

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

SENATE BILL NO. 2311
(Senators Beard, Bekkedahl, Kessel, Patten)
(Representatives Dyk, Rios)

AN ACT to amend and reenact subsection 11 of section 35-24-01 and sections 35-24-03, 35-24-11, and 35-27-02 of the North Dakota Century Code, relating to well or pipeline construction liens and construction liens.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

35-24-03. Property subject to lien.

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

- ~~1.a.~~ 1.a. The whole of the leasehold for oil or gas purposes to which the materials or services were furnished, or for which the labor was performed, and the appurtenances thereunto belonging; and
- ~~2.b.~~ 2.b. All materials and fixtures owned by the owner or owners of such leasehold and used or employed, or furnished to be used or employed in the drilling or operating of any oil or gas well located thereon; and
- ~~3.c.~~ 3.c. All oil or gas wells located on such leasehold, and the oil or gas produced therefrom, and the proceeds thereof inuring to the working interest therein as such working interest existed on the date such labor was first performed or such material or services were first furnished; or
- ~~4.d.~~ 4.d. The whole of the pipeline to which the materials or services were furnished, or for which labor was performed, and all buildings and appurtenances thereunto belonging, including, without limiting the generality of the foregoing, gates, valves, pumps, pump stations, and booster stations, and upon all materials and fixtures owned by the owner of such pipeline and used or employed or furnished to be used or employed in the construction thereof.

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

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

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

1. Every person claiming a lien under this chapter shall file with the recorder of the county in which the leasehold or pipeline, or some part thereof, is situated, a statement verified by affidavit setting forth the amount claimed and the items thereof, the dates on which labor was performed or material or services furnished, the name of the owner of the leasehold or pipeline, if known, the name of the claimant and the claimant's mailing address, a description of the leasehold or pipeline, and if the claimant is a claimant under section 35-24-04, the name of the person for whom the labor was immediately performed or the material or services were immediately furnished.
2. The statement of the lien must contain the following statement in at least sixteen-point typeface unless the owner of the freehold estate also is the owner of the leasehold for oil or gas purposes or the pipeline for which the labor, materials, or services were supplied:

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

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

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

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

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

1. Any person that improves real estate, whether under contract with the owner of such real estate or under contract with any agent, trustee, contractor, or subcontractor of the owner, has a lien upon the improvement and upon the land on which the improvement is situated or to which the improvement may be removed for the price or value of such contribution. Provided, however, that the amount of the lien is only for the difference between the price paid by the owner or agent and the price or value of the contribution. If the owner or agent has paid the full price or value of the contribution, no lien is allowed. Provided further that if the owner or an agent of the owner has received a waiver of lien signed by the person that improves the real estate, a lien is not allowed.
2. Any person that extends credit or makes a contract with any agent, trustee, contractor, or subcontractor of the owner for the improvement of real estate, upon demand, has the right to request and secure evidence of the legal description of the real estate upon which the improvement is located, including the name of the title owner of the real estate. Written notice that a lien will be claimed must be given to the owner of the real estate by certified mail at least ten days before the recording of the construction lien.
3. Notwithstanding any provision in this section, any person that performs labor or furnishes materials or services under chapter 35-24 is prohibited from claiming or maintaining a lien under this chapter.

Tanner Hill
President of the Senate

Dennis Johnson
Speaker of the House

Hand Morgan
Secretary of the Senate

Buell J. Reich
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2311.

Senate Vote: Yeas 40 Nays 6 Absent 1

House Vote: Yeas 88 Nays 2 Absent 4

Hand Morgan
Secretary of the Senate

Received by the Governor at 3:29 PM. on April 13, 2023.

Approved at 10:53 AM. on April 18, 2023.

Doug Burgum
Governor

Filed in this office this 19th day of April, 2023,

at 8:56 o'clock A. M.

Michael Howe
Secretary of State