

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2311

Introduced by

Senators Beard, Bekkedahl, Kessel, Patten

Representatives Dyk, Rios

1 A BILL for an Act to amend and reenact subsection 11 of section 35-24-01 and sections
2 ~~35-24-02~~35-24-03, 35-24-11, and 35-27-02 of the North Dakota Century Code, relating to well
3 or pipeline construction liens and construction liens.

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

5 ~~SECTION 1. AMENDMENT. Section 35-24-02 of the North Dakota Century Code is~~
6 ~~amended and reenacted as follows:~~

7 ~~35-24-02. Who entitled to lien – Amount of lien.~~

8 ~~1. Any person who shall, under contract with the owner of any leasehold for oil or gas~~
9 ~~purposes or any pipeline, perform any labor or furnish any material or services used or~~
10 ~~employed, or furnished to be used or employed in the drilling or operating of any oil or~~
11 ~~gas well upon such leasehold, or in the construction of any pipeline, or in the~~
12 ~~constructing, putting together, or repairing of any material so used or employed, or~~
13 ~~furnished to be used or employed, is entitled to a lien under this chapter, whether or~~
14 ~~not a producing well is obtained and whether or not such material is incorporated in or~~
15 ~~becomes a part of the completed oil or gas well, or pipeline, for the amount due that~~
16 ~~person for the performance of such labor or the furnishing of such material or services,~~
17 ~~including without limitation transportation and mileage charges connected therewith,~~
18 ~~and interest from the date the same was due.~~

19 ~~2. Notwithstanding any provision in this section, a lien created under this section~~
20 ~~does not apply to or constitute a lien against the owner of the surface estate where the~~
21 ~~oil and gas well or pipeline is located, or against a mineral owner's royalty interest~~
22 ~~subject to an oil and gas lease.~~

23 **SECTION 1. AMENDMENT.** Subsection 11 of section 35-24-01 of the North Dakota Century
24 Code is amended and reenacted as follows:

1 11. "Pipeline" means any pipeline and related facilities laid and designed as a means of
2 transporting ~~natural gas, oil, or gasoline, or their components or derivatives,~~ liquid or
3 gaseous substances of any kind and the right of way therefor.

4 **SECTION 2. AMENDMENT.** Section 35-24-03 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **35-24-03. Property subject to lien.**

7 1. Liens created under section 35-24-02 extend to:

8 ~~1.a.~~ The whole of the leasehold for oil or gas purposes to which the materials or
9 services were furnished, or for which the labor was performed, and the
10 appurtenances thereunto belonging; and

11 ~~2.b.~~ All materials and fixtures owned by the owner or owners of such leasehold and
12 used or employed, or furnished to be used or employed in the drilling or operating
13 of any oil or gas well located thereon; and

14 ~~3.c.~~ All oil or gas wells located on such leasehold, and the oil or gas produced
15 therefrom, and the proceeds thereof inuring to the working interest therein as
16 such working interest existed on the date such labor was first performed or such
17 material or services were first furnished; or

18 ~~4.d.~~ The whole of the pipeline to which the materials or services were furnished, or for
19 which labor was performed, and all buildings and appurtenances thereunto
20 belonging, including, without limiting the generality of the foregoing, gates,
21 valves, pumps, pump stations, and booster stations, and upon all materials and
22 fixtures owned by the owner of such pipeline and used or employed or furnished
23 to be used or employed in the construction thereof.

24 2. Notwithstanding any provision in this chapter, liens created under section 35-24-02
25 may not extend to a freehold estate unless that freehold estate is owned by the owner
26 of any leasehold for oil or gas purposes or any pipeline for which the labor, materials,
27 or services were supplied.

28 **SECTION 3. AMENDMENT.** Section 35-24-11 of the North Dakota Century Code is
29 amended and reenacted as follows:

35-24-11. Contents and filing of statement of lien.

1 **35-24-11. Contents and filing of statement of lien.**
2 1. Every person claiming a lien under this chapter shall file with the recorder of the
3 county in which the leasehold or pipeline, or some part thereof, is situated, a
4 statement verified by affidavit setting forth the amount claimed and the items thereof,
5 the dates on which labor was performed or material or services furnished, the name of
6 the owner of the leasehold or pipeline, if known, the name of the claimant and the
7 claimant's mailing address, a description of the leasehold or pipeline, and if the
8 claimant is a claimant under section 35-24-04, the name of the person for whom the
9 labor was immediately performed or the material or services were immediately
10 furnished.

11 2. The statement of the lien must contain the following statement in at least sixteen-point
12 typeface unless the owner of the freehold estate also is the owner of the leasehold for
13 oil or gas purposes or the pipeline for which the labor, materials, or services were
14 supplied:

15 The lien in this chapter attaches only to the leasehold for oil or gas purposes or
16 any pipeline for which labor, materials, or services were supplied. This lien does
17 not attach to or encumber the real property of a freehold estate.

18 Failure to include the statement mentioned in this subsection in the statement of the
19 lien does not invalidate a lien on the leasehold or pipeline.

20 3. The statement of lien must be filed within six months after the date on which the
21 claimant's labor was last performed or material or services were last furnished under a
22 single contract as provided for in section 35-24-10.

23 **SECTION 4. AMENDMENT.** Section 35-27-02 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **35-27-02. Persons entitled to construction lien - Notice.**

26 1. Any person that improves real estate, whether under contract with the owner of such
27 real estate or under contract with any agent, trustee, contractor, or subcontractor of
28 the owner, has a lien upon the improvement and upon the land on which the
29 improvement is situated or to which the improvement may be removed for the price or
30 value of such contribution. Provided, however, that the amount of the lien is only for
31 the difference between the price paid by the owner or agent and the price or value of

1 the contribution. If the owner or agent has paid the full price or value of the
2 contribution, no lien is allowed. Provided further that if the owner or an agent of the
3 owner has received a waiver of lien signed by the person that improves the real
4 estate, a lien is not allowed.

5 2. Any person that extends credit or makes a contract with any agent, trustee, contractor,
6 or subcontractor of the owner for the improvement of real estate, upon demand, has
7 the right to request and secure evidence of the legal description of the real estate
8 upon which the improvement is located, including the name of the title owner of the
9 real estate. Written notice that a lien will be claimed must be given to the owner of the
10 real estate by certified mail at least ten days before the recording of the construction
11 lien.

12 3. ~~Notwithstanding any provision in this section, a lien created under this section does~~
13 ~~not apply to or constitute a lien against the owner of the surface estate where the oil~~
14 ~~and gas well or pipeline is located, or against a mineral owner's royalty interest subject~~
15 ~~to an oil and gas lease~~any person that performs labor or furnishes materials or
16 services under chapter 35-24 is prohibited from claiming or maintaining a lien under
17 this chapter.