

April 1, 2009

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1370

Page 1, line 1, after "to" insert "create and enact a new section to chapter 38-18.1 of the North Dakota Century Code, relating to perfecting title to dormant minerals; and to"

Page 1, line 2, remove "; and"

Page 1, line 3, remove "to provide a penalty"

Page 2, line 25, after the period insert "A statement of claim filed after July 31, 2009, by a person other than the owner of record of the mineral interest is not effective to preserve a mineral interest unless accompanied by a reference to the name of the record owner under whom the owner of the mineral interest claims."

Page 2, line 28, remove "**- Penalty**"

Page 2, line 29, remove "1."

Page 3, line 7, replace "a." with "1."

Page 3, line 10, replace "(1)" with "a."

Page 3, line 11, remove "which is dated and notarized to confirm that the"

Page 3, line 12, remove "statement was signed before the first publication of notice"

Page 3, line 13, replace "(2)" with "b."

Page 3, line 17, replace "b." with "2."

Page 3, line 20, remove "the following:"

Page 3, line 21, replace "(1) An" with "an"

Page 3, line 24, replace "; and" with an underscored period

Page 3, remove lines 25 through 31

Page 4, line 11, after "inquiry" insert "as defined in subsection 6"

Page 4, line 25, remove the overstrike over "~~entitled~~" and remove "required"

Page 4, after line 28, insert:

"6. To constitute a reasonable inquiry as provided in subsection 2, the owner or owners of the surface estate or the owner's authorized agent must conduct a search of:

- a. The county recorder's records for the existence of any uses as defined in section 38-18.1-03 by the owner of the mineral interest;
- b. The clerk of court's records for the existence of any judgments, liens, or probate records which identify the owner of the mineral interest;
- c. The social security death index for the last-known residence of the owner of the mineral interest, if deceased; and
- d. One or more public internet databases to locate or identify the owner of the mineral interest or any known heirs of the owner. The owner or owners of the surface estate are not required to conduct internet searches on private fee internet databases.

**SECTION 5.** A new section to chapter 38-18.1 of the North Dakota Century Code is created and enacted as follows:

**Perfecting title in surface owner.**

1. Upon completion of the procedure provided in section 38-18.1-06, the owner or owners of the surface estate may maintain an action in district court in the county in which the minerals are located and obtain a judgment in quiet title in the owner or owners of the surface estate. This action must be brought in the same manner and is subject to the same procedure as an action to quiet title pursuant to chapter 32-17.
2. In an action brought under this section, the owner or owners of the surface estate shall submit evidence to the district court establishing that all procedures required by this chapter were properly completed and that a reasonable inquiry as defined by subsection 6 of section 38-18.1-06 was conducted. If the district court finds that the surface owner has complied with all procedures of the chapter and has conducted a reasonable inquiry, the district court shall issue its findings of fact, conclusions of law, and enter judgment perfecting title to the mineral interest in the owner or owners of the surface estate.
3. A judgment obtained by the owner or owners of the surface estate in compliance with this section is deemed conclusive except for fraud, misrepresentation, or other misconduct.
4. A mineral lessee that obtains a lease from the owner of the surface estate, which owner has obtained a judgment to minerals pursuant to this section, is deemed a bona fide purchaser and its lease remains effective in the event the judgment is subsequently vacated for any reason. Further, the lessee is not liable to any third party for lease bonus, royalties, or any other proceeds paid to the surface owner under the lease before the judgment being vacated.
5. Absent fraud or misrepresentation, the owner or owners of the surface estate which obtain a judgment under this section and lease minerals to a lessee are entitled to retain all lease bonus, royalties, or any other proceeds paid to the surface owner under the lease before the judgment being vacated."

Renumber accordingly