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Sixty-eighth
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT

ENGROSSED 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 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 award the surface owner 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. ~~, the court shall award the person seeking compensation reasonable attorney's fees, any costs assessed by the court, and~~
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 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.