

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4
5 By: Senator G. Jeffress

A Bill

SENATE BILL 551

For An Act To Be Entitled

AN ACT TO CREATE THE LIGNITE MINERAL INTEREST
LAPSE ACT OF 2009; AND FOR OTHER PURPOSES.

Subtitle

THE LIGNITE MINERAL INTEREST LAPSE ACT
OF 2009.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 18, Chapter 11, is amended to add an additional subchapter to read as follows:

18-11-701. Title.

This subchapter shall be known and may be cited as the "Lignite Mineral Interest Lapse Act of 2009".

18-11-702. Purpose.

The purpose of this subchapter is to promote the exploration and development of this state's lignite resources and to remove uncertainties about lignite mineral interest rights,

18-11-703. Definitions.

As used in this subchapter:

(1)(A) "Lignite" means the lowest rank of coal that is brownish-black and has a high inherent moisture content.

(B) "Lignite" is often referred to as "brown coal" and is used primarily as a fuel for steam-electric generation; and

(2) "Lignite mineral interest" means an ownership interest in lignite



1 below the surface of real property that is created by an instrument that
2 transferred the lignite mineral interest by grant, assignment, reservation,
3 or otherwise.

4
5 18-11-704. Reversion of lignite mineral interest.

6 (a)(1) Unless otherwise provided in subsection (b) of this section or
7 a statement of claim is filed as required by § 18-11-706, a lignite mineral
8 interest that is unused for twenty (20) years extinguishes and reverts to the
9 owner of the interest out of which the lignite mineral interest was severed.

10 (2) The extinguishment of a lignite mineral interest under this
11 subsection (a) does not affect any other mineral interest that may have been
12 severed from the interest out of which the lignite mineral interest was
13 severed.

14 (b) A failure to file a statement of claim as required by § 18-11-706
15 does not extinguish a lignite mineral interest if the owner of the lignite
16 mineral interest:

17 (1) Has:

18 (A) Made a diligent effort to preserve his or her lignite
19 mineral interest that was not being used; and

20 (B) Within the ten-year period before the lignite mineral
21 interest extinguishes under subsection (a) of this section, preserved another
22 lignite mineral interest in the county by filing a statement of claim as
23 required by § 18-11-706; or

24 (2) Filed the statement of claim under § 18-11-706:

25 (A) Within sixty (60) days after the publication of notice
26 required by § 18-11-707; or

27 (B) If a notice was not published as required by § 18-11-
28 707, within sixty (60) days after obtaining actual knowledge that the lignite
29 mineral interest had lapsed.

30
31 18-11-705. Presumption of use.

32 A lignite mineral interest is presumed to be in use when:

33 (1) Lignite is produced from the lignite mineral interest by the owner
34 of the lignite mineral interest;

35 (2) The owner of the lignite mineral interest conducts an operation on
36 the lignite mineral interest for the injection, withdrawal, storage, or

1 disposal of water, gas, or other fluid substance;

2 (3) There is production from a common vein or seam by the owner of the
3 lignite mineral interest;

4 (4) The owner of the lignite mineral interest pays taxes on the
5 lignite mineral interest; or

6 (5) A statement of claim is filed within the time required by §18-11-
7 706.

8
9 18-11-706. Statement of claim.

10 The statement of claim shall:

11 (1) Be filed with the county clerk where the lignite mineral interest
12 is located before the end of the twenty-year period when the lignite mineral
13 interest lapses under § 18-11-704; and

14 (2) Contain:

15 (A) The name and address of the owner of the lignite mineral
16 interest; and

17 (B) A description of the real property on or under which the
18 lignite mineral interest is located.

19
20 18-11-707. Notice of lapse of interest.

21 (a) After the lignite mineral interest lapses under § 18-11-704, the
22 person who succeeds to the ownership of the lignite mineral interest shall
23 give notice of the lapse of the lignite mineral interest by:

24 (1) Publishing a notice in a newspaper of general circulation in
25 the county in which the lignite mineral interest is located; and

26 (2) Either:

27 (A) Mailing within ten (10) days after the publication
28 under subdivision (a)(1) of this section a copy of the notice to the last
29 known address of the owner of the lapsed lignite mineral interest; or

30 (B) Obtaining an acknowledgement of receipt of notice
31 signed by the owner of the lapsed lignite mineral interest.

32 (b) The notice required under subsection (a) of this section shall
33 state:

34 (1) The name of the owner of the lapsed lignite mineral
35 interest;

36 (2) A description of the real property on or under which the

1 lignite mineral interest is located; and

2 (3) The name of the person giving the notice.

3
4 18-11-708. Dormant lignite mineral interest record.

5 When the statement of claim under § 18-11-706 or the proof of service
6 of notice under § 18-11-707 is filed in the county clerk's office where a
7 lignite mineral interest is located, the office of the county clerk shall:

8 (1) Record the filing in a book to be kept for that purpose, to
9 be known as the "dormant lignite mineral interest record"; and

10 (2) Indicate by marginal notation on the instrument creating the
11 original lignite mineral interest the filing of the statement of claim or
12 affidavit of publication and service of notice of lapse.

13
14 18-11-709. Waiver.

15 The provisions of this subchapter may not be waived at any time before
16 the expiration of the twenty-year period provided in § 18-11-703.

17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36