

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Originating**

### **House Bill 4639**

(BY DELEGATES IRELAND, FAST, ANDERSON, ZATEZALO,

SMITH R. AND CADLE)

[Originating in the Committee on Energy;

reported on February 20, 2016]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §37-7-2a, relating to concurrent mineral estates; establishing a method for the  
 3 simple majority of mineral interest owners in a tract to develop their interests without  
 4 committing waste or committing a trespass; setting forth accrual and disbursement  
 5 requirements to minority owners; and setting forth legislative intent.

*Be it enacted by the Legislature of West Virginia:*

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
 2 section, designated §37-7-2a, to read as follows:

**§37-7-2a. Development of minerals by co-tenant; majority right to develop; accounting.**

1 (a) A simple majority of the ownership interest of minerals, including owners, lessees or  
 2 other lawful occupants, may develop the minerals, subject to the requirement that the majority  
 3 must account for an accrual and disbursement of any and all revenues and costs from that  
 4 development to the other co-tenants or co-owners in proportion to their share.

5 (b) Subject to the requirements set forth in subdivision (a) of this section, a possessor of  
 6 any mineral interest, including an owner, lessee or other lawful occupant, who extracts minerals  
 7 from a common property does not commit waste of the common property or a trespass on such  
 8 property so long as he or she accounts for an accrual and disbursement of any and all revenues  
 9 and costs from such development to the other co-tenants or co-owners in proportion to their share.

10 (c) It is the intent and policy of the Legislature that this section specifically modifies the  
 11 decision of the Supreme Court of Appeals of West Virginia in the matter of *Law v. Heck Oil Co.*,  
 12 106 W. Va. 296, 145 S.E. 601 (1928), and any progeny thereof, where the benefits of extraction  
 13 have been accounted for and have been disbursed to the other co-tenants pursuant to the  
 14 requirements of this section.

NOTE: The purpose of this bill is to permit a simple majority of mineral interest owners of a tract, who do not own the entire interest, to develop the mineral estate. The bill sets forth accrual and disbursement requirements to minority owners. The bill sets forth legislative intent.

Section 2a is new; therefore, the entire section has been underlined.