

Sixty-first
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1253

Introduced by

Representatives Skarphol, Froseth, Wald

Senators Lyson, Wardner

1 A BILL for an Act to amend and reenact section 47-16-39.1 of the North Dakota Century Code,
2 relating to payment of oil and gas royalties.

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

4 **SECTION 1. AMENDMENT.** Section 47-16-39.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **47-16-39.1. Obligation to pay royalties - Breach.** The obligation arising under an oil
7 and gas lease to pay oil or gas royalties to the mineral owner or the mineral owner's assignee,
8 or to deliver oil or gas to a purchaser to the credit of the mineral owner or the mineral owner's
9 assignee, or to pay the market value thereof is of the essence in the lease contract, and breach
10 of the obligation may constitute grounds for the cancellation of the lease in cases where it is
11 determined by the court that the equities of the case require cancellation. If the operator under
12 an oil and gas lease fails to pay oil or gas royalties to the mineral owner or the mineral owner's
13 assignee within one hundred fifty days after oil or gas produced under the lease ~~is marketed~~
14 and cancellation of the lease is not sought, the operator shall pay interest on the unpaid
15 royalties at the rate of eighteen percent per annum until paid, except that the commissioner of
16 university and school lands may negotiate a rate to be no less than the prime rate as
17 established by the Bank of North Dakota plus four percent per annum with a maximum of
18 eighteen percent per annum, for unpaid royalties on minerals owned or managed by the board
19 of university and school lands. Provided, that the operator may remit semiannually to a person
20 entitled to royalties the aggregate of six months' monthly royalties where the aggregate amount
21 is less than fifty dollars. The district court for the county in which the oil or gas well is located
22 has jurisdiction over all proceedings brought pursuant to this section. The prevailing party in
23 any proceeding brought pursuant to this section is entitled to recover any court costs and
24 reasonable attorney's fees. This section does not apply when mineral owners or their

- 1 assignees elect to take their proportionate share of production in kind or in the event of a
- 2 dispute of title existing that would affect distribution of royalty payments; however, ~~the~~ if the
- 3 operator withholds royalty payments due to a dispute of title, the operator shall notify the royalty
- 4 owner of the title issue and the reason for withholding royalty payments. The operator shall
- 5 make royalty payments to those mineral owners whose title and ownership interest is not in
- 6 dispute.