

# PROPERTY

## CHAPTER 460

SENATE BILL NO. 2438  
(Nothing)

(Approved by the Committee on Delayed Bills)

### AGRICULTURAL LAND OWNERSHIP BY ALIENS

AN ACT to amend and reenact section 47-10.1-02 of the North Dakota Century Code, relating to restrictions on the acquisition of agricultural land; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-10.1-02 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-10.1-02. RESTRICTION ON ACQUISITION - EXCEPTIONS. A person who is not a citizen of the United States or a citizen of Canada, except a permanent resident alien of the United States, may not acquire directly or indirectly any interest in agricultural land. A partnership, limited partnership, trustee, or other business entity may not, directly or indirectly, acquire or otherwise obtain any interest, whether legal, beneficial, or otherwise, in any title to agricultural land unless the ultimate beneficial interest of the entity is held directly or indirectly by citizens of the United States or permanent resident aliens of the United States. This section does not apply to agricultural land that may be acquired by devise, inheritance, as security for indebtedness, by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise; provided, that all agricultural land acquired in the collection of debts or by the enforcement of a lien or claim shall be disposed of within three years after acquiring ownership, if the acquisition would otherwise violate this section. This section does not apply to a foreign corporation which acquires agricultural land for use as an industrial site where construction contracts are entered into by the corporation within one hundred fifty days after acquisition of the land, provided that this exception shall only apply to so much agricultural land as is reasonably necessary for industrial purposes. A foreign corporation which owns agricultural land for industrial purposes but which discontinues using the land for industrial purposes shall dispose of the land as provided by

chapter 10-06. A foreign corporation shall dispose of agricultural land acquired for industrial purposes within one year after acquisition if construction contracts are not entered into within one hundred fifty days after acquisition of the land. This section does not apply to citizens or subjects of a foreign country whose rights to hold land are secured by treaty or to common carriers by railroad subject to the jurisdiction of the interstate commerce commission.

SECTION 2. EMERGENCY. This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved April 3, 1981

## CHAPTER 461

HOUSE BILL NO. 1559  
(Heigaard, E. Pomeroy)

## PROPERTY INTEREST DISCLAIMER PERIOD

AN ACT to amend and reenact subsection 1 of section 47-11.1-02 of the North Dakota Century Code, relating to the time for disclaiming a present or future interest.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 47-11.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. An instrument disclaiming a present interest shall be delivered or filed no later than ~~six~~ nine months after the effective date of the nontestamentary instrument or contract. An instrument disclaiming a future interest shall be delivered or filed not later than ~~six~~ nine months after the event determining that the taker of the property or interest is finally ascertained and his interest is indefeasibly vested. If the person entitled to disclaim does not have actual knowledge of the existence of the interest, the instrument shall be delivered or filed not later than ~~six~~ nine months after that person has actual knowledge of the existence of the interest. The effective date of a revocable instrument or contract is the date on which the maker no longer has power to revoke it or to transfer to himself or another the entire legal and equitable ownership of the interest.

Approved March 11, 1981

## CHAPTER 462

HOUSE BILL NO. 1416  
(Boyum)

REAL ESTATE NOTE OR MORTGAGE  
LATE PAYMENT PENALTY

AN ACT to amend and reenact section 47-14-05 of the North Dakota Century Code, relating to a late payment penalty charge in a real estate note or mortgage.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-14-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-14-05. LEGAL RATE OF INTEREST - INTEREST AFTER MATURITY. Interest for any legal indebtedness shall be at the rate of six percent per annum unless a different rate not to exceed the rate specified in section 47-14-09 is contracted for in writing. All contracts shall bear the same rate of interest after maturity as they bear before maturity, and any contract attempting to make the rate of interest higher after maturity shall be void as to such increase of interest, except for a charge for late payment penalty charged in addition to interest which may not exceed fifteen dollars or fifteen percent of the late payment, whichever is less, unless otherwise agreed to in the real estate note or mortgage.

Approved March 3, 1981

## CHAPTER 463

SENATE BILL NO. 2330  
(Senators Melland, Lodoen, Grothberg)  
(Representative Hedstrom)

## USURY PROVISIONS

AN ACT to amend and reenact sections 7-02-04 and 47-14-09 of the North Dakota Century Code, relating to the definitions of usury, and usury rates; and to repeal subsection 1 of section 13-03.1-15 and chapter 13-04 of the North Dakota Century Code, relating to installment payment charges and bank installment loans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 7-02-04 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

7-02-04. INTEREST, DUES, ASSESSMENTS LIMITED - USURY. Except as provided by this section, interest collected by such associations may not exceed ~~twelve percent per annum on the amount of the loan. An association may charge interest not to exceed one and one-fourth percent simple interest per month upon the unpaid balance of a loan not secured by real estate~~ the rate which may lawfully be charged by other financial institutions in this state. Interest not exceeding one percent per month also may be charged on delinquent payments or installments from the time such delinquent payments or installments are due. No association shall charge or collect from any shareholder, member, or borrower any fines, premiums, or penalties of any kind whatsoever except as herein provided for delinquent payments or installments. Such dues, interest, or advancements collected from members or others, within the limits of this section, shall not be deemed usury although in excess of the legal rate of interest.

