

**FIRST ENGROSSMENT
with House Amendments
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 35-24-03, 35-24-11, and 35-27-02 of the North Dakota Century Code, relating to well or pipeline
3 construction liens and construction liens.

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

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

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

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

12 **35-24-03. Property subject to lien.**

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

14 ~~4.a.~~ The whole of the leasehold for oil or gas purposes to which the materials or
15 services were furnished, or for which the labor was performed, and the
16 appurtenances thereunto belonging; and

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

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

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

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

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

13 **35-24-11. Contents and filing of statement of lien.**

14 1. Every person claiming a lien under this chapter shall file with the recorder of the
15 county in which the leasehold or pipeline, or some part thereof, is situated, a
16 statement verified by affidavit setting forth the amount claimed and the items thereof,
17 the dates on which labor was performed or material or services furnished, the name of
18 the owner of the leasehold or pipeline, if known, the name of the claimant and the
19 claimant's mailing address, a description of the leasehold or pipeline, and if the
20 claimant is a claimant under section 35-24-04, the name of the person for whom the
21 labor was immediately performed or the material or services were immediately
22 furnished.

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

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

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

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

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

6 **35-27-02. Persons entitled to construction lien - Notice.**

7 1. Any person that improves real estate, whether under contract with the owner of such
8 real estate or under contract with any agent, trustee, contractor, or subcontractor of
9 the owner, has a lien upon the improvement and upon the land on which the
10 improvement is situated or to which the improvement may be removed for the price or
11 value of such contribution. Provided, however, that the amount of the lien is only for
12 the difference between the price paid by the owner or agent and the price or value of
13 the contribution. If the owner or agent has paid the full price or value of the
14 contribution, no lien is allowed. Provided further that if the owner or an agent of the
15 owner has received a waiver of lien signed by the person that improves the real
16 estate, a lien is not allowed.

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

24 3. Notwithstanding any provision in this section, any person that performs labor or
25 furnishes materials or services under chapter 35-24 is prohibited from claiming or
26 maintaining a lien under this chapter.