27.0174.03000

Seventieth
Legislative Assembly
of North Dakota

BILL NO.

Introduced by

Representative Frelich

A BILL for an Act to create and enact a new section to chapter 61-33 of the North Dakota Century Code, relating to artificial causes of sovereign lands inundation; and to amend and reenact subsection 5 of section 61-33-01 of the North Dakota Century Code, relating to sovereign lands management.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 61-33-01 of the North Dakota Century Code is amended and reenacted as follows:

5. "Sovereign lands" means those areas, including beds and islands, lying within the ordinary high water mark of navigable lakes and streams. ~~Lands established to be riparian accretion or reliction lands pursuant to section 47-06-05 are considered to be above the ordinary high water mark and are not sovereign lands~~The term does not include lands:
   a. Established to be riparian accretion or reliction lands under section 47-06-05, which are considered to be above the ordinary high water mark; or
   b. In the Devils Lake basin submerged by navigable waters on the effective date of this Act if the lands were:
      (1) Nonriparian lands at statehood; and
      (2) Not submerged by navigable water at statehood and were acquired through a patent or an equivalent transfer of ownership issued by the United States before statehood.

SECTION 2. A new section to chapter 61-33 of the North Dakota Century Code is created and enacted as follows:

Rebuttable presumption of artificial cause of inundation.

Nonriparian land derived from a patent or equivalent transfer conveyed by the United States before statehood, which is submerged by water connected to Devils Lake, is presumed to be inundated because of artificial, state-authorized water management practices. To rebut the presumption, the state shall establish by a preponderance of the evidence that the inundation was not caused by artificial, state-authorized water management practices. The state is responsible for all costs and fees associated with an action commenced under this section.