

## AN ACT

1 Providing for abandonment of mineral rights in real property,  
2 for the recording by surface owners of title to mineral  
3 rights in their real property after ten years of nonuse by  
4 the subsurface owner; and establishing a right of action to  
5 settle title to mineral rights.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Title to  
10 Mineral Rights Act.

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall  
13 have the meanings given to them in this section unless the  
14 context clearly indicates otherwise:

15 "Mineral." Any valuable inert or lifeless substance formed  
16 or deposited in its present position exclusively through natural  
17 forces and which is found either in or beneath the soil of the  
18 earth or in the rocks beneath the soil. The term does not  
19 include coal of any rank or methane gas that is contained within

1 or produced from underground coal beds or mined-out areas of  
2 underground coal mines.

3 "Mineral rights." The right of a person to take minerals or  
4 receive a royalty from the removal of minerals from real  
5 property, regardless of whether the person is the surface owner.  
6 The term does not include such rights with respect to coal of  
7 any rank or methane gas that is contained within or produced  
8 from underground coal beds or mined-out areas of underground  
9 coal mines.

10 "Nonuse." With respect to minerals in real property, the  
11 absence of all of the following:

12 (1) The issuance of a permit to drill a well for  
13 minerals in the real property issued by the Department of  
14 Environmental Protection as to mineral rights for the real  
15 property.

16 (2) The actual production or withdrawal of minerals from  
17 the real property.

18 (3) The underground storage of minerals in the real  
19 property.

20 "Subsurface owner." A person who owns or claims to own the  
21 rights to extract minerals from beneath the surface of real  
22 property owned by another person.

23 "Surface owner." A person who owns the rights to real  
24 property above the surface.

25 Section 3. Abandonment of mineral rights.

26 (a) General rule.--Mineral rights in real property shall be  
27 deemed abandoned after a period of ten years of nonuse of the  
28 mineral rights by a subsurface owner, unless the subsurface  
29 owner shall, within three years of the effective date of this  
30 section or ten years from the nonuse, whichever is later, record

1 a claim of interest that complies with subsection (b).

2 (b) Claim of interest.--A claim of interest must be filed in  
3 the office of recorder of deeds in the county where the real  
4 property is situate. The claim of interest shall be verified and  
5 contain the following:

6 (1) A description of the land and the nature of the  
7 mineral rights claimed.

8 (2) The name and address of the subsurface owner.

9 (3) A statement that by recording the claim, the  
10 subsurface owner seeks to preserve the mineral rights and not  
11 to abandon the mineral rights in the real property.

12 (c) Underground storage of minerals.--A subsurface owner who  
13 uses real property for underground storage of minerals in an  
14 underground storage pool or field may preserve the mineral  
15 rights by recording a single claim of interest that defines the  
16 boundaries of and the formations included in the underground  
17 storage field or pool within which the mineral rights are  
18 located, without describing each separate mineral interest  
19 claimed in the underground storage field or pool by the  
20 subsurface owner.

21 (d) Effect of recorded claim of interest.--

22 (1) A claim of interest recorded in compliance with this  
23 section shall operate as a matter of law to preserve the  
24 mineral rights included in the claim of interest from  
25 abandonment under this act for a period of ten years after  
26 the date of recording.

27 (2) After the ten-year period in paragraph (1) expires,  
28 the mineral interests shall be deemed abandoned if, during  
29 the ten-year period, there has been nonuse or no sales  
30 agreement, lease, mortgage or transfer of the mineral rights

1 has been recorded in the office of recorder of deeds in the  
2 county where the real property is situate.

3 (3) In the absence of prior abandonment, mineral rights  
4 of a subsurface owner may be preserved indefinitely from  
5 abandonment under this act by filing claims of interest as  
6 provided in this act or other acts evidencing use of the  
7 mineral rights within each ten-year period.

8 Section 4. Right of surface owner to record claim.

9 (a) Surface owners.--

10 (1) A surface owner who acquires or claims to have  
11 acquired title to any mineral rights in real property by a  
12 period of ten years of nonuse of the mineral rights by a  
13 subsurface owner may file, in the Office of Recorder of Deeds  
14 of the county where the real property is situate, a written  
15 statement of the surface owner's claim.

16 (2) Paragraph (1) shall not apply to mineral rights in  
17 real property for which a claim of interest has been recorded  
18 in compliance with section 3.

