

SENATE BILL 775

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9lr2449
CF 9lr2447

By: **Senator Edwards**

Introduced and read first time: February 6, 2009

Assigned to: Education, Health, and Environmental Affairs and Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Dormant Mineral Interests Act**

3 FOR the purpose of stating the purpose of this Act; authorizing a certain owner of real
4 property to maintain an action to terminate a certain mineral interest under
5 certain circumstances; establishing certain actions that constitute use of a
6 mineral interest; requiring a certain owner to bring a certain action in the
7 circuit court of a certain jurisdiction under certain circumstances; authorizing
8 an owner of a mineral interest to record the mineral interest under certain
9 circumstances; providing that a mineral interest is preserved in the county in
10 which the notice is recorded; authorizing certain individuals to record a certain
11 notice under certain circumstances; requiring certain information to be included
12 in a certain notice; requiring a mineral interest to be identified in a certain
13 manner; requiring a court to permit a certain owner to record a late notice
14 under certain circumstances; defining certain terms; providing for the
15 application of this Act; making the provisions of this Act severable; and
16 generally relating to dormant mineral interests.

17 BY adding to

18 Article – Environment

19 Section 15–1201 through 15–1205 to be under the new subtitle “Subtitle 12.
20 Maryland Dormant Mineral Interests Act”

21 Annotated Code of Maryland

22 (2007 Replacement Volume and 2008 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article – Environment**

26 **SUBTITLE 12. MARYLAND DORMANT MINERAL INTERESTS ACT.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **15-1201.**

2 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (B) "MINERAL INTEREST" MEANS AN INTEREST IN A MINERAL ESTATE,
5 HOWEVER CREATED AND REGARDLESS OF FORM, WHETHER ABSOLUTE OR
6 FRACTIONAL, DIVIDED OR UNDIVIDED, CORPOREAL OR INCORPOREAL,
7 INCLUDING A FEE SIMPLE OR ANY LESSER INTEREST OR ANY KIND OF ROYALTY,
8 PRODUCTION PAYMENT, EXECUTIVE RIGHT, NONEXECUTIVE RIGHT,
9 LEASEHOLD, OR LIEN IN MINERALS, REGARDLESS OF CHARACTER.

10 (C) "MINERAL" INCLUDES:

11 (1) GAS;

12 (2) OIL AND OIL SHALE;

13 (3) COAL;

14 (4) GASEOUS, LIQUID, AND SOLID HYDROCARBONS;

15 (5) CEMENT MATERIALS, SAND AND GRAVEL, ROAD MATERIALS,
16 AND BUILDING STONE;

17 (6) CHEMICAL SUBSTANCES;

18 (7) GEMSTONE, METALLIC, FISSIONABLE, AND NONFISSIONABLE
19 ORES; AND

20 (8) COLLOIDAL AND OTHER CLAY, STEAM, AND GEOTHERMAL
21 RESOURCES.

22 **15-1202.**

23 (A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
24 SUBSECTION, THIS SUBTITLE APPLIES TO ALL MINERAL INTERESTS.

25 (2) THIS SUBTITLE DOES NOT APPLY TO A MINERAL INTEREST:

26 (I) HELD BY THE UNITED STATES OR A NATIVE AMERICAN
27 TRIBE, EXCEPT TO THE EXTENT PERMITTED BY FEDERAL LAW; OR

1 **(II) HELD BY THE STATE OR AN AGENCY OR POLITICAL**
2 **SUBDIVISION OF THE STATE, EXCEPT TO THE EXTENT PERMITTED BY STATE**
3 **LAW.**

4 **(B) THE PURPOSE OF THIS SUBTITLE IS TO MAKE UNIFORM THE LAW**
5 **GOVERNING DORMANT MINERAL INTERESTS AMONG THE STATES.**

6 **(C) THIS SUBTITLE DOES NOT LIMIT OR AFFECT ANY OTHER**
7 **PROCEDURE PROVIDED BY LAW FOR CLEARING AN ABANDONED MINERAL**
8 **INTEREST FROM TITLE TO REAL PROPERTY.**

9 **(D) THIS SUBTITLE DOES NOT LIMIT OR AFFECT WATER RIGHTS.**

10 **15-1203.**

11 **(A) (1) ON OR AFTER OCTOBER 1, 2011, A SURFACE OWNER OF REAL**
12 **PROPERTY THAT IS SUBJECT TO A MINERAL INTEREST MAY MAINTAIN AN**
13 **ACTION TO TERMINATE A DORMANT MINERAL INTEREST.**

