

Sixty-first
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1370

Introduced by

Representatives S. Meyer, Drovdal, Kempenich, Onstad

Senators Bowman, Wardner

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

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

5 **SECTION 1. AMENDMENT.** Section 38-18.1-03 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **38-18.1-03. When mineral interest deemed to be used.**

- 8 1. A mineral interest is deemed to be used when:
- 9 a. There are any minerals produced under that interest.
 - 10 b. Operations are being conducted thereon for injection, withdrawal, storage, or
11 disposal of water, gas, or other fluid substances.
 - 12 c. In the case of solid minerals, there is production from a common vein or seam
13 by the owners of such mineral interest.
 - 14 d. The mineral interest on any tract is subject to a lease, mortgage, assignment,
15 or conveyance of the mineral interest recorded in the office of the recorder in
16 the county in which the mineral interest is located.
 - 17 e. The mineral interest on any tract is subject to an order or an agreement to
18 pool or unitize, recorded in the office of the recorder in the county in which the
19 mineral interest is located.
 - 20 f. Taxes are paid on the mineral interest by the owner or the owner's agent.
 - 21 g. A proper statement of claim is recorded as provided by section 38-18.1-04.
 - 22 h. ~~The owner or lessee utilizes the mineral interest in a manner pursuant to, or~~
23 ~~authorized by, the instrument creating the mineral interest.~~

1 2. The payment of royalties, bonus payments, or any other payment to a named or
2 unnamed interest-bearing account, trust account, escrow account, or any similar
3 type of account on behalf of a person who cannot be located does not satisfy the
4 requirements of this section and the mineral interest is not deemed to be used for
5 purposes of this section. Interest on such account must be credited to the account
6 and may not be used for any other purpose. A named or unnamed
7 interest-bearing account, trust account, escrow account, or any similar type of
8 account that has been in existence for three years is deemed to be abandoned
9 property and must be treated as abandoned property under chapter 47-30.1. A
10 lease given by a trustee remains valid.

11 **SECTION 2. AMENDMENT.** Section 38-18.1-04 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **38-18.1-04. Statement of claim - Recording - Time.** The statement of claim provided
14 for in section 38-18.1-02 must:

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

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

26 **SECTION 3. AMENDMENT.** Section 38-18.1-05 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **38-18.1-05. Failure to record the statement of claim - Penalty.**

- 29 1. Failure to record the statement of claim within the time period provided in section
30 38-18.1-04 will not cause a mineral interest to be extinguished if ~~the owner of the~~
31 ~~mineral interest meets all of the following requirements:~~

- 1 4. ~~Owns one or more mineral interests in the county in which the mineral interest in~~
2 ~~question is located at the time of the expiration of the time period provided in~~
3 ~~section 38-18.1-04.~~
- 4 2. ~~Has failed to preserve the mineral interest in question.~~
- 5 3. ~~Within sixty days after first publication of the notice provided for in section~~
6 ~~38-18.1-06, recorded a statement of claim.~~
- 7 a. The owner of record of the mineral interest satisfies either one of the following
8 requirements within sixty days after first publication of the notice provided for
9 in section 38-18.1-06:
- 10 (1) Files with the county recorder a statement of claim as required in
11 section 38-18.1-04 which is dated and notarized to confirm that the
12 statement was signed before the first publication of notice; or
- 13 (2) Files with the county recorder documentation that at least one of the
14 activities under subsection 1 of section 38-18.1-03 took place during
15 the twenty-year period immediately preceding the first publication of
16 notice.
- 17 b. A person other than the owner of record of the mineral interest files with the
18 county recorder within sixty days after first publication of the notice provided
19 for in section 38-18.1-06 an affidavit under oath or a declaration under oath
20 which includes the following:
- 21 (1) An explanation of the factual and legal basis for the person's assertion
22 of title to the mineral interest. This explanation must be accompanied
23 by documentation supporting the assertion or an explanation why
24 documentation is unavailable; and
- 25 (2) An explanation with supporting documentation that at least one of the
26 activities under subsection 1 of section 38-18.1-03 took place during
27 the twenty-year period immediately preceding the first publication of
28 notice.
- 29 2. A person that files a false claim under this section is guilty of a class B
30 misdemeanor and is liable for attorney's fees in an action brought pursuant to this
31 section.

1 **SECTION 4. AMENDMENT.** Section 38-18.1-06 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **38-18.1-06. Notice of lapse of mineral interest - Method.**

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