

# WEST VIRGINIA LEGISLATURE

## 2020 REGULAR SESSION

**Introduced**

### **House Bill 4088**

**FISCAL  
NOTE**

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PORTERFIELD

[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.