

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 775 (Senator Edwards)
Education, Health, and Environmental Affairs
and Judicial Proceedings

Maryland Dormant Mineral Interests Act

This bill codifies certain provisions of the Uniform Dormant Mineral Interests Act, which establishes the criteria by which a severed mineral interest in real estate becomes dormant, authorizes the owner of the surface estate to bring an action to terminate the mineral interest, specifies how a mineral interest may be preserved, and governs the disposition of a terminated mineral interest.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations.

Local Effect: Potential minimal increase in local government expenditures to the extent that additional caseloads in the circuit courts cannot be handled with existing resources.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill defines “mineral” and “mineral interest” broadly and inclusively, without regard to chemical or physical form, or the legal interest in ownership of the mineral. The bill does not, however, apply to any mineral interest held by federal, State, or local agencies, or tribal interests. The stated purpose of the bill is to make uniform the law governing dormant mineral interests among the states. The bill does not affect any other provision of law for clearing an abandoned mineral interest, does not affect water rights, and does not extend a contractually defined mineral interest of less than 20 years.

Beginning October 1, 2011, an owner of a surface estate may bring an action in circuit court to terminate a dormant mineral interest. A mineral interest is defined as dormant if the interest is unused and notice was not recorded for a period of 20 years or more before the date the action is brought. Use of the mineral interest is evidenced by (1) active mining operations on or below the surface estate; (2) payment of taxes on the interest or on a transfer or severance of the interest; (3) recordation of an instrument that evidences a claim to any part of the mineral interest; and (4) recordation of a judgment referencing the mineral interest. Disposal or storage of substances into the mineral estate is not use of the mineral interest.

The bill specifies who may record notice of a mineral interest, governs the contents of the recording, and defines the various ways in which a mineral interest may be identified by the act of recordation.

If a mineral interest is unused for less than 40 years, the bill authorizes the holder of a mineral interest to dismiss an action to terminate and preserve his or her interest with a late recording of notice. The court is required to dismiss the action to terminate if the party seeking dismissal pays the reasonable litigation costs of the party seeking termination of the dormant mineral interest.

Once a court order terminates a dormant mineral interest, the interest merges into the surface estate. In situations of co-ownership of the surface estate, the mineral interest is merged in shares proportionate to the co-ownership interests.

Current Law/Background: Ownership of title to real estate means ownership of the various estates incident to the land including the surface estate and one or more mineral estates. Each of these estates can be conveyed or reserved as separate estates through transfer (or reservation) of the deeds. Separation of deeds to estates in the same land is known in property law as “severance.” Each estate is represented by independent “titles in severalty.”

Ownership of a severed mineral estate carries most of the same rights and duties as that of surface ownership. Title can be conveyed, devised by will, passed through inheritance, and leased. However, because mineral estates are not used for dwelling purposes, but rather are predicated on commercial exploitation, there are important differences in the way the law treats mineral estates. In particular, the legal principles of “abandonment” and “nonuser” have developed to keep valuable mineral interests from becoming dormant and falling into permanent disuse. This disuse is economically harmful to mining industries but, without these principles, is legally sanctioned because a mineral interest traditionally is not extinguished or otherwise forfeited merely because it is not used.

Maryland law does not contain a general mineral reversion statute to ensure unused mineral interests revert to the State as is common among states with historically significant mining industries. However, several mining provisions in the Environment Article govern the abandonment of certain mineral interests, albeit for the purpose of protecting public health and the environment from the effect of mine waste leakage. Several states, including Pennsylvania, have codified provisions of the Uniform Dormant Mineral Interests Act.

Additional Information

Prior Introductions: None.

Cross File: HB 748 (Delegate Beitzel) - Environmental Matters.

Information Source(s): National Conference of Commissioners on Uniform State Laws, Allegany and Garrett counties, Department of Natural Resources, Maryland Department of the Environment, Judiciary (Administrative Office of the Courts), Maryland Energy Administration, Department of Legislative Services

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