SECTION 2. AMENDMENT. Section 47-14-09 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-14-09. USURY - DEFINITION - MAXIMUM CONTRACT RATE - PROHIBITION. Except as otherwise provided by the laws of this state, no person, partnership, limited partnership, trust,

association, corporation, or other form of business entity, either directly or indirectly, shall take or receive, or agree to take or receive, in money, goods, or things in action, or in any other way, any greater sum or greater value for the loan or forbearance of money, goods, or things in action than five and one-half percent per annum higher than the ~~maximum--rate--of--interest--payable--on--time deposits--maturing--in--thirty--months--as--defined--and--authorized--by--the state--banking--board--under--section--6--03--63~~ current cost of money as reflected by the average rate of interest payable on United States treasury bills maturing in six months in effect for North Dakota for the six months immediately prior to the month in which the transaction occurs, as computed and declared on the last day of each month by the state banking commissioner, but that in any event the maximum allowable interest rate ceiling shall not be less than seven percent, and in the computation of interest the same shall not be compounded; provided, however, that a minimum interest charge of fifteen dollars may be made. No contract shall provide for the payment of interest on interest overdue, but this section shall not apply to a contract to pay interest at a lawful rate on interest that is overdue at the time such contract is made. Any violation of this section shall be deemed usury. This section shall not apply to a loan made to a foreign or domestic corporation, cooperative corporation or association, trust, or to a partnership, limited partnership, or association which files a state or federal partnership income tax return, nor to any business loan or forbearance of money, goods, or things in action the principal amount of which amounts to more than thirty-five thousand dollars, nor to any loan made by a lending institution which is regulated or funded by an agency of a state or of the federal government. Further, without regard to the interest rate limit set forth herein, state-chartered banks and the Bank of North Dakota may charge interest at a rate equal to the maximum allowable rate which lawfully may be charged for a particular type of loan by national banking associations or state or federally chartered savings and loan associations operating out of facilities located in this state.

\* SECTION 3. REPEAL. Subsection 1 of section 13-03.1-15 of the 1979 Interim Supplement to the North Dakota Century Code and chapter 13-04 of the North Dakota Century Code are hereby repealed.

Approved March 12, 1981

\* NOTE: Subsection 1 of section 13-03.1-15 was amended by section 2 of House Bill No. 1430, chapter 162.

## CHAPTER 464

SENATE BILL NO. 2325  
(Tierney)

## DWELLING UNIT INSPECTION AND CONDITION

AN ACT to create and enact two new sections to chapter 47-16 of the North Dakota Century Code, providing for conditions under which a landlord may enter a tenant's apartment and for a statement concerning the condition of the premises to be included with the rental agreement.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. A new section to chapter 47-16 of the North Dakota Century Code is hereby created and enacted to read as follows:

WHEN LANDLORD MAY ENTER APARTMENT. A landlord may enter the dwelling unit:

1. At any time in case of emergency or if the landlord reasonably believes the tenant has abandoned the premises, or the landlord reasonably believes the tenant is in substantial violation of the provisions of the lease or rental agreement.
2. Only during reasonable hours, and in a reasonable manner, for the purpose of inspecting the premises; for making necessary or agreed repairs, decorations, alterations, or improvements; for supplying necessary or agreed services; or for exhibiting the residential dwelling unit to actual or potential purchasers, insurers, mortgagees, real estate agents, tenants, workmen, or contractors. Unless it is impractical to do so the landlord shall first notify and receive the consent of the tenant which shall not be unreasonably withheld, which consent shall identify a time certain. A landlord shall not abuse the right of access or use it to harass or intimidate the tenant.

For the purposes of this section, consent shall be presumed from failure to object to access after notice of intent to enter at a time certain has been given. Notice may be given by personal service, by posting the notice in a conspicuous place in or about

the dwelling unit for a reasonable period of time, or by any other method which results in actual notice to the tenant.

SECTION 2. A new section to chapter 47-16 of the North Dakota Century Code is hereby created and enacted to read as follows:

STATEMENT DETAILING CONDITION OF PREMISES TO ACCOMPANY RENTAL AGREEMENT. A landlord shall provide the tenant with a statement describing the condition of the facilities in and about the premises to be rented at the time of entering a rental agreement. The statement shall be agreed to and signed by the landlord and tenant. The statement shall constitute prima facie proof of the condition of the facilities and the premises at the beginning of the rental agreement.

