

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

House Bill 4088

FISCAL
NOTE

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[Introduced January 10, 2020; Referred to the
Committee on Energy then Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §37-4-9; and to amend and reenact §55-12A-7 of said code, all relating to
 3 funding the Oil and Gas Reclamation Fund by providing that proceeds from certain oil and
 4 natural gas wells and interests that are due to persons whose names or addresses are
 5 unknown or unlocatable which are being kept in special funds throughout the state, if
 6 unclaimed for seven years or more, shall be transferred to the Oil and Gas Reclamation
 7 Fund and used to plug orphaned and abandoned oil and natural gas wells; providing and
 8 clarifying that certain deed provisions purporting to convey or reserve interests created by
 9 this article are void; providing that certain provisions take effect beginning when funds
 10 have been unclaimed for seven years after the special Commissioner's lease regardless
 11 of when the lease was signed; and authorizing rule making.

Be it enacted by the Legislature of West Virginia:

CHAPTER 37. REAL PROPERTY.

ARTICLE 4. PARTITION.

§37-4-9. Disposition of funds due to unknown or unlocatable interest owners; rule making.

1 Notwithstanding the requirements of §36-8-1 et seq. of this code, all funds and proceeds
 2 due under this article before or after the effective date of this section to owners of severed oil and
 3 natural gas interests with their appurtenant rights, whose name or location is unknown and who
 4 does not make a claim for those funds for seven years after the date of the order of the court
 5 authorizing the distribution of the funds, shall be paid to the Oil and Gas Reclamation Fund
 6 established pursuant to §22-6-29 of this code. The funds shall be paid by the special or general
 7 receiver or other person or entity holding the funds on or before November 1 of each year for all
 8 funds that became payable before July 1 of that year. The Department of Environmental
 9 Protection may propose rules for legislative approval in accordance with §29A-3-1 et seq. of this
 10 code to carry out the provisions of this section.

CHAPTER 55. ACTIONS, SUITS AND ARBITRATION; JUDICIAL SALE.

ARTICLE 12A. LEASE AND CONVEYANCE OF MINERAL INTERESTS OWNED BY MISSING OR UNKNOWN OWNERS OR ABANDONING OWNERS.

§55-12A-7. When special commissioner may convey title in mineral interest to surface owner; form of deed; ~~payment to surface owner~~ final report of special Commissioner; unknown owners; transfer of funds; rulemaking.

1 (a) (1) If an owner of any mineral interest leased under section six of this article remains
2 unknown or missing, or does not disavow the abandonment, for a period of seven years from the
3 date of the special commissioner's lease, the special or general receiver shall report the same to
4 the court, whereupon the court shall enter an order naming those who then appear to be surface
5 owners as additional parties and giving notice to them, pursuant to the West Virginia rules of civil
6 procedure, of an opportunity to appear and present proof of ownership in fee of the surface estate.
7 Upon a finding by the court of the present ownership in fee of the surface estate, the court shall
8 (i) order the special Commissioner to convey to the proven surface owner, subject to the special
9 commissioner's lease, the mineral interest specified in the motion, by a deed substantially in the
10 form specified in subsection (b) of this section and (ii) order the special or general receiver to pay
11 to the ~~surface owner~~ Oil and Gas Reclamation Fund established pursuant to §22-6-29 the funds
12 which have accrued to the credit of the mineral interests specified in the motion to the date of his
13 or her report after payment of all allowable fees, expenses and court costs, including special
14 Commissioner's fees paid or to be paid in amounts determined by the court. After the date of the
15 special Commissioner's deed, the surface owner grantee shall be entitled to receive all proceeds
16 under the lease attributable to the mineral interests specified in the deed.

17 (2) If the boundaries of the mineral tract subject to the special Commissioner's lease
18 encompass two or more surface tracts, a separate deed shall be made for the mineral interest
19 underlying each surface tract. If a surface tract is owneded by more than one person, the deed

20 respecting that surface tract shall convey the mineral interest according to the surface estate and
21 interest of each surface owner.

22 (b) The special Commissioner's deed may be made in the following form, or to the same
23 effect:

24 This deed, made the ____day of _____, 19____, between
25 _____, special Commissioner, grantor, and
26 _____, grantee,

27 Witnesseth, that whereas, grantor, in pursuance of the authority vested in him or her by
28 an order of the circuit court of _____ county, West Virginia, entered on the ____day
29 of _____, 19____, in civil action no. _____ therein pending, to convey the mineral
30 interest more particularly described below to the grantee,

31 Now, therefore, this deed witnesseth: That grantor grants unto grantee, subject to the
32 special commissioner's lease mentioned below, and further subject to all other liens and
33 encumbrances of record, that certain mineral interest in _____ county, West Virginia,
34 more particularly described in the cited order of the circuit court as follows: (here insert the
35 description in the order); and being (here specify "all" or "a portion") of the mineral interest
36 described in that certain special commissioner's lease dated _____, 19____, of record in
37 the office of the clerk of _____ county, in _____book_____, at page _____.

38 Witness the following signature.

39 _____

40 Special Commissioner

41 (c) Upon the delivery of the deed or deeds and the payment or payments as directed in
42 subsection (a) of this section, the special commissioner shall make a final report to the court; and
43 upon approval thereof, the court shall order the discharge of the special commissioner's bond.

44 (d) Prior to the delivery of the special commissioner's deed, no deed or will from a surface
45 owner to another shall sever ownership of the surface as such from ownership of any benefits

46 under this article. ~~Any~~ The provisions of any deed or will granting or reserving an interest
47 purporting to create such a severance shall be void.

48 (e) The amendments to this section made during the 2020 regular session of the
49 Legislature which provided for certain accumulated proceeds to be payable to the Oil and Gas
50 Reclamation Fund, shall take effect July 1, 2020, and any funds shall be transferred that have
51 been unclaimed for seven years or more after the date of the special Commissioner's lease
52 whether or not the special Commissioner's lease was signed before or after the effective date of
53 the amendments to this section.

54 (f) The Department of Environmental Protection may propose rules for legislative approval
55 in accordance with §29A-3-1 et seq. of this code to carry out the provisions of this section relating
56 to transfer of funds to the Oil and Gas Reclamation Fund.

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NOTE: The purpose of this bill is to provide that proceeds from certain oil and gas wells that are due to persons whose name or address are unknown are to be kept in a special fund and if unclaimed within seven years the proceeds shall be transferred to the Oil and Gas Reclamation Fund. The bill provides that if there is a surface disturbance those named surface owners of a leased interest subject to pooling for a horizontal well are the only surface owners insofar as the well permit is concerned. The bill provides that if another surface owner should become known his or her name shall be added as a surface owner on the permit. The bill provides that if proceeds from other mineral tracts in a unit or pool of a horizontal well are not claimed by an unknown, missing or abandoned owner within seven years the proceeds shall be transferred to the Oil and Gas Reclamation Fund. The bill provides that certain provisions take effect beginning when funds have been unclaimed for seven years after the special Commissioner's lease regardless of when the lease was signed. The bill authorizes rulemaking.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.