

PROPERTY

CHAPTER 395

SENATE BILL NO. 2364

(Senators Dever, Tollefson)
(Representatives Bellew, Karls, L. Meier)

COVENANT AND CONDOMINIUM PROHIBITED PROVISIONS

AN ACT to create and enact a new section to chapter 47-04 and a new section to chapter 47-04.1 of the North Dakota Century Code, relating to prohibited provisions in restrictive covenants and condominium project bylaws and regulations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 47-04 of the North Dakota Century Code is created and enacted as follows:

Covenant may not prohibit display of political signs. Notwithstanding any provision in a covenant, a covenant running with the land may not prohibit the outdoor display of a political yard sign by the owner or a resident on the owner's property within sixty days before any primary, general, or special election. A covenant may include reasonable rules regarding the placement and manner of display of political signs.

SECTION 2. A new section to chapter 47-04.1 of the North Dakota Century Code is created and enacted as follows:

Covenant, declaration, bylaw, or other rule may not prohibit display of political signs. Notwithstanding any provision in a covenant, declaration, bylaw, or other rule of a project, an owner or resident may not be prohibited from displaying a political yard sign on the owner's property within sixty days before any primary, general, or special election. A covenant, declaration, bylaw, or rule may include reasonable restrictions regarding the placement and manner of display of political signs.

Approved April 30, 2007
Filed May 1, 2007

CHAPTER 396**SENATE BILL NO. 2219**

(Senator Holmberg)

CONDOMINIUM DESCRIPTIONS IN CONVEYANCES

AN ACT to amend and reenact section 47-04.1-05 of the North Dakota Century Code, relating to descriptions of condominium units in conveyances.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-04.1-05 of the North Dakota Century Code is amended and reenacted as follows:

47-04.1-05. Reference to declaration for description of unit and common elements. All subsequent deeds, mortgages, or other instruments ~~shall describe the unit and the land, but~~ may describe the individual units, the common elements, ~~other than~~ the land, or limited common elements by reference to appropriate numbers or letters ~~if such as they~~ appear on the declaration provided for in section 47-04.1-03 without repeating in detail the description of ~~such the~~ units, common elements other than the land, or limited common elements. ~~Such~~ The reference ~~shall~~ must include the book and page of the recorded declaration.

Approved May 2, 2007

Filed May 3, 2007

CHAPTER 397**HOUSE BILL NO. 1231**

(Representatives Kretschmar, Brandenburg)
(Senator Erbele)

WIND ENERGY PAYMENTS

AN ACT to amend and reenact section 47-05-16 of the North Dakota Century Code, relating to wind energy payments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-05-16 of the North Dakota Century Code is amended and reenacted as follows:

47-05-16. Severance of wind energy rights limited. Except for a wind easement created under section 47-05-15 and as otherwise provided in this section, an interest in a resource located on a tract of land and associated with the production of energy for wind power on the tract of land may not be severed from the surface estate. However, nothing in this section may be construed to prohibit or limit the right of a seller of real estate to retain any payments associated with an existing wind energy project.

Approved March 23, 2007
Filed March 23, 2007

CHAPTER 398**HOUSE BILL NO. 1146**

(Representatives Hanson, Kroeber, Pollert, Porter, Solberg)
(Senator Urlacher)

HUNTING ACCESS RIGHT SEVERANCE PROHIBITED

AN ACT to create and enact a new section to chapter 47-05 of the North Dakota Century Code, relating to severance of the right of access for hunting access from the surface estate; to provide for a legislative council study; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 47-05 of the North Dakota Century Code is created and enacted as follows:

Severance of the right of access for hunting access prohibited. The right of access to land to shoot, shoot at, pursue, take, attempt to take, or kill any game animals or game birds; search for or attempt to locate or flush any game animals and game birds; lure, call, or attempt to attract game animals or game birds; hide for the purpose of taking or attempting to take game animals or game birds; and walk, crawl, or advance toward wildlife while possessing implements or equipment useful in the taking of game animals or game birds may not be severed from the surface estate. This section does not apply to deeds, instruments, or interests in property recorded before the effective date of this Act.

SECTION 2. LEGISLATIVE COUNCIL - SEVERANCE OF HUNTING ACCESS FROM SURFACE ESTATE STUDY. The legislative council shall consider studying, during the 2007-08 interim, issues related to the severance of hunting access from the surface estate. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

SECTION 3. EXPIRATION DATE. This Act is effective through July 31, 2009, and after that date is ineffective.

