

Sixty-first  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1370

Introduced by

Representatives S. Meyer, Drovdal, Kempenich, Onstad

Senators Bowman, Wardner

1 A BILL for an Act to amend and reenact sections 38-18.1-03, 38-18.1-04, 38-18.1-05, and  
2 38-18.1-06 of the North Dakota Century Code, relating to termination of mineral interests; and  
3 to provide a penalty.

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

5 **SECTION 1. AMENDMENT.** Section 38-18.1-03 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **38-18.1-03. When mineral interest deemed to be used.**

- 8 1. A mineral interest is deemed to be used when:
- 9 a. There are any minerals produced under that interest.
- 10 b. Operations are being conducted thereon for injection, withdrawal, storage, or
- 11 disposal of water, gas, or other fluid substances.
- 12 c. In the case of solid minerals, there is production from a common vein or seam
- 13 by the owners of such mineral interest.
- 14 d. The mineral interest on any tract is subject to a lease, mortgage, assignment,
- 15 or conveyance of the mineral interest recorded in the office of the recorder in
- 16 the county in which the mineral interest is located.
- 17 e. The mineral interest on any tract is subject to an order or an agreement to
- 18 pool or unitize, recorded in the office of the recorder in the county in which the
- 19 mineral interest is located.
- 20 f. Taxes are paid on the mineral interest by the owner or the owner's agent.
- 21 g. A proper statement of claim is recorded as provided by section 38-18.1-04.
- 22 ~~h. The owner or lessee utilizes the mineral interest in a manner pursuant to, or~~
- 23 ~~authorized by, the instrument creating the mineral interest.~~

2. The payment of royalties, bonus payments, or any other payment to a named or unnamed interest-bearing account, trust account, escrow account, or any similar type of account on behalf of a person who cannot be located does not satisfy the requirements of this section and the mineral interest is not deemed to be used for purposes of this section. Interest on such account must be credited to the account and may not be used for any other purpose. A named or unnamed interest-bearing account, trust account, escrow account, or any similar type of account that has been in existence for three years is deemed to be abandoned property and must be treated as abandoned property under chapter 47-30.1. A lease given by a trustee remains valid.

**SECTION 2. AMENDMENT.** Section 38-18.1-04 of the North Dakota Century Code is amended and reenacted as follows:

**38-18.1-04. Statement of claim - Recording - Time.** The statement of claim provided for in section 38-18.1-02 must:

1. Be recorded by the owner of the mineral interest or the owner's representative prior to the end of the twenty-year period set forth in section 38-18.1-02, ~~or within two years after July 1, 1983, whichever is later.~~ A joint tenant, but not a tenant in common, may record a claim on behalf of oneself and other joint tenants.
2. Contain the name and address of the owner of the mineral interest, and a legal description of the land on, or under which, the mineral interest is located as well as the type of mineral interest involved.
3. Be recorded in the office of the recorder in the county in which the mineral interest is located.

The mineral interest is deemed to be in use at the date of recording, if the recording is made within the time provided by this section.

**SECTION 3. AMENDMENT.** Section 38-18.1-05 of the North Dakota Century Code is amended and reenacted as follows:

**38-18.1-05. Failure to record the statement of claim - Penalty.**

1. Failure to record the statement of claim within the time period provided in section 38-18.1-04 will not cause a mineral interest to be extinguished if ~~the owner of the mineral interest meets all of the following requirements:~~

- 1       1. ~~Owns one or more mineral interests in the county in which the mineral interest in~~  
2       ~~question is located at the time of the expiration of the time period provided in~~  
3       ~~section 38-18.1-04.~~
- 4       2. ~~Has failed to preserve the mineral interest in question.~~
- 5       3. ~~Within sixty days after first publication of the notice provided for in section~~  
6       ~~38-18.1-06, recorded a statement of claim.~~
  - 7       a. The owner of record of the mineral interest satisfies either one of the following  
8       requirements within sixty days after first publication of the notice provided for  
9       in section 38-18.1-06:
    - 10       (1) Files with the county recorder a statement of claim as required in  
11       section 38-18.1-04 which is dated and notarized to confirm that the  
12       statement was signed before the first publication of notice; or
    - 13       (2) Files with the county recorder documentation that at least one of the  
14       activities under subsection 1 of section 38-18.1-03 took place during  
15       the twenty-year period immediately preceding the first publication of  
16       notice.
  - 17       b. A person other than the owner of record of the mineral interest files with the  
18       county recorder within sixty days after first publication of the notice provided  
19       for in section 38-18.1-06 an affidavit under oath or a declaration under oath  
20       which includes the following:
    - 21       (1) An explanation of the factual and legal basis for the person's assertion  
22       of title to the mineral interest. This explanation must be accompanied  
23       by documentation supporting the assertion or an explanation why  
24       documentation is unavailable; and
    - 25       (2) An explanation with supporting documentation that at least one of the  
26       activities under subsection 1 of section 38-18.1-03 took place during  
27       the twenty-year period immediately preceding the first publication of  
28       notice.
- 29       2. A person that files a false claim under this section is guilty of a class B  
30       misdemeanor and is liable for attorney's fees in an action brought pursuant to this  
31       section.

1           **SECTION 4. AMENDMENT.** Section 38-18.1-06 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **38-18.1-06. Notice of lapse of mineral interest - Method.**

- 4           1. ~~Any person~~ The owner or owners of the surface estate in the land in or under  
5           which the mineral interest is located intending to succeed to the ownership of a  
6           mineral interest upon its lapse shall give notice of the lapse of the mineral interest  
7           by publication.
- 8           2. The publication provided for in subsection 1 must be made once each week for  
9           three weeks in the official county newspaper of the county in which the mineral  
10          interest is located; however, if the address of the mineral interest owner is shown  
11          of record or can be determined upon reasonable inquiry, notice must also be made  
12          by mailing a copy of the notice to the owner of the mineral interest within ten days  
13          after the last publication is made.
- 14          3. The notice must state:
- 15           a. The name of the record owner of the mineral ~~interests~~ interest;
- 16           b. A description of the land on which the mineral interest involved is located; and
- 17           c. The name of the ~~person~~ owner or owners of the surface estate in the land in  
18           or under which the mineral interest is located giving the notice.
- 19          4. A copy of the notice and an affidavit of service of the notice must be recorded in  
20          the office of the recorder of the county in which the mineral interest is located and  
21          constitutes prima facie evidence in any legal proceedings that such notice has  
22          been given.
- 23          5. ~~A person~~ The owner or owners of the surface estate in the land in or under which  
24          the mineral interest is located who succeeds to the ownership of a mineral interest  
25          upon its lapse under this chapter is ~~entitled~~ required to record a statement of  
26          succession in interest indicating that that ~~person~~ owner or owners of the surface  
27          estate in the land in or under which the mineral interest is located has succeeded  
28          to the ownership of the mineral interest.