

HB0748/460714/1

BY: Environmental Matters Committee

AMENDMENTS TO HOUSE BILL 748
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 14, after “circumstances;” insert “authorizing the circuit court of a certain jurisdiction to place a severed mineral interest into trust under certain circumstances, to appoint a trustee for the trust, and to order or authorize the trustee to take certain actions on behalf of the trust; authorizing a person vested in certain property to institute proceedings to create a trust and to appoint a trustee; authorizing a certain trustee to file a motion containing certain elements to terminate the trust and to convey title to a severed mineral interest under certain circumstances; requiring the court to enter an order requiring the trustee to convey the title to a severed mineral interest to a certain party under certain circumstances; requiring the trustee to take certain actions if the court issues the order; providing that certain surface owners are entitled to certain proceeds after the conveyance of the severed mineral interest by the trustee; requiring the court to terminate the trust and discharge the trustee after receiving a certain report from the trustee; providing that a certain lease will remain in force and effect following certain events unless it has previously expired by its own terms;”; and in line 19, strike “15-1205” and substitute “15-1206”.

AMENDMENT NO. 2

On page 2, after line 21, insert:

“(D) “SEVERED MINERAL INTEREST” MEANS A MINERAL INTEREST THAT IS SEVERED FROM THE INTEREST IN THE SURFACE ESTATE OVERLYING THE MINERAL INTEREST.

“(E) “SURFACE ESTATE” MEANS AN INTEREST IN THE ESTATE OVERLYING A MINERAL INTEREST.

(Over)

(F) (1) "SURFACE OWNER" MEANS ANY PERSON VESTED WITH A WHOLE OR UNDIVIDED FEE SIMPLE INTEREST OR OTHER FREEHOLD INTEREST IN THE SURFACE ESTATE.

(2) "SURFACE OWNER" DOES NOT INCLUDE THE OWNER OF A RIGHT-OF-WAY, EASEMENT, OR LEASEHOLD ON THE SURFACE ESTATE.

(G) (1) "UNKNOWN OR MISSING OWNER" MEANS ANY PERSON VESTED WITH A SEVERED MINERAL INTEREST WHOSE PRESENT IDENTITY OR LOCATION CANNOT BE DETERMINED FROM THE RECORDS OF THE COUNTY WHERE THE SEVERED MINERAL INTEREST IS LOCATED.

(2) "UNKNOWN OR MISSING OWNER" INCLUDES THE HEIRS, SUCCESSORS, OR ASSIGNEES OF AN UNKNOWN OR MISSING OWNER."

AMENDMENT NO. 3

On page 6, after line 22, insert:

"15-1206.

(A) IF THE TITLE TO A SEVERED MINERAL INTEREST IS VESTED IN AN UNKNOWN OR MISSING OWNER, THE CIRCUIT COURT OF THE COUNTY WHERE THE SEVERED MINERAL INTEREST IS LOCATED MAY BY ORDER:

(1) PLACE THE SEVERED MINERAL INTEREST IN TRUST;

(2) APPOINT A TRUSTEE FOR THE UNKNOWN OR MISSING OWNER;

(3) ORDER THE TRUSTEE TO CREATE A SEPARATE TRUST BANK ACCOUNT TO MANAGE ALL TRUST ASSETS;

(4) AUTHORIZE THE TRUSTEE TO SELL, EXECUTE, AND DELIVER A VALID LEASE ON THE MINERALS; AND

(5) PLACE CONDITIONS ON THE AUTHORIZATION IN ITEM (4) OF THIS SUBSECTION.

(B) PROCEEDINGS TO CREATE A TRUST FOR A SEVERED MINERAL INTEREST AND TO APPOINT A TRUSTEE UNDER SUBSECTION (A) OF THIS SECTION MAY BE INSTITUTED BY A PERSON VESTED IN:

(1) FEE SIMPLE WITH THE WHOLE OR UNDIVIDED INTEREST IN THE SURFACE ESTATE OR ESTATES;

(2) FEE SIMPLE WITH THE WHOLE OR UNDIVIDED INTEREST IN MINERAL INTERESTS THAT ARE ADJACENT AND CONTIGUOUS TO THE SEVERED MINERAL INTEREST VESTED IN AN UNKNOWN OR MISSING OWNER; OR

(3) A VALID MINERAL LEASE WITH THE WHOLE OR UNDIVIDED INTEREST IN THE INTERESTS SET FORTH IN ITEM (1) OR (2) OF THIS SUBSECTION.

(C) (1) IF THE UNKNOWN OR MISSING OWNER OF A VESTED SEVERED MINERAL INTEREST DOES NOT CONTEST A TRUST CREATED UNDER SUBSECTION (A)(1) OF THIS SECTION ON OR BEFORE 5 YEARS AFTER THE DATE THAT THE COURT ISSUED THE ORDER CREATING THE TRUST, THE TRUSTEE SHALL FILE A MOTION TO TERMINATE THE TRUST AND TO CONVEY TITLE TO THE SEVERED MINERAL INTEREST TO THE SURFACE OWNERS.

