

Introduced by

Senator Wardner

1 A BILL for an Act to amend and reenact subsection 3 of section 38-08-08 of the North Dakota
2 Century Code, relating to integration of fractional tracts; and to provide a penalty.

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

4 **SECTION 1. AMENDMENT.** Subsection 3 of section 38-08-08 of the North Dakota Century
5 Code is amended and reenacted as follows:

6 3. In addition to any costs and charges recoverable under subsections 1 and 2, if the
7 owner of an interest in a spacing unit elects not to participate in the risk and cost of
8 drilling a well thereon, the owner paying for the nonparticipating owner's share of the
9 drilling and operation of a well may recover from the nonparticipating owner a risk
10 penalty for the risk involved in drilling the well. The recovery of a risk penalty is as
11 follows:

12 a. If the nonparticipating owner's interest in the spacing unit is derived from a lease
13 or other contract for development, the risk penalty is two hundred percent of the
14 nonparticipating owner's share of the reasonable actual costs of any drilling and
15 completing the well and recompleting operations, including fracking and refracking
16 operations and may be recovered out of, and only out of, production from the
17 pooled spacing unit, as provided by section 38-08-10, exclusive of any royalty or
18 overriding royalty.

19 b. If the nonparticipating owner's interest in the spacing unit is not subject to a lease
20 or other contract for development, the risk penalty is fifty percent of the
21 nonparticipating owner's share of the reasonable actual costs of any drilling and
22 completing the well and recompleting operations, including fracking and refracking
23 operations and may be recovered out of production from the pooled spacing unit,

1 as provided by section 38-08-10, exclusive of any royalty provided for in
2 subsection 1.

3 c. The owner paying for the nonparticipating owner's share of the drilling and
4 operation of a well may recover from the nonparticipating owner a risk penalty for
5 the risk involved in any drilling and, completing the well and recompleting
6 operations, including fracking and refracking operations only if the paying owner
7 has made an unsuccessful, good-faith attempt to have the unleased
8 nonparticipating owner execute a lease or to have the leased nonparticipating
9 owner join in and participate in the risk and cost of drilling the well. Before a risk
10 penalty may be imposed, the paying owner must notify the nonparticipating
11 owner with proof of service that the paying owner intends to impose a risk penalty
12 and that the nonparticipating owner may object to the risk penalty by either
13 responding in opposition to the petition for a risk penalty or if no such petition has
14 been filed, by filing an application or request for hearing with the industrial
15 commission.