Approved April 18, 2007
Filed April 19, 2007

CHAPTER 399**HOUSE BILL NO. 1147**
(Representatives Porter, R. Kelsch)
(Senator Cook)**RESIDENTIAL LEASE TERMINATION NOTICES**

AN ACT to amend and reenact sections 47-16-06 and 47-16-15 of the North Dakota Century Code, relating to the notice of termination of residential leases.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-16-06 of the North Dakota Century Code is amended and reenacted as follows:

47-16-06. When a lease is presumed renewed. If a lessee of real property remains in possession ~~thereof~~ of the real property after the expiration of the ~~leasing~~ leasing lease and the lessor accepts rent from the lessee, the parties are presumed to have renewed the ~~leasing~~ leasing lease on the same terms and for the same time, not exceeding one year. Except in the case of a lease with an automatic renewal clause, if a lessee of real property for residential purposes remains in possession of the property after the expiration of the lease and the lessor accepts rent from the lessee, the parties are presumed to have renewed the lease as a month-to-month tenancy.

SECTION 2. AMENDMENT. Section 47-16-15 of the North Dakota Century Code is amended and reenacted as follows:

47-16-15. Notice of termination of lease.

1. A leasing lease of real property for a term not specified by the parties is deemed to be renewed as stated in section 47-16-06 at the end of the term implied by law, unless one of the parties gives notice to the other of an intention to terminate the lease, at least as long before the expiration of the lease as the term of the leasing itself, not exceeding ~~thirty days~~ one calendar month.
2. In tenancies from month to month, and unless the parties have otherwise agreed in writing to a longer notice period or a different notice time, either party may terminate the tenancy by giving at least ~~thirty days~~ one calendar month's written notice at any time. The rent is due and payable to and including the date of termination.
3. If a landlord changes the terms of the lease pursuant to section 47-16-07, the tenant may terminate the lease at the end of the month by giving at least twenty-five days' notice.
4. Any agreement that requires a lessee to give notice that exceeds one month from the end of a month to terminate a lease of real property for residential purposes must state the notice requirement and provide space for the lessee to initial next to the notice requirement. If the notice is not initialed by the lessee at the time of executing the lease, the lessee may terminate the lease on the last day of a month with at least one calendar month's notice.

5. If a lease converts to a month-to-month tenancy under section 47-16-06 or 47-16-06.1, either party may terminate the lease on the last day of a month with at least one calendar month's notice.

Approved April 12, 2007
Filed April 13, 2007

CHAPTER 400**HOUSE BILL NO. 1302**
(Representatives Hawken, Weiler)
(Senator Hacker)**RENTAL PROPERTY SECURITY DEPOSITS**

AN ACT to amend and reenact subsection 1 of section 47-16-07.1 of the North Dakota Century Code, relating to security deposits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 47-16-07.1 of the North Dakota Century Code is amended and reenacted as follows:

1. The lessor of real property or a dwelling who requires money as a security deposit, however denominated, shall deposit the money in a federally insured interest-bearing savings or checking account for the benefit of the tenant. The security deposit and any interest accruing on the deposit must be paid to the lessee upon termination of a lease, subject to the conditions of subsection 2. A lessor may not demand or receive security, however denominated, in an amount or value in excess of one month's rent, except if the lessee is housing a pet on the leased premises, the security may not exceed ~~one~~ the greater of two thousand five hundred dollars or an amount equivalent to two months' rent.

Approved March 6, 2007
Filed March 7, 2007

CHAPTER 401**HOUSE BILL NO. 1257**

(Representative Skarphol)

ROYALTY PAYMENTS

AN ACT to amend and reenact section 47-16-39.1 of the North Dakota Century Code, relating to the payment of oil and gas royalties when title to the property producing the oil and gas is in dispute.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-16-39.1 of the North Dakota Century Code is amended and reenacted as follows:

