

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Committee Substitute

for

House Bill 4088

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[Originating in the Committee on Energy, February 6,
2020.]

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; providing that proceeds from certain real
4 property interests that are due to persons whose names or addresses are unknown or
5 unlocatable which are being kept in special funds throughout the state, if unclaimed for
6 seven years or more, shall be transferred to the Oil and Gas Reclamation Fund and used
7 to plug orphaned and abandoned oil and natural gas wells; providing and clarifying that
8 certain deed or will provisions purporting to convey or reserve interests created by this
9 article are void; clarifying that receivers include both general and special receivers;
10 providing that certain provisions take effect beginning when funds have been unclaimed
11 for seven years after the Special Commissioner's lease regardless of when the lease was
12 signed; and authorizing rulemaking.

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; rulemaking.

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 real property
3 interests with their appurtenant rights, whose name or location is unknown and who does not
4 make a claim for those funds for seven years after the date of the order of the court authorizing
5 the distribution of the funds, shall be paid to the Oil and Gas Reclamation Fund established
6 pursuant to §22-6-29 of this code. The funds shall be paid by the special or general receiver or
7 other person or entity holding the funds on or before November 1 of each year for all funds that
8 became payable before July 1 of that year. The Department of Environmental Protection may

9 propose rules for legislative approval in accordance with §29A-3-1 et seq. of this code to carry
10 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 owned 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.

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