

CHAPTER NO. 513.

SENATE BILL NO. 88

INTRODUCED BY TURNAGE, TOWE

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

IN THE SENATE

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| January 11, 1979 | Introduced and referred to Committee on Judiciary. |
| January 16, 1979 | Committee recommend bill do pass as amended. Report adopted. |
| January 18, 1979 | Printed and placed on Members desks. |
| January 19, 1979 | Motion pass consideration. |
| January 20, 1979 | Second reading, pass consideration. |
| January 22, 1979 | Second reading, do pass as amended. |
| January 23, 1979 | Correctly engrossed. |
| January 24, 1979 | Third reading, passed. Transmitted to second house. |

IN THE HOUSE

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| January 25, 1979 | Introduced and referred to Committee on Judiciary. |
| March 19, 1979 | Committee recommend bill be concurred in as amended. Report adopted. |
| March 20, 1979 | Second reading, concurred in. |
| March 23, 1979 | Third reading, concurred in as amended. |

IN THE SENATE

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| March 24, 1979 | Returned from second house. Concurred in as amended. |
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March 26, 1979

Second reading, pass
consideration until 3-28-79.

March 28, 1979

Second reading, amendments adopted.

March 29, 1979

Third reading, amendments adopted. Sent to enrolling.

Reported correctly enrolled.

1 *Frank* BILL NO. *88*
2 INTRODUCED BY *Turnage, Eric*
3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
6 CREATION AND ADMINISTRATION OF TRUSTS IN FAVOR OF ABSENT
7 OWNERS OF INTERESTS IN MINERALS AND TO REQUIRE THOSE HOLDING
8 FUNDS FOR ABSENT OWNERS TO PETITION FOR CREATION OF SUCH
9 TRUSTS."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Creation of trust for absent mineral,
13 leasehold, or royalty interest owners. (1) Any person who
14 owns an interest in minerals underlying a tract of land may
15 petition the district court of the county in which the tract
16 or a portion of the tract is located to declare a trust in
17 favor of a person or persons also owning or claiming an
18 interest in the minerals underlying the tract if their place
19 of residence and present whereabouts is unknown and cannot
20 reasonably be ascertained.

21 (2) In requesting the appointment of a trustee, the
22 petitioner must show that:

23 (a) a diligent but unsuccessful effort to locate the
24 absent owner or claimant has been made; and
25 (b) appointment of a trustee will be in the best

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1 interest of all owners of interest in the minerals.

2 (3) After determining that the conditions of

3 subsection (2) have been met, the court shall appoint the

4 clerk of court as a trustee and shall authorize him to

5 execute and deliver an oil, gas, or other mineral lease, an

6 assignment of leasehold interest, a ratification, division

7 order, or other related document or instrument on such terms

8 and conditions as the court may approve.

9 Section 2. No further liability for petitioner. If a
10 trust in favor of absent owners or claimants of an interest
11 in minerals has been created and all bonuses, rental
12 payments, royalties, and other income due to the absent
13 owners are being or have been paid to the trustee, the
14 person petitioning for creation of the trust is not liable
15 for further claims by absent owners for bonuses, rental
16 payments, royalties, and other income produced after the
17 creation of the trust.

18 Section 3. Administration of the trust. (1) The
19 administration of the trust shall comply with the
20 appropriate provisions regulating trusts contained in Title
21 72.

22 (2) No trustee or attorney fees may be paid from the
23 trust proceeds.

24 (3) All bonuses, rental payments, royalties, and other
25 income shall be paid to the trustee until the trust is

1 terminated and notice of its termination given to all
2 interested parties. The trustee shall distribute all money
3 held in the trust to the person or persons entitled to it
4 upon the order of the district court.

5 (4) A trust in favor of absent owners shall be in
6 force until all absent owners of the mineral interest in
7 question have successfully claimed their share of funds held
8 in trust.

9 (5) The trustee shall invest funds under his
10 management in the manner of a prudent man, as defined in
11 72-21-104. Fifty percent of the interest earned on each
12 trust shall be credited to the general fund of the county in
13 which the mineral interest is located to defray the costs of
14 administration.

15 (6) Funds held in the trusts are subject to the
16 provisions governing abandoned property contained in Title
17 70, chapter 9.

