

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 37 Session of 2011

INTRODUCED BY WHITE, V. BROWN, DALEY, GEORGE, GIBBONS, JOSEPHS,  
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JANUARY 19, 2011

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
JANUARY 19, 2011

AN ACT

1 Providing for abandonment of mineral rights in real property,  
2 for the recording by surface owners of title to mineral  
3 rights in their real property after ten years of nonuse by  
4 the subsurface owner; and establishing a right of action to  
5 settle title to mineral rights.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Title to  
10 Mineral Rights Act.

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall  
13 have the meanings given to them in this section unless the  
14 context clearly indicates otherwise:

15 "Mineral." Any valuable inert or lifeless substance formed  
16 or deposited in its present position exclusively through natural  
17 forces and which is found either in or beneath the soil of the  
18 earth or in the rocks beneath the soil. The term does not

1 include coal of any rank or methane gas that is contained within  
2 or produced from underground coal beds or mined-out areas of  
3 underground coal mines.

4 "Mineral rights." The right of a person to take minerals or  
5 receive a royalty from the removal of minerals from real  
6 property, regardless of whether the person is the surface owner.  
7 The term does not include such rights with respect to coal of  
8 any rank or methane gas that is contained within or produced  
9 from underground coal beds or mined-out areas of underground  
10 coal mines.

11 "Nonuse." With respect to minerals in real property, the  
12 absence of all of the following:

13 (1) The issuance of a permit to drill a well for  
14 minerals in the real property issued by the Department of  
15 Environmental Protection as to mineral rights for the real  
16 property.

17 (2) The actual production or withdrawal of minerals from  
18 the real property.

19 (3) The underground storage of minerals in the real  
20 property.

21 "Subsurface owner." A person who owns or claims to own the  
22 rights to extract minerals from beneath the surface of real  
23 property owned by another person.

24 "Surface owner." A person who owns the rights to real  
25 property above the surface.

26 Section 3. Abandonment of mineral rights.

27 (a) General rule.--Mineral rights in real property shall be  
28 deemed abandoned after a period of ten years of nonuse of the  
29 mineral rights by a subsurface owner, unless the subsurface  
30 owner shall, within three years of the effective date of this

1 section or ten years from the nonuse, whichever is later, record  
2 a claim of interest that complies with subsection (b).

3 (b) Claim of interest.--A claim of interest must be filed in  
4 the office of recorder of deeds in the county where the real  
5 property is situate. The claim of interest shall be verified and  
6 contain the following:

7 (1) A description of the land and the nature of the  
8 mineral rights claimed.

9 (2) The name and address of the subsurface owner.

10 (3) A statement that by recording the claim, the  
11 subsurface owner seeks to preserve the mineral rights and not  
12 to abandon the mineral rights in the real property.

13 (c) Underground storage of minerals.--A subsurface owner who  
14 uses real property for underground storage of minerals in an  
15 underground storage pool or field may preserve the mineral  
16 rights by recording a single claim of interest that defines the  
17 boundaries of and the formations included in the underground  
18 storage field or pool within which the mineral rights are  
19 located, without describing each separate mineral interest  
20 claimed in the underground storage field or pool by the  
21 subsurface owner.

22 (d) Effect of recorded claim of interest.--

23 (1) A claim of interest recorded in compliance with this  
24 section shall operate as a matter of law to preserve the  
25 mineral rights included in the claim of interest from  
26 abandonment under this act for a period of ten years after  
27 the date of recording.

28 (2) After the ten-year period in paragraph (1) expires,  
29 the mineral interests shall be deemed abandoned if, during  
30 the ten-year period, there has been nonuse or no sales

1 agreement, lease, mortgage or transfer of the mineral rights  
2 has been recorded in the office of recorder of deeds in the  
3 county where the real property is situate.

4 (3) In the absence of prior abandonment, mineral rights  
5 of a subsurface owner may be preserved indefinitely from  
6 abandonment under this act by filing claims of interest as  
7 provided in this act or other acts evidencing use of the  
8 mineral rights within each ten-year period.

9 Section 4. Right of surface owner to record claim.

10 (a) Surface owners.--

11 (1) A surface owner who acquires or claims to have  
12 acquired title to any mineral rights in real property by a  
13 period of ten years of nonuse of the mineral rights by a  
14 subsurface owner may file, in the Office of Recorder of Deeds  
15 of the county where the real property is situate, a written  
16 statement of the surface owner's claim.