Approved March 19, 1981

# CHAPTER 465

SENATE BILL NO. 2226  
(Lips)

## MINERAL LEASE TERMINATION NOTICE PUBLICATION

AN ACT to amend and reenact section 47-16-36 of the North Dakota Century Code, relating to notice by publication for terminating mineral leases.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-16-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-16-36. DUTY OF LESSEE TO HAVE TERMINATED OR FORFEITED LEASE RELEASED - PUBLICATION NOTICE - SATISFACTION OF LEASE TO BE RECORDED - NOTICE TO REAL PROPERTY OWNER - REMEDIES. When any oil, gas, or other mineral lease heretofore or hereafter given on real property situated in any county of North Dakota and recorded therein shall terminate or become forfeited it shall be the duty of the lessee, his successors or assigns, within fifteen days after the date of the termination or forfeiture of any such lease, to have such lease surrendered in writing, such surrender to be signed by the party making the same, acknowledged, and placed on record in the county where the leased real property is situated without cost to the owner thereof. If the said lessee, his successors or assigns, shall fail or neglect to execute and record such surrender within the time provided for, then the owner of said real property may serve upon said lessee, his successors or assigns of record, in person or by registered or certified mail, at his last known address, or if the post-office address is not shown of record then by publication once a week for three consecutive weeks in a newspaper of general circulation in the county where the real property is situated, a notice in writing in substantially the following form:

To -----: I, the undersigned, owner of the following described land situated in ----- County, North Dakota, to wit: (description of land) upon which a lease dated ----- day of ----- 19---, was given to ----- do hereby notify you that such lease has terminated or become forfeited by breach of the terms thereof, that I

hereby elect to declare and do declare the said lease forfeited and void and that, unless you do, within twenty days from this date, notify the register of deeds of said county as provided by law that said lease has not been forfeited, I will file with the said register of deeds a satisfaction of lease as provided by law, and I hereby demand that you execute or have executed a proper surrender of said lease and that you put the same of record in the office of the register of deeds of said county within twenty days from this date.

Dated this ----- day of ----- 19---.

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The owner of said real property may after twenty days from the date of service, registration, or first publication of said notice, file with the register of deeds of the county where said real property is situated a satisfaction of lease setting forth that the affiant is the owner of said real property, that the lease has terminated or that the lessee, or his successors or assigns, has failed and neglected to comply with the terms of said lease, reciting the facts constituting such failure and that the same has been forfeited and is void, and setting out in said satisfaction of lease a copy of the notice served, as above provided and the manner and time of the service thereof. If the lessee, his successors or assigns, shall within such twenty days after service, give notice in writing to the register of deeds of the county where said real property is located that said lease has not been forfeited and that said lessee, his successors or assigns, still claim that said lease is in full force and effect, then the said satisfaction of lease shall not be recorded but the register of deeds shall notify the owner of the real property of the action of the lessee, his successors or assigns, and the owner of the real property shall be entitled to the remedies now provided by law for the cancellation of such disputed lease. If the lessee, his successors or assigns, shall not notify the register of deeds, as above provided, then the register of deeds shall record said satisfaction of lease and thereafter the record of the said lease shall not be notice to the public of the existence of said lease or of any interest therein, or rights thereunder, and said record shall not be received in evidence in any court of the state on behalf of the lessee, his successors or assigns, against the lessor, his successors or assigns.

Approved March 16, 1981

## CHAPTER 466

HOUSE BILL NO. 1525  
(Representatives Hughes, R. Anderson, Murphy)  
(Senators Bakewell, R. Christensen)

## INTEREST ON UNPAID OIL AND GAS ROYALTIES

AN ACT to amend and reenact section 47-16-39.1 of the North Dakota Century Code, relating to obligations of oil and gas producers to pay interest on unpaid royalties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 47-16-39.1 of the North Dakota Century Code is hereby amended and reenacted to read 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 his assignee, or to deliver oil or gas to a purchaser to the credit of such mineral owner or his assignee, or to pay the market value thereof is of the essence in the lease contract, and breach of such obligation may constitute grounds for the cancellation of such lease in such cases where it is determined by the court that the equities of the case require cancellation. In the event the operator under an oil and gas lease fails to pay oil or gas royalties to the mineral owner or his 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 unpaid royalties shall thereafter bear interest at the rate of eighteen percent per annum until paid. 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 shall have jurisdiction over all proceedings brought pursuant to this section. The prevailing party in any proceeding brought pursuant to this section shall be entitled to recover any court costs and reasonable attorney's fees. This section shall 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 which would effect distribution of royalty payments.

Approved April 6, 1981