

# **WEST VIRGINIA LEGISLATURE**

## **2018 REGULAR SESSION**

**Introduced**

### **House Bill 4551**

BY DELEGATE DEEM

[Introduced February 13, 2018; Referred  
to the Committee on Energy then the Judiciary.]

1 A BILL to amend and reenact §55-12A-7 of the Code of West Virginia, 1931, as amended, relating  
2 to requiring the mineral estate of an unknown owner be sold to the legal surface owner at  
3 the fair market value of the mineral interest; providing that if the surface owner declines to  
4 purchase the estate, the estate shall be sold at auction to the highest bidder; setting forth  
5 requirements; and providing that all unclaimed royalties be transferred to the new owner.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 12A. LEASE AND CONVEYANCE OF MINERAL INTERESTS OWNED BY  
MISSING OR UNKNOWN OWNERS OR ABANDONING OWNERS.**

**§55-12A-7. When special commissioner may convey title in mineral interest to surface  
owner; form of deed; payment to surface owner; final report of special  
commissioner.**

1 (a) (1) If an owner of any mineral interest leased under §55-12A-6 of this code remains  
2 unknown or missing after a diligent search, or does not disavow the abandonment, for a period of  
3 seven years from the date of the special commissioner's lease, the special receiver shall report  
4 the same to the court, whereupon the court shall enter an order naming those who then appear  
5 to be surface owners as additional parties and giving notice to them, pursuant to the West Virginia  
6 rules of civil procedure, of an opportunity to appear and present proof of ownership in fee of the  
7 surface estate. Upon a finding by the court of the present ownership in fee of the surface estate,  
8 the court shall: ~~(i) order~~

9 (A) Order the special commissioner to convey to the proven surface owner, subject to the  
10 special commissioner's lease, the mineral interest specified in the motion, at a price determined  
11 by the Division of Oil and Gas to be the fair market value of that interest, by a deed substantially  
12 in the form specified in subsection (b) of this section; and ~~(ii) order~~

13 (B) Order the special receiver to pay to the surface owner the funds which have accrued  
14 to the credit of the mineral interests specified in the motion to the date of his or her report after

15 payment of all allowable fees, expenses and court costs, including special commissioner's fees  
16 paid or to be paid in amounts determined by the court.

17 (2) If the surface owner declines to purchase the mineral interest pursuant to subdivision  
18 (1) of this subsection, the special commissioner shall sell the mineral interest at public auction in  
19 accordance with the applicable provisions of this code. The special commissioner shall convey to  
20 the new mineral interest owner, subject to the special commissioner's lease, the mineral interest  
21 specified in the motion, by a deed substantially in the form specified in subsection (b) of this  
22 section and order the special receiver to pay to the new mineral interest owner the funds which  
23 have accrued to the credit of the mineral interests specified in the motion to the date of his or her  
24 report after payment of all allowable fees, expenses and court costs, including special  
25 commissioner's fees paid or to be paid in amounts determined by the court.

26 (3) After the date of the special commissioner's deed, the surface owner or new mineral  
27 interest owner grantee shall be entitled to receive all proceeds under the lease attributable to the  
28 mineral interests specified in the deed.

29 ~~(2)~~ (4) If the boundaries of the mineral tract subject to the special commissioner's lease  
30 encompass two or more surface tracts, a separate deed shall be made for the mineral interest  
31 underlying each surface tract. If a surface tract is ~~owner~~ owned by more than one person, the  
32 deed respecting that surface tract shall convey the mineral interest according to the surface estate  
33 and interest of each surface owner.

34 (b) The special commissioner's deed may be made in the following form, or to the same  
35 effect:

36 This deed, made the \_\_\_\_day of \_\_\_\_\_, 19\_\_\_\_, between  
37 \_\_\_\_\_, special commissioner, grantor, and  
38 \_\_\_\_\_, grantee,

39 Witnesseth, that whereas, grantor, in pursuance of the authority vested in him or her by  
40 an order of the circuit court of \_\_\_\_\_ county, West Virginia, entered on the \_\_\_\_day

41 of \_\_\_\_\_, 19\_\_\_\_, in civil action no. \_\_\_\_\_ therein pending, to convey the mineral  
42 interest more particularly described below to the grantee,

43 Now, therefore, this deed witnesseth: That grantor grants unto grantee, subject to the  
44 special commissioner's lease mentioned below, and further subject to all other liens and  
45 encumbrances of record, that certain mineral interest in \_\_\_\_\_ county, West Virginia,  
46 more particularly described in the cited order of the circuit court as follows: (here insert the  
47 description in the order); and being (here specify "all" or "a portion") of the mineral interest  
48 described in that certain special commissioner's lease dated \_\_\_\_\_, 19\_\_\_\_, of record in  
49 the office of the clerk of \_\_\_\_\_ county, in \_\_\_\_\_ book\_\_\_\_\_, at page \_\_\_\_\_.

50 Witness the following signature.

51 \_\_\_\_\_

52 Special Commissioner

53 (c) Upon the delivery of the deed or deeds and the payment or payments as directed in  
54 subsection (a) of this section, the special commissioner shall make a final report to the court; and  
55 upon approval thereof, the court shall order the discharge of the special commissioner's bond.

56 (d) Prior to the delivery of the special commissioner's deed, no deed from a surface owner  
57 to another shall sever ownership of the surface as such from ownership of any benefits under this  
58 article. Any deed purporting to create such a severance shall be void.

NOTE: The purpose of this bill is to require the mineral estate of an unknown owner be sold to the legal surface owner at the fair market value of the mineral interest. The bill provides that if the surface owner declines to purchase the estate, the estate shall be sold at auction to the highest bidder. The bill sets forth requirements. The bill provides that all unclaimed royalties be transferred to the new owner.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.