

House Bill 758

In The House

