

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

House Bill 402

(Delegate Beitzel)

Environmental Matters

Education, Health, and Environmental Affairs
and Judicial Proceedings

**Land Records - Dormant Mineral Interests and Natural Gas and Oil Leases -
Court Order and Recordation Requirements**

This bill requires that a court order that terminates a mineral interest under the Maryland Dormant Mineral Interests Act contain specific identifying information. This information includes the mineral interest; each surface estate into which the mineral interest is merged, including the tax map and parcel number; the name of each surface owner; the name of each known person that owned the mineral interest prior to termination; and any other information determined by the court as appropriate to describe the effect of the termination and merger of the mineral interest. The bill also requires the clerk of the court that issued the order to record the order in the land records. Finally, the bill prohibits a clerk from recording an instrument that effects a real property lease dealing in natural gas and oil unless the instrument is accompanied by a complete intake sheet.

Fiscal Summary

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

Local Effect: The bill's requirements can likely be absorbed within existing budgeted resources. Local revenues are not materially affected.

Small Business Effect: Minimal.

Analysis

Current Law/Background:

Termination of Mineral Interests

Chapters 268 and 269 of 2010 codified provisions of the Uniform Dormant Mineral Interests Act, thereby establishing criteria by which a severed mineral interest in Maryland becomes dormant; authorizing the owner of the surface estate to bring an action to terminate a mineral interest; specifying who may preserve a mineral interest and how it may be preserved; and governing the disposition of a terminated mineral interest.

A court order that terminates a mineral interest merges the terminated interest, including express and implied appurtenant surface rights and obligations, with the surface estate in shares proportionate to the ownership of the surface estate, subject to existing liens for taxes or assessments.

The Maryland Rules require that the petition to terminate a mineral interest contain the location of each surface estate subject to the mineral interest in the petition's caption. Additionally, the petition must contain the name and address of the petitioner and all other surface owners, a legal description of the severed mineral interest, the nature and location of the surface estate or estates subject to a severed mineral interest, and an affidavit by each surface owner that includes a reference to each recorded document establishing such ownership. Thus, most of the elements of a court order included in the bill are generally required under the current Maryland Rules, though not necessarily with the same degree of specificity.

Recordation of Intake Sheets

Generally, a deed or other instrument affecting property and presented for recordation in the land records must be (1) accompanied by a complete intake sheet on the form provided by the Administrative Office of the Courts; or (2) if the deed or other instrument effects a change in ownership on the assessment books, endorsed by the assessment office for the county where the property is located.

A complete intake sheet must contain specified information, including a description of the property, the name of each grantor/grantee, donor/donee, mortgagor/mortgagee, and assignor/assignee, the type of instrument, the amount of consideration payable, and the amount of recording changes due, including any transfer or recordation taxes. An intake sheet may request any additional information that the Administrative Office of the Courts considers necessary.

The intake sheet is not part of the instrument and does not constitute constructive notice of the instrument's contents. A clerk may not refuse to record an instrument that does not effect a change of ownership on the assessment books solely because it is not accompanied by an intake sheet. However, if an instrument that effects a change of ownership on the assessment rolls is not accompanied by an intake sheet or endorsed as transferred on the assessment books, a clerk may refuse to record the deed or instrument and the person offering the deed or other instrument must mail or deliver the information required on the intake sheet to the person in charge of the assessment books. The lack of an intake sheet does not affect the validity of any conveyance, lien, or lien priority based on recordation of an instrument.

An intake sheet must be recorded immediately after the instrument it accompanies. A clerk may not charge any fee for recording an intake sheet.

Additional Information

Prior Introductions: None.

Cross File: Although designated as a cross file, SB 472 (Senator Edwards - Education, Health, and Environmental Affairs and Judicial Proceedings) is not identical.

Information Source(s): Garrett County, State Department of Assessments and Taxation, Maryland Department of Agriculture, Department of Natural Resources, Maryland Department of the Environment; Judiciary (Administrative Office of the Courts), Department of Legislative Services

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