(Over)

(2) THE MOTION IN PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(I) NAME AS DEFENDANTS:

- 1. THE SURFACE OWNERS; AND**
- 2. ANY OTHER PERSON WITH A LEGAL INTEREST IN THE SEVERED MINERAL INTEREST, INCLUDING ANY UNKNOWN OR MISSING OWNERS; AND**

(II) INCLUDE:

- 1. A LEGAL DESCRIPTION OF THE SEVERED MINERAL INTEREST;**
- 2. A DESCRIPTION OF THE PUTATIVE PROPERTY INTERESTS OF EACH OF THE PARTIES;**
- 3. THE LAST KNOWN ADDRESS OF EACH OF THE PARTIES;**
- 4. AN AFFIDAVIT SIGNED BY THE SURFACE OWNERS, AFFIRMING FEE SIMPLE OWNERSHIP OF THE SURFACE ESTATE OR ESTATES, AND REQUESTING THE COURT TO CONVEY TITLE TO THE SEVERED MINERAL INTEREST AT ISSUE; AND**
- 5. AN AFFIDAVIT SIGNED BY THE TRUSTEE, AFFIRMING THAT:**

A. AFTER CONDUCTING A SEARCH IN THE COUNTY WHERE THE SEVERED MINERAL INTEREST IS LOCATED AND PERFORMED IN ACCORDANCE WITH GENERALLY ACCEPTED STANDARDS OF TITLE EXAMINATION OF THE LAND RECORDS OF THE COUNTY, RECORDS OF REGISTER OF WILLS OF THE COUNTY, AND RECORDS OF THE CIRCUIT COURT FOR THE COUNTY, THE TRUSTEE CANNOT LOCATE THE UNKNOWN OR MISSING OWNER; AND

B. THERE IS A PERSON WILLING TO PURCHASE A MINERAL LEASE FOR THE SEVERED MINERAL INTEREST HELD BY THE UNKNOWN OR MISSING OWNER.

(D) FOLLOWING A MOTION BY THE TRUSTEE MADE UNDER SUBSECTION (C) OF THIS SECTION, THE COURT SHALL HOLD A HEARING ON THE MOTION AND ENTER AN ORDER REQUIRING THE TRUSTEE TO CONVEY THE UNKNOWN OR MISSING OWNER'S MINERAL INTEREST TO THE NAMED SURFACE OWNERS IF:

(1) THE UNKNOWN OR MISSING OWNER DOES NOT APPEAR TO CONTEST THE MOTION; AND

(2) THE COURT FINDS THAT THE INDIVIDUALS NAMED IN THE MOTION AS THE SURFACE OWNERS ARE IN FACT THE FEE SIMPLE OWNERS OF THE SURFACE ESTATE OR ESTATES.

(E) IF THE COURT ORDERS THE CONVEYANCE IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION, THE TRUSTEE SHALL:

(1) CONVEY BY RECORDABLE INSTRUMENT THE UNKNOWN OR MISSING OWNER'S SEVERED MINERAL INTEREST TO THE NAMED SURFACE OWNERS;

(Over)

(2) PAY FROM ANY TRUST ACCOUNT ALL REQUIRED TAXES, COURT COSTS, EXPENSES, AND FEES, INCLUDING ANY FEE FOR SERVICES TO THE TRUSTEE AUTHORIZED BY THE COURT;

(3) PAY ANY BALANCE REMAINING IN ANY TRUST ACCOUNT AFTER THE PAYMENTS SET FORTH IN ITEM (2) OF THIS SUBSECTION TO THE NAMED SURFACE OWNERS;

(4) CLOSE ANY TRUST ACCOUNT; AND

(5) MAKE A FINAL REPORT TO THE COURT ACCOUNTING FOR THE FINANCIAL TRANSACTIONS OF THE TRUST.

(F) AFTER THE CONVEYANCE TO THE SURFACE OWNERS IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION, THE SURFACE OWNERS SHALL BE ENTITLED TO RECEIVE ALL PROCEEDS FROM THE LEASE OF THE MINERAL INTEREST CONVEYED.

(G) AFTER RECEIVING THE FINAL REPORT OF THE TRUSTEE IN ACCORDANCE WITH SUBSECTION (E)(5) OF THIS SECTION, THE COURT SHALL ORDER THE TRUST TERMINATED AND THE TRUSTEE DISCHARGED.

(H) A LEASE AUTHORIZED BY THE COURT UNDER SUBSECTION (A)(4) OF THIS SECTION SHALL CONTINUE IN FORCE AND EFFECT AFTER THE TERMINATION OF THE TRUST OR THE MERGER OF THE MINERAL INTEREST WITH THE SURFACE ESTATE OR ESTATES UNLESS THE LEASE HAS PREVIOUSLY EXPIRED BY ITS OWN TERMS. ”.