

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2882 Session of
2006

INTRODUCED BY YEWIC, FREEMAN, GEORGE, HANNA, STAIRS, TANGRETTI,
HALUSKA, RAMALEY AND SCAVELLO, JULY 1, 2006

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
JULY 1, 2006

AN ACT

1 Providing owners of surface property the right of first refusal
2 to purchase mineral rights under their surface property; and
3 voiding interests in mineral rights that have been conveyed
4 without providing the right to owners of surface property.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Mineral
9 Rights Transfer Act.

10 Section 2. Definitions.

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

14 "Mineral estate." An interest in real property relating to
15 minerals beneath the surface of the land.

16 "Mineral estate holder." A party who holds title to a
17 mineral estate.

18 "Right of first refusal." A right which provides the surface

1 estate holder the first opportunity to purchase the mineral
2 estate beneath its surface in the event the mineral rights
3 holder decides to sell the mineral estate.

4 "Surface estate." An interest in real property extending
5 only to the uppermost portion of the earth's crust.

6 "Surface estate holder." A party who owns real property on
7 which the party has the surface estate but not the mineral
8 estate.

9 Section 3. Right of first refusal.

10 (a) Conveyances of mineral estates.--Prior to the conveyance
11 or grant of real property in which only a mineral estate is
12 transferred, the surface estate holder shall be given the right
13 of first refusal by the mineral estate holder in accordance with
14 this act.

15 (b) Written notification to surface estate holder.--A
16 mineral estate holder who wishes to grant or convey the mineral
17 estate shall notify the surface estate holder in writing by
18 certified mail, return receipt requested, at the time the
19 mineral estate is placed for sale if title to the mineral rights
20 estate and surface estate is held by different persons or
21 entities. The notice shall state that the surface estate holder
22 has 60 days to complete the purchase of the mineral estate.

23 (c) Effect of failure to exercise right.--If the surface
24 estate holder fails to exercise the right of first refusal, the
25 mineral estate holder may sell the mineral estate to another
26 party.

27 Section 4. Mineral estates created by exception or reservation.

28 In the event a mineral estate is created by exception or
29 reservation in a grant or conveyance of real property, the party
30 retaining the right to harvest the minerals beneath the surface

1 shall be required to provide written notice to the title holder
2 of the surface estate at the time the mineral estate is placed
3 for sale for a specified period of time, which period of time
4 may not exceed one year.

5 Section 5. Nature of right of first refusal.

6 (a) Vesting.--The right of first refusal shall vest upon the
7 surface estate holder's receipt of written notification from the
8 mineral estate holder of the mineral estate being placed for
9 sale.

10 (b) Expiration.--Once the right of first refusal vests, it
11 shall be valid only for 60 days.

12 (c) Effect of expiration.--

13 (1) Upon the expiration of the surface estate holder's
14 right of first refusal, the mineral estate holder shall not
15 be required to contact the surface estate holder regarding
16 the possible grant or conveyance of the mineral estate with
17 respect to the specified period of time. The expiration is
18 effective only regarding the period of time of the sale for
19 which the surface estate holder was notified.

20 (2) The surface estate holder retains the right of first
21 refusal regarding subsequent possible sale periods.

22 Section 6. Failure to provide notice.

23 If the mineral estate holder fails to provide the surface
24 estate holder with written notice that the mineral estate has
25 been placed for sale as required by this act, any interest in
26 the mineral estate subsequently conveyed by the mineral estate
27 holder to a third party shall be void and of no effect.

28 Section 7. Affidavit of compliance.

29 A mineral estate holder who conveys any interest of the
30 mineral estate to a party other than the surface estate holder

1 may record an affidavit, signed by the mineral estate holder,
2 indicating the date on which the notice required by section 3
3 was given and that the surface estate holder failed to exercise
4 the right of first refusal within the specified period of time.
5 The affidavit shall be written and recorded in accordance with
6 the act of November 5, 1981 (P.L.328, No.118), entitled "An act
7 providing for the recording of certain affidavits affecting the
8 title to real estate and for their admissibility into evidence."

9 Section 8. Effective date.

10 This act shall take effect in 60 days.