pay oil or gas royalties to the mineral owner or the mineral owner's assignee,
8 or to deliver oil or gas to a purchaser to the credit of the mineral owner or the mineral owner's
9 assignee, or to pay the market value thereof is of the essence in the lease contract, and breach
10 of the obligation may constitute grounds for the cancellation of the lease in cases where it is
11 determined by the court that the equities of the case require cancellation. If the operator under
12 an oil and gas lease fails to pay oil or gas royalties to the mineral owner or the mineral owner's
13 assignee within one hundred fifty days after oil or gas is first produced under the lease ~~is~~
14 ~~marketed~~ and cancellation of the lease is not sought, the operator shall pay interest on the
15 unpaid royalties at the rate of eighteen percent per annum until paid, except that the
16 commissioner of university and school lands may negotiate a rate to be no less than the prime
17 rate as established by the Bank of North Dakota plus four percent per annum with a maximum
18 of eighteen percent per annum, for unpaid royalties on minerals owned or managed by the
19 board of university and school lands. Provided, that the operator may remit semiannually to a
20 person entitled to royalties the aggregate of six months' monthly royalties where the aggregate
21 amount is less than fifty dollars. The check or check detail must identify the oil and gas
22 royalties and interest accrued by month. The district court for the county in which the oil or gas
23 well is located has jurisdiction over all proceedings brought pursuant to this section. The
24 prevailing party in any proceeding brought pursuant to this section is entitled to recover any

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1 court costs and reasonable attorney's fees. This section does not apply when mineral owners
2 or their assignees elect to take their proportionate share of production in kind or in the event of
3 a dispute of title existing that would affect distribution of royalty payments; however, the
4 operator shall notify royalty owners immediately of any dispute of title, explain the title issue to
5 the royalty owners, and make royalty payments to those mineral owners whose title and
6 ownership interest is not in dispute.