18 Section 4. Existing trust for absent mineral,
19 leasehold, and royalty interest owners — transfer of
20 trustees -- penalty. (1) Any bonuses, rental payments,
21 royalties, and other income now held by any person or
22 association for absent owners or claimants of an interest in
23 minerals underlying a tract of land must be deposited with
24 the clerk of the district court in which the tract is
25 located within 6 months after [the effective date of this

1 act]. An accounting for the funds, any related documents,
2 and any instrument creating a trust must be filed with the
3 funds.

4 (2) No person may in the future personally hold for
5 longer than 6 months any bonuses, rental payments,
6 royalties, and other income for absent owners or claimants
7 of an interest in minerals, but in such case must petition
8 the district court for creation of a trust as provided in
9 [section 1].

10 (3) If any person fails to comply with subsections (1)
11 or (2), he is liable for all attorney fees and court costs
12 and interest on the funds held in trust at twice the current
13 average passbook account rate paid by financial institutions
14 in that district.

15 Section 5. Filing of addresses. Upon the payment of a
16 \$5 fee, any person owning an interest in minerals underlying
17 a tract of land may file with the secretary of state a
18 notice of his address and the legal description of his
19 interest.

-End-

Approved by Committee
on Judiciary

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16 favor of a person or persons also owning or claiming an
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19 reasonably be ascertained.20 (2) In requesting the appointment of a trustee, the
21 petitioner must show that:22 (a) a diligent but unsuccessful effort to locate the
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19 administration of the trust shall comply with the
20 appropriate provisions regulating trusts contained in Title
21 72.22 (2) No trustee or attorney fees may be paid from the
23 trust proceeds.24 (3) All bonuses, rental payments, royalties, and other
25 income shall be paid to the trustee until the trust is

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 2 interested parties. The trustee shall distribute all money
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 8 the district court for creation of a trust as provided in
 9 [section 1].

10 (3) If any person fails to comply with subsections (1)
 11 or (2), he is liable for all attorney fees and court costs
 12 and interest on the SUCH funds held-in-trust at twice the
 13 current average passbook account rate paid by financial
 14 institutions in that district.

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 16 \$5 fee, any person owning an interest in minerals underlying
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3 subsection (2) have been met, the court shall appoint the

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11 an interest in minerals has been created and all bonuses,
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13 absent owners are being or have been paid to the trustee,
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 3 held in the trust to the person or persons entitled to it
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5 (4) A trust in favor of absent UNLOCATABLE owners
 6 shall be in force until all-absent THE UNLOCATABLE owners of
 7 the mineral interest in question have HAS successfully
 8 claimed their THE share of funds held in trust AND FILED THE
NOTICE PROVIDED IN [SECTION 5].

10 (5) The trustee shall invest funds under his
 11 management in the manner of a prudent man, as defined in
 12 72-21-104. Fifty percent of the interest earned on each
 13 trust shall be credited to the general fund of the county in
 14 which the mineral interest is located to defray the costs of
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 17 provisions governing abandoned property contained in Title
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 24 interest in minerals underlying a tract of land must be
 25 deposited with the clerk of the district court in which the

1 tract is located within 6 months after [the effective date
 2 of this act]. An accounting for the funds, any related
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 13 and interest on the SUCH funds held-in-trust at twice the
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 15 institutions in that district.

16 Section 5. Filing of addresses. Upon the payment of a
 17 \$5 fee, any person owning CLAIMING an interest in minerals
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PROCEEDING UNDER [SECTION 1] HEREOF may file with the
 20 secretary-of-state CLERK AND RECORDER OF EACH COUNTY WHEREIN
 21 THE MINERAL INTERESTS LIE a notice of his address and the
 22 legal description of his interest AND THEREBY ESTABLISH A
REBUTTABLE PRESUMPTION THAT SUCH PERSON OWNS THE INTEREST
 24 CLAIMED.

25 SECTION 6. THERE IS A NEW MCA SECTION THAT READS:

1 Definition. The word "person", as used herein shall
2 mean any individual, corporation, partnership, joint
3 venture, trust or other entity capable of owning real
4 property in Montana.

-End-

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1 Definition. The word "person", as used herein shall
2 mean any individual, corporation, partnership, joint
3 venture, trust or other entity capable of owning real
4 property in Montana.

-End-

March 16, 1979

HOUSE OF REPRESENTATIVES

Judiciary Committee amendments to SENATE BILL NO. 88,
third reading copy, as follows:

1. Page 3, line 7.

Following: "have"

Strike: "HAS"

Insert: "have"

2. Page 4, line 5.

Strike: "in the future"

3. Page 4, line 19.

Strike: "HEREOF"

AND AS AMENDED, BE CONCURRED IN.