

HOUSE BILL NO. 1071

Introduced by

Representatives Drovdal, S. Meyer, Froseth

Senator Lyson

1 A BILL for an Act to amend and reenact section 47-16-39.1 of the North Dakota Century Code,
2 relating to failure to pay royalties to unleased mineral interest owners.

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 or if the operator fails to pay oil or gas royalties to an
15 unleased mineral interest owner within one hundred fifty days from initial oil or gas production
16 from the unleased mineral interest owner's mineral interest, the operator shall pay interest on
17 the unpaid royalties at the rate of eighteen percent per annum until paid, except that the
18 commissioner of university and school lands may negotiate a rate to be no less than the prime
19 rate as established by the Bank of North Dakota plus four percent per annum with a maximum
20 of eighteen percent per annum, for unpaid royalties on minerals owned or managed by the
21 board of university and school lands. Provided, that the operator may remit semiannually to a
22 person entitled to royalties the aggregate of six months' monthly royalties where the aggregate
23 amount is less than fifty dollars. The district court for the county in which the oil or gas well is
24 located has jurisdiction over all proceedings brought pursuant to this section. The prevailing

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1 party in any proceeding brought pursuant to this section is entitled to recover any court costs
2 and reasonable attorney's fees. This section does not apply when mineral owners or their
3 assignees elect to take their proportionate share of production in kind or in the event of a
4 dispute of title existing that would affect distribution of royalty payments; however, the operator
5 shall make royalty payments to those mineral owners whose title and ownership interest is not
6 in dispute.