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Sixty-eighth
Legislative Assembly
of North Dakota

# HOUSE BILL NO. 1510

Introduced by

Representatives Klemin, Cory, Karls, J. Olson

Senator Sickler

A BILL for an Act to amend and reenact section 38-11.1-09 of the North Dakota Century Code, relating to legal fees and costs a surface owner ~~or mineral developer~~ may be awarded in cases relating to the development of minerals.

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

**SECTION 1. AMENDMENT.** Section 38-11.1-09 of the North Dakota Century Code is amended and reenacted as follows:

**38-11.1-09. Rejection - Legal action - Fees and costs.**

1. If the ~~person~~surface owner seeking compensation rejects the offer of the mineral developer, ~~that person~~the surface owner may bring an action for compensation in the court of proper jurisdiction.
2. If the amount of compensation awarded by the court to the surface owner is greater than that which had been offered by the mineral developer to the surface owner before the start of the litigation, the court shall ~~deem~~award the surface owner ~~the prevailing party that is entitled to~~ reasonable attorney's fees and costs.
3. If the amount of compensation awarded by the court to the surface owner is less than that which had been offered by the mineral developer to the surface owner before the start of the litigation, the surface owner is not entitled to attorney's fees and costs ~~as the prevailing party. In addition to determining and awarding compensation, the court shall award the person seeking compensation~~surface owner ~~reasonable attorney's fees, any~~and ~~costs assessed by the court, and not to exceed the total amount of compensation awarded by the court to the surface owner.~~
4. If the surface owner rejects an offer of settlement made by the mineral developer after the start of the litigation and the amount of compensation awarded by the court to the

surface owner is greater than the offer of settlement, the surface owner is entitled to an award of reasonable attorney's fees and costs assessed by the court.

5. Notwithstanding any provision of the North Dakota Rules of Civil Procedure, if the surface owner rejects an offer of settlement made by the mineral developer after the start of litigation, and the amount of compensation awarded by the court to the surface owner is less than the offer of settlement, the surface owner is entitled to an award of reasonable attorney's fees and costs incurred by the surface owner before the date of the offer of settlement, but is not entitled to any award of reasonable attorney's fees and costs after the date the offer of settlement was made to the surface owner.

6. The court shall award interest on the amount of the final compensation ~~over and above the amount offered by the mineral developer and~~ awarded by the court from the day drilling is commenced. The rate of interest awarded must be the prime rate charged by the Bank of North Dakota on the date of the judgment. ~~If the mineral developer issues an offer of settlement under rule 68 of the North Dakota Rules of Civil Procedure, the offer must be the offer for purposes of determining who is the prevailing party for the period after the settlement offer. The prevailing party for the earlier period is entitled only to reasonable attorney's fees and costs incurred by the prevailing party on and after the date the settlement offer was made and the prevailing party for any earlier period is entitled only to reasonable attorney's fees and costs incurred by the prevailing party before the settlement offer was made with the net award of attorney's fees and costs not to exceed the limits in this section.~~