47-16-39.1. Obligation to pay royalties - Breach. The obligation arising under an oil and gas lease to pay oil or gas royalties to the mineral owner or the mineral owner's assignee, or to deliver oil or gas to a purchaser to the credit of the mineral owner or the mineral owner's assignee, or to pay the market value thereof is of the essence in the lease contract, and breach of the obligation may constitute grounds for the cancellation of the lease in cases where it is determined by the court that the equities of the case require cancellation. If the operator under an oil and gas lease fails to pay oil or gas royalties to the mineral owner or the mineral owner's assignee within one hundred fifty days after oil or gas produced under the lease is marketed and cancellation of the lease is not sought, the operator shall pay interest on the unpaid royalties shall thereafter bear interest calculated at the rate of eighteen percent per annum until paid, except that the commissioner of university and school lands may negotiate a rate to be no less than the prime rate as established by the Bank of North Dakota plus four percent per annum with a maximum of eighteen percent per annum, for unpaid royalties on minerals owned or managed by the board of university and school lands. Provided, that the operator may remit semiannually to a person entitled to royalties the aggregate of six months' monthly royalties where the aggregate amount is less than fifty dollars. The district court for the county in which the oil or gas well is located has jurisdiction over all proceedings brought pursuant to this section. The prevailing party in any proceeding brought pursuant to this section is entitled to recover any court costs and reasonable attorney's fees. This section does not apply when mineral owners or their assignees elect to take their proportionate share of production in kind; or in the event of a dispute of title existing that would affect distribution of royalty payments; however, the operator shall make royalty payments to those mineral owners whose title and ownership interest is not in dispute.

Approved March 2, 2007
Filed March 2, 2007

CHAPTER 402**HOUSE BILL NO. 1058**

(Industry, Business and Labor Committee)
(At the request of the Board of University and School Lands)

ABANDONED PROPERTY NOTICES

AN ACT to amend and reenact section 47-30.1-01 and subsection 1 of section 47-30.1-18 of the North Dakota Century Code, relating to abandoned property under the Uniform Unclaimed Property Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-30.1-01 of the North Dakota Century Code is amended and reenacted as follows:

47-30.1-01. Definitions and use of terms. As used in this chapter:

1. "Administrator" means the administrator of the state abandoned property office.
2. "Apparent owner" means the person whose name appears on the records of the holder as the person entitled to property held, issued, or owing by the holder.
3. "Banking organization" means a bank, trust company, savings bank, private banker, or any organization defined by other law as a bank or banking organization.
4. "Business association" means a corporation, limited liability company, joint-stock company, investment company, business trust, partnership, or association for business purposes of two or more individuals, whether or not for profit, including a banking organization, financial organization, insurance company, or utility.
5. "Domicile" means the state of incorporation of a corporation or state of organization of a limited liability company and the state of the principal place of business of an unincorporated person.
6. "Financial organization" means a savings and loan association or credit union.
7. "Holder" means a person, wherever organized or domiciled, who is:
 - a. In possession of property belonging to another;
 - b. A trustee; or
 - c. Indebted to another on an obligation.
8. "Insurance company" means an insurance company as defined by section 26.1-02-01 and also includes a benevolent society, nonprofit health service corporation, and health maintenance organization.

9. "Intangible property" includes:
- a. Moneys, checks, drafts, deposits, interest, dividends, and income.
 - b. Credit balances, customer overpayments, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances.
 - c. Stocks and other intangible ownership interests in business associations.
 - d. Moneys deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions.
 - e. Amounts due and payable under the terms of insurance policies.
 - f. Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.
 - g. Amounts distributable from a mineral interest in land.
10. ~~"Last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery of mail.~~
- ~~44.~~ "Mineral proceeds" means all obligations to pay resulting from the production and sale of minerals, including net revenue interest, royalties, overriding royalties, production payments, and joint operating agreements and all obligations for the acquisition and retention of a mineral lease, including bonuses, delay rentals, shut-in royalties, and minimum royalties.
- ~~42.~~ 11. "Owner" means a depositor in the case of a deposit, a beneficiary in case of a trust other than a deposit in trust, a creditor, claimant, or payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to this chapter or that person's legal representative.
- ~~43.~~ 12. "Person" means an individual, business association, state or other government including the government of the United States, governmental subdivision or agency, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.
- ~~44.~~ 13. "State" means any state, district, commonwealth, territory, insular possession, or any other area subject to the legislative authority of the United States.
- ~~45.~~ 14. "Utility" means a person who owns or operates for public use any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

SECTION 2. AMENDMENT. Subsection 1 of section 47-30.1-18 of the North Dakota Century Code is amended and reenacted as follows:

1. The administrator shall cause a notice to be published not later than October first of the year immediately following the report required by section 47-30.1-17 at least once a week for two ~~consecutive~~ weeks in a newspaper of general circulation in the county of this state in which is located the last-known address of any person to be named in the notice. If no address is listed or the address is outside this state, the notice must be published in the county in which the holder of the property has its principal place of business within this state.

Approved March 7, 2007

Filed March 8, 2007