17 (2) Paragraph (1) shall not apply to mineral rights in  
18 real property for which a claim of interest has been recorded  
19 in compliance with section 3.

20 (b) Form of written statement.--The written statement  
21 authorized to be recorded under subsection (a) shall be sworn to  
22 and substantially in the following form:

23 I, (the name of the party claimant) of , in the  
24 county of and State of , do hereby  
25 affirm and declare that I have acquired title in fee to  
26 mineral rights, by a period of ten years of nonuse by a  
27 subsurface owner of the mineral rights, to the following  
28 described land, situate in , in the county of , and  
29 State of Pennsylvania, viz: (Here insert a full and complete  
30 description of the land claimed, by metes and bounds, or

other sufficient designation). Use of the mineral rights on the land by a subsurface owner commenced on or about the day of , , and continued until a period of nonuse commenced about the day of , , (or, where the possession of the mineral rights is tacked on to that of others who have preceded the existing subsurface owner, it should be stated as follows: Use of the mineral rights was made upon the lands by on or about the day of , , who continued until about the day of , , and was succeeded therein by , who continued until about the day of , , and was succeeded therein by the existing subsurface owner, who continued until a period of nonuse of the mineral rights commenced about the day of , ). At the time the use of the mineral rights commenced (naming some person or persons in the line of the existing paper or legal title, as nearly as may be the real subsurface owner of the lands at the time of the use), was the subsurface owner or reputed subsurface owner of the mineral rights to the land, and I claim adversely to the subsurface owner (or them). Witness my hand, this day of , .

(Signed)

Section 5. Filing of statement of claim.

After a statement of claim under section 4 is filed in the recorder's office of the proper county, the recorder of deeds shall record and index the statement of claim as though it were a deed or conveyance from the person named therein as the subsurface owner or reputed subsurface owner at the time of the ten-year period of nonuse ceases, as grantor, to the claimant or

claimants, as grantees; and when so entered for record and indexed it shall be constructive notice of the claim.

Section 6. Action to settle title to mineral rights.

(a) Right of action.--A person who files a statement of claim under section 4 may bring an action to settle title to the mineral rights for the real property identified in the statement of claim.

(b) Venue.--The action may be brought only in the county in which the real property is located.

(c) Commencement of action.--The action must be commenced by filing with the prothonotary:

(1) a complaint describing the real property; or

(2) an agreement for an amicable action.

(d) Public notice.--

(1) After an action has been commenced under subsection (c), the court shall order the claimant to publish notice of the action in a newspaper of general circulation in the county twice in a period of 60 days.

(2) The claimant shall certify to the court that the publication under paragraph (1) has occurred prior to a hearing or trial in the action.

(e) Form of judgment or order.--

(1) The court shall grant appropriate relief:

(i) on affidavit that a complaint containing a notice to defend has been served and that the defendant has not filed an answer; or

(ii) after a hearing or trial on the pleadings or merits.

(2) After granting relief to the plaintiff, the court:

(i) shall order that the defendant be forever barred

1 from asserting any right, lien, title or interest in the  
2 mineral rights of the real property inconsistent with the  
3 interest or claim of the plaintiff specified in the  
4 complaint, unless the defendant takes such action as the  
5 order directs within 30 days after issuance of the order.  
6 If the action is not taken within the 30-day period, the  
7 prothonotary on praecipe of the plaintiff shall enter  
8 final judgment; and

9 (ii) shall enter any other order necessary for the  
10 granting of proper relief.

11 (f) Trial without jury.--There shall be no right to a trial  
12 by jury for an action brought under this section.

13 Section 7. Effect of statement of claim.

14 Unless a statement of claim is made and recorded under this  
15 act and a judgment or order is issued in favor of the surface  
16 owner as provided under section 6, no title to mineral rights in  
17 real property by a ten-year period of nonuse by a subsurface  
18 owner shall avail against any purchaser, mortgagee or judgment  
19 creditor for value, without notice, his heirs and assigns,  
20 except the claimant who is in possession of the real property at  
21 the time of the purchase.

22 Section 8. Construction.

23 Nothing in this act shall be construed to give any title to  
24 any mineral rights or real property by a claim of title adverse  
25 to that of the Commonwealth, and no claim of title adverse to  
26 the Commonwealth shall be made or recorded under the provisions  
27 of this act.

28 Section 9. Effective date.

29 This act shall take effect in 60 days.