14 **(2) A MINERAL INTEREST IS DORMANT FOR THE PURPOSE OF**
15 **THIS SUBTITLE IF:**

16 **(I) THE MINERAL INTEREST IS UNUSED FOR A PERIOD OF**
17 **20 OR MORE YEARS PRECEDING THE COMMENCEMENT OF TERMINATION OF THE**
18 **MINERAL INTEREST; AND**

19 **(II) NOTICE OF THE MINERAL INTEREST WAS NOT**
20 **RECORDED DURING THE PERIOD OF 20 OR MORE YEARS PRECEDING THE**
21 **COMMENCEMENT OF TERMINATION OF THE MINERAL INTEREST.**

22 **(B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
23 **SUBSECTION, THE FOLLOWING ACTIONS TAKEN BY OR UNDER THE AUTHORITY**
24 **OF THE OWNER OF A MINERAL INTEREST IN RELATION TO ANY MINERAL THAT IS**
25 **PART OF THE MINERAL INTEREST SHALL CONSTITUTE USE OF THE ENTIRE**
26 **MINERAL INTEREST:**

27 **(I) ACTIVE MINERAL OPERATIONS ON OR BELOW THE**
28 **SURFACE OF THE REAL PROPERTY OR OTHER PROPERTY UTILIZED OR POOLED**
29 **WITH THE REAL PROPERTY, INCLUDING PRODUCTION, GEOPHYSICAL**
30 **EXPLORATION, EXPLORATORY OR DEVELOPMENTAL DRILLING, MINING,**
31 **EXPLOITATION, AND DEVELOPMENT OF MINERALS;**

32 **(II) PAYMENT OF TAXES ON A SEPARATE ASSESSMENT OF**
33 **THE MINERAL INTEREST OR OF A TRANSFER OR SEVERANCE TAX RELATING TO**

1 THE MINERAL INTEREST, IN ACCORDANCE WITH § 8-229 OF THE
2 TAX – PROPERTY ARTICLE;

3 (III) RECORDATION OF AN INSTRUMENT THAT CREATES,
4 RESERVES, OR OTHERWISE EVIDENCES A CLAIM TO, OR THE CONTINUED
5 EXISTENCE OF, THE MINERAL INTEREST, INCLUDING AN INSTRUMENT THAT
6 TRANSFERS, LEASES, OR DIVIDES THE INTEREST; AND

7 (IV) RECORDATION OF A JUDGMENT OR DECREE THAT
8 MAKES A SPECIFIC REFERENCE TO THE MINERAL INTEREST.

9 (2) THE INJECTION OF SUBSTANCES FOR THE PURPOSE OF
10 DISPOSAL OR STORAGE DOES NOT CONSTITUTE USE OF A MINERAL INTEREST.

11 (C) (1) A SURFACE OWNER OF REAL PROPERTY THAT IS SUBJECT TO
12 A MINERAL INTEREST WHO BRINGS AN ACTION TO TERMINATE A DORMANT
13 MINERAL INTEREST IN ACCORDANCE WITH THIS SECTION SHALL BRING THE
14 ACTION IN THE CIRCUIT COURT OF THE JURISDICTION IN WHICH THE REAL
15 PROPERTY IS LOCATED.

16 (2) A COURT ORDER THAT TERMINATES A MINERAL INTEREST
17 MERGES THE TERMINATED MINERAL INTEREST, INCLUDING EXPRESS AND
18 IMPLIED APPURTENANT SURFACE RIGHTS AND OBLIGATIONS, WITH THE
19 SURFACE ESTATE IN SHARES PROPORTIONATE TO THE OWNERSHIP OF THE
20 SURFACE ESTATE, SUBJECT TO EXISTING LIENS FOR TAXES OR ASSESSMENTS.

21 (D) THIS SECTION SHALL APPLY NOTWITHSTANDING ANY PROVISION TO
22 THE CONTRARY IN:

23 (1) THE INSTRUMENT THAT CREATES, RESERVES, TRANSFERS,
24 LEASES, DIVIDES, OR OTHERWISE EVIDENCES THE CLAIM TO, OR THE
25 CONTINUED EXISTENCE OF, THE MINERAL INTEREST; OR

26 (2) ANOTHER RECORDED DOCUMENT, UNLESS THE INSTRUMENT
27 OR OTHER RECORDED DOCUMENT PROVIDES AN EARLIER TERMINATION DATE.

28 15-1204.

29 (A) (1) AN OWNER OF A MINERAL INTEREST MAY RECORD, AT ANY
30 TIME, A NOTICE OF INTENT TO PRESERVE THE MINERAL INTEREST OR A PART
31 OF A MINERAL INTEREST.

32 (2) A MINERAL INTEREST IS PRESERVED IN THE COUNTY IN
33 WHICH THE NOTICE IS RECORDED.

