

HOUSE BILL NO. 1210

Introduced by

Representatives S. Olson, Hendrix, Rios

Senators Magrum, Weston

1 A BILL for an Act to create and enact a new chapter to title 35 of the North Dakota Century
2 Code, relating to carbon dioxide pipeline damages.

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

4 **SECTION 1.** A new chapter to title 35 of the North Dakota Century Code is created and
5 enacted as follows:

6 **Definitions.**

7 As used in this section:

- 8 1. "Kill zone" means a twenty-five mile [40.23 kilometers] radius from the site of release
9 of a rupture of a carbon dioxide pipeline or associated facility.
10 2. "Owner" means a person owning or operating a carbon dioxide pipeline or supplying
11 carbon dioxide to a pipeline.
12 3. "Victim" means a person filing a statement to perfect a lien authorized under this
13 chapter.

14 **Carbon dioxide victim lien - Creation - Attachment.**

- 15 1. A victim owning, leasing, residing on, or physically present on property located within
16 the kill zone has a lien against the owner of a carbon dioxide pipeline or facility for the
17 amount of all damages incurred or likely to occur caused by a release of carbon
18 dioxide from a carbon dioxide pipeline or facility. Damages stemming from a lien under
19 this chapter include all compensatory and punitive damages caused by the release of
20 carbon dioxide, regardless of intent or liability of the owner or operator.
21 2. A lien created under this chapter may attach only to a pipeline or facility transporting or
22 supplying carbon dioxide.

1 **Statement of lien - Method of perfection - Priority of lien.**

- 2 1. To perfect a lien obtained under this chapter, a victim shall file a statement of lien,
3 verified by affidavit, with the recorder of the county in which the pipeline or facility
4 subject to the lien is located. A victim shall file the statement under this section within
5 one year of obtaining the lien.
- 6 2. A lien timely perfected under this chapter has retroactive priority over all other liens or
7 encumbrances filed against the subject pipeline or facility from the date the victim
8 obtained a lien under this chapter to the termination date of the lien.

9 **Contents of statement.**

10 A statement of lien filed under this chapter remains effective until terminated through the
11 filing of a satisfaction statement signed by the victim and the owner or operator or a court order.

12 A statement filed under this chapter must include the:

- 13 1. Name and residential address of the victim;
14 2. Date of the underlying carbon dioxide release; and
15 3. Amount of the victim's alleged damages caused by the carbon dioxide release.

16 **Termination of lien - Satisfaction.**

- 17 1. If a victim receives a written demand for satisfaction from an owner or operator subject
18 to a lien, the victim shall file a satisfaction statement if the owner or operator has
19 performed all obligations alleged under the lien or if the victim chooses to voluntarily
20 dismiss the lien.
- 21 2. If a lien under this section is not terminated within fourteen days of receiving a written
22 demand for satisfaction, the owner or operator subject to the lien may demand that the
23 victim commence a civil action to determine the merits of the victim's lien. The demand
24 must inform the victim that if the civil action is not commenced and a lis pendens is not
25 recorded within thirty days of the commencement demand, the lien is forfeited. If a lis
26 pendens is not recorded within the limitations provided by this section, the lien is
27 deemed satisfied.

28 **Bankruptcy - Funds held in trust.**

29 If an owner or operator subject to a lien under this chapter is subject to bankruptcy
30 proceedings or a receivership, the trustee, conservator, or court responsible for reorganization
31 or liquidation of the owner's assets shall hold twice the amount of the damages already alleged

- 1 under liens filed under this chapter in a trust for the benefit of future victims. The funds must be
- 2 held in trust for one year from the last day the owner transports or supplies carbon dioxide in
- 3 the state.