

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

HOUSE BILL 1890

5 By: Representative Ballinger
6

For An Act To Be Entitled

8 AN ACT TO CREATE THE CLAIM OF UNRECORDED MINERAL
9 RIGHTS ACT; TO PROVIDE A PROCEDURE FOR CLAIMING
10 OWNERSHIP OF UNRECORDED MINERAL RIGHTS; AND FOR OTHER
11 PURPOSES.
12
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Subtitle

14 TO CREATE THE CLAIM OF UNRECORDED MINERAL
15 RIGHTS ACT; AND TO PROVIDE A PROCEDURE
16 FOR CLAIMING OWNERSHIP OF UNRECORDED
17 MINERAL RIGHTS.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code Title 18, Chapter 60, is amended to add an
24 additional subchapter to read as follows:

25 18-60-1001. Title.

26 This subchapter shall be known and may be cited as the "Claim of
27 Unrecorded Mineral Rights Act".
28

29 18-60-1002. Definitions.

30 As used in this subchapter:

31 (1) "Mineral" means:

32 (A) Gas, oil, coal, or another gaseous, liquid, or solid
33 hydrocarbon;

34 (B) Oil shale;

35 (C) Cement material, sand and gravel, road material, or
36 building stone;



- 1 (D) A chemical substance;
- 2 (E) Gemstone;
- 3 (F) A metallic substance;
- 4 (G) Fissionable or nonfissionable ore;
- 5 (H) Colloidal or another clay;
- 6 (I) Steam or other geothermal resource; and
- 7 (J) Any other substance defined as a mineral by a law of
- 8 this state; and

9 (2)(A) "Mineral right" means an interest or right of any kind in
 10 a mineral estate however created and regardless of form, whether absolute or
 11 fractional, divided or undivided, corporeal or incorporeal.

12 (B) "Mineral right" includes a fee simple or any lesser
 13 right or interest in a mineral or any kind of royalty, production payment,
 14 executive right, or nonexecutive right in a mineral.

15
 16 18-60-1003. Applicability.

17 (a) This subchapter does not apply to a mineral right of:

18 (1) The United States or a Native American tribe, except to the
 19 extent permitted by federal law; or

20 (2) This state, an agency, or a political subdivision of this
 21 state, except to the extent permitted by state law other than this
 22 subchapter.

23 (b) This subchapter does not affect water rights.

24
 25 18-60-1004. Complaint to claim unrecorded mineral rights.

26 (a)(1) If an interest in oil, gas, or other minerals is unrecorded,
 27 the owner of the surface estate may file a complaint to claim an unrecorded
 28 mineral right with the clerk of the circuit court in the county in which the
 29 mineral right is located.

30 (2) A complaint filed under subdivision (a)(1) of this section
 31 shall:

32 (A) State the full name and address of the owner of the
 33 surface estate;

34 (B) State that the complainant is the current owner of
 35 record of the surface estate;

36 (C) Provide the legal description and parcel number of the

1 surface estate;

2 (D) Contain a sworn statement by the owner of the surface
 3 estate that based on his or her reasonable inquiry:

4 (i) An owner of record of the mineral right beneath
 5 the owner's surface estate does not exist;

6 (ii) Taxes have not been paid on the mineral right
 7 beneath the surface estate for the number of years stated in the complaint;
 8 and

9 (iii) The owner of the surface estate either:

10 (a) Does not know or have reason to know of
 11 any purported owner of the mineral estate; or

12 (b) Has provided written notification by
 13 certified mail to each purported owner of the mineral right;

14 (E) Demand that ownership of the unrecorded mineral right
 15 be reunited with the surface estate identified in the complaint; and

16 (F) Be verified.

17 (b)(1) Upon the filing of a complaint under this section, the circuit
 18 court clerk shall give notice that ownership of the mineral right identified
 19 in the complaint shall be reunited with the surface estate identified in the
 20 complaint within sixty (60) days unless a statement of claim is filed with
 21 the circuit court under this section.

22 (2) The notice provided under subdivision (b)(1) of this section
 23 shall:

24 (A) Contain the name of the complainant; and

25 (B) Be published one (1) time per week for three (3)
 26 consecutive weeks in a newspaper of general circulation in the county in
 27 which the mineral right is located.

28 (c)(1) An owner of a mineral right subject to a complaint under this
 29 section shall file a statement of claim with the circuit court clerk within
 30 the sixty-day period provided under subsection (b).

31 (2) The statement of claim required under subdivision (c)(1) of
 32 this section shall:

33 (A) State the full name and address of the owner of the
 34 mineral right;

35 (B) Provide the legal description and parcel number for
 36 each surface estate on or under which the mineral right is located;

1 (C) Provide the legal description of the mineral right;

2 (D) Contain a sworn statement by the owner of the mineral
3 right that he or she has recorded his or her mineral rights with the county
4 recorder in the county in which the mineral right is located;

5 (E) Include a reference to the location in the county
6 recorder's records of the instrument that creates, reserves, or otherwise
7 evidences the person's ownership of the mineral right or of the judgment or
8 decree that confirms the person's ownership of the mineral right; and

9 (F) Be signed by the owner of the mineral right and
10 notarized.

11 (3) The filing of a valid statement of claim under this
12 subsection is prima facie evidence that the person filing the statement of
13 claim is the owner of the mineral right described in the statement of claim.

14 (d)(1) If a statement of claim is not filed within the sixty-day
15 period provided in subsection (c), the circuit court clerk shall so certify
16 to the circuit court, which shall enter an order vesting title to the mineral
17 right in the owner of the surface estate.

18 (2) When recorded with the county recorder in the county in
19 which the mineral right is located, a certified copy of the order entered
20 under subdivision (d)(1) of this section is effective to bar a subsequent
21 claim to the mineral right.

22 (e)(1) A person who prevails in an action under this section may be
23 awarded reasonable attorney's fees and costs if the court finds that the
24 complaint or the statement of claim filed under this section was not filed in
25 good faith.

26 (2) A court may find that a complaint or a statement of claim
27 filed under this section was not filed in good faith if it was filed without
28 reasonable inquiry, with no actual basis, or for purposes of harassment.