1 **(B) (1) THE FOLLOWING INDIVIDUALS MAY RECORD A NOTICE IN**
2 **ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION:**

3 **(I) AN OWNER OF THE MINERAL INTEREST;**

4 **(II) ANOTHER PERSON ACTING ON BEHALF OF THE OWNER**
5 **IF THE OWNER:**

6 **1. IS DISABLED OR UNABLE TO ASSERT A CLAIM ON**
7 **THE OWNER'S BEHALF; OR**

8 **2. CANNOT BE IDENTIFIED; OR**

9 **(III) A CO-OWNER, FOR THE BENEFIT OF ANY OR ALL**
10 **CO-OWNERS.**

11 **(2) A NOTICE RECORDED UNDER SUBSECTION (A) OF THIS**
12 **SECTION SHALL CONTAIN:**

13 **(I) THE NAME OF THE OWNER OF THE MINERAL INTEREST,**
14 **OR THE CO-OWNERS OR OTHER PERSONS FOR WHOM THE MINERAL INTEREST IS**
15 **TO BE PRESERVED; OR**

16 **(II) IF THE IDENTITY OF THE OWNER CANNOT BE**
17 **DETERMINED, INFORMATION THAT STATES THAT THE OWNER CANNOT BE**
18 **DETERMINED; AND**

19 **(III) AN IDENTIFICATION OF THE MINERAL INTEREST OR**
20 **PART OF THE MINERAL INTEREST TO BE PRESERVED, IN ACCORDANCE WITH**
21 **SUBSECTION (C) OF THIS SECTION.**

22 **(C) A MINERAL INTEREST SHALL BE IDENTIFIED BY:**

23 **(1) A REFERENCE TO THE LOCATION IN THE RECORDS OF THE**
24 **INSTRUMENT THAT CREATES, RESERVES, OR OTHERWISE EVIDENCES THE**
25 **INTEREST;**

26 **(2) THE JUDGMENT OR DECREE THAT CONFIRMS THE MINERAL**
27 **INTEREST;**

28 **(3) A LEGAL DESCRIPTION OF THE MINERAL INTEREST, IF**
29 **ACCOMPANIED BY A REFERENCE TO THE NAME OF THE RECORD OWNER UNDER**
30 **WHOM THE OWNER OF THE MINERAL INTEREST CLAIMS; OR**

1 **(4) A GENERAL REFERENCE TO ANY OR ALL MINERAL INTERESTS**
2 **OF THE OWNER IN ANY REAL PROPERTY SITUATED IN THE COUNTY, IF:**

3 **(I) A PREVIOUSLY RECORDED INSTRUMENT CREATED,**
4 **RESERVED, OR OTHERWISE EVIDENCED THE MINERAL INTEREST; OR**

5 **(II) A JUDGMENT OR DECREE CONFIRMS THE MINERAL**
6 **INTEREST.**

7 **15-1205.**

8 **(A) IN THIS SECTION, "LITIGATION EXPENSES" MEANS COSTS AND**
9 **EXPENSES THAT THE COURT DETERMINES ARE REASONABLY AND NECESSARILY**
10 **INCURRED IN PREPARING FOR AND PROSECUTING AN ACTION, INCLUDING**
11 **REASONABLE ATTORNEY'S FEES.**

12 **(B) IN AN ACTION TO TERMINATE A MINERAL INTEREST IN**
13 **ACCORDANCE WITH § 15-1203 OF THIS SUBTITLE, THE COURT SHALL PERMIT**
14 **THE OWNER OF THE MINERAL INTEREST TO RECORD A LATE NOTICE OF INTENT**
15 **TO PRESERVE THE MINERAL INTEREST AS A CONDITION OF DISMISSAL OF THE**
16 **ACTION, IF THE OWNER OF THE MINERAL INTEREST PAYS THE LITIGATION**
17 **EXPENSES INCURRED BY THE SURFACE OWNER OF THE REAL PROPERTY THAT IS**
18 **SUBJECT TO THE MINERAL INTEREST.**

19 **(C) THIS SECTION DOES NOT APPLY IN AN ACTION IN WHICH A MINERAL**
20 **INTEREST HAS BEEN UNUSED IN ACCORDANCE WITH § 15-1203 OF THIS**
21 **SUBTITLE FOR A PERIOD OF 40 YEARS OR MORE PRECEDING THE**
22 **COMMENCEMENT OF THE ACTION.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
24 Act or the application thereof to any person or circumstance is held invalid for any
25 reason in a court of competent jurisdiction, the invalidity does not affect other
26 provisions or any other application of this Act which can be given effect without the
27 invalid provision or application, and for this purpose the provisions of this Act are
28 declared severable.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2009.