

SENATE BILL NO. 2311

Introduced by

Senators Beard, Bekkedahl, Kessel, Patten

Representatives Dyk, Rios

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

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

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

6 **35-24-02. Who entitled to lien - Amount of lien.**

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

18 2. ~~Notwithstanding any provision in this title, pursuant to a contract with the owner of any~~
19 ~~leasehold for oil or gas purposes, a lessee, lessee's agent, or the agent's~~
20 ~~subcontractor performing labor or furnishing materials or services for the construction~~
21 ~~of a pipeline, well, or well pad, is precluded from maintaining a lien under this chapter~~
22 ~~against the lessor unless all lessors possessing a working interest first consent to the~~
23 ~~construction on the property~~Notwithstanding any provision in this section, a lien
24 created under this section does not apply to or constitute a lien against the owner of

1 the surface estate where the oil and gas well or pipeline is located, or against a
2 mineral owner's royalty interest subject to an oil and gas lease.

3 **SECTION 2. AMENDMENT.** Section 35-27-02 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **35-27-02. Persons entitled to construction lien - Notice.**

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

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

23 3. ~~Notwithstanding any provision in this title, pursuant to a contract with the owner of any~~
24 ~~leasehold for oil or gas purposes, a lessee, lessee's agent, or the agent's~~
25 ~~subcontractor is precluded from maintaining a lien under this chapter for performing~~
26 ~~labor or furnishing materials or improvements not covered under chapter 35-24,~~
27 ~~against the lessor unless all lessors first consent to the improvements made to the~~
28 ~~property~~ Notwithstanding any provision in this section, a lien created under this section
29 does not apply to or constitute a lien against the owner of the surface estate where the
30 oil and gas well or pipeline is located, or against a mineral owner's royalty interest
31 subject to an oil and gas lease.