19 (b) Form of written statement.--The written statement  
20 authorized to be recorded under subsection (a) shall be sworn to  
21 and substantially in the following form:

22 I, (the name of the party claimant) of \_\_\_\_\_, in the  
23 county of \_\_\_\_\_ and State of \_\_\_\_\_, do hereby  
24 affirm and declare that I have acquired title in fee to  
25 mineral rights, by a period of ten years of nonuse by a  
26 subsurface owner of the mineral rights, to the following  
27 described land, situate in \_\_\_\_\_, in the county of \_\_\_\_\_, and  
28 State of Pennsylvania, viz: (Here insert a full and complete  
29 description of the land claimed, by metes and bounds, or  
30 other sufficient designation). Use of the mineral rights on

1 the land by a subsurface owner commenced on or about the  
2 day of , , and continued until a period of  
3 nonuse commenced about the day of , , (or,  
4 where the possession of the mineral rights is tacked on to  
5 that of others who have preceded the existing subsurface  
6 owner, it should be stated as follows: Use of the mineral  
7 rights was made upon the lands by on or about the  
8 day of , , who continued until about the  
9 day of , , and was succeeded therein by  
10 , who continued until about the day of  
11 , , and was succeeded therein by the existing  
12 subsurface owner, who continued until a period of nonuse of  
13 the mineral rights commenced about the day of ,  
14 ). At the time the use of the mineral rights commenced  
15 (naming some person or persons in the line of the existing  
16 paper or legal title, as nearly as may be the real subsurface  
17 owner of the lands at the time of the use),  
18 was the subsurface owner or reputed subsurface owner of the  
19 mineral rights to the land, and I claim adversely to the  
20 subsurface owner (or them). Witness my hand, this day of

21 , .  
22 (Signed)

23 Section 5. Filing of statement of claim.

24 After a statement of claim under section 4 is filed in the  
25 recorder's office of the proper county, the recorder of deeds  
26 shall record and index the statement of claim as though it were  
27 a deed or conveyance from the person named therein as the  
28 subsurface owner or reputed subsurface owner at the time of the  
29 ten-year period of nonuse ceases, as grantor, to the claimant or  
30 claimants, as grantees; and when so entered for record and

1 indexed it shall be constructive notice of the claim.

2 Section 6. Action to settle title to mineral rights.

3 (a) Right of action.--A person who files a statement of  
4 claim under section 4 may bring an action to settle title to the  
5 mineral rights for the real property identified in the statement  
6 of claim.

7 (b) Venue.--The action may be brought only in the county in  
8 which the real property is located.

9 (c) Commencement of action.--The action must be commenced by  
10 filing with the prothonotary:

11 (1) a complaint describing the real property; or

12 (2) an agreement for an amicable action.

13 (d) Public notice.--

14 (1) After an action has been commenced under subsection  
15 (c), the court shall order the claimant to publish notice of  
16 the action in a newspaper of general circulation in the  
17 county twice in a period of 60 days.

18 (2) The claimant shall certify to the court that the  
19 publication under paragraph (1) has occurred prior to a  
20 hearing or trial in the action.

21 (e) Form of judgment or order.--

22 (1) The court shall grant appropriate relief:

23 (i) on affidavit that a complaint containing a  
24 notice to defend has been served and that the defendant  
25 has not filed an answer; or

26 (ii) after a hearing or trial on the pleadings or  
27 merits.

28 (2) After granting relief to the plaintiff, the court:

29 (i) shall order that the defendant be forever barred  
30 from asserting any right, lien, title or interest in the

1 mineral rights of the real property inconsistent with the  
2 interest or claim of the plaintiff specified in the  
3 complaint, unless the defendant takes such action as the  
4 order directs within 30 days after issuance of the order.  
5 If the action is not taken within the 30-day period, the  
6 prothonotary on praecipe of the plaintiff shall enter  
7 final judgment; and

8 (ii) shall enter any other order necessary for the  
9 granting of proper relief.

10 (f) Trial without jury.--There shall be no right to a trial  
11 by jury for an action brought under this section.

12 Section 7. Effect of statement of claim.

13 Unless a statement of claim is made and recorded under this  
14 act and a judgment or order is issued in favor of the surface  
15 owner as provided under section 6, no title to mineral rights in  
16 real property by a ten-year period of nonuse by a subsurface  
17 owner shall avail against any purchaser, mortgagee or judgment  
18 creditor for value, without notice, his heirs and assigns,  
19 except the claimant who is in possession of the real property at  
20 the time of the purchase.

21 Section 8. Construction.

22 Nothing in this act shall be construed to give any title to  
23 any mineral rights or real property by a claim of title adverse  
24 to that of the Commonwealth, and no claim of title adverse to  
25 the Commonwealth shall be made or recorded under the provisions  
26 of this act.

27 Section 9. Effective date.

28 This act shall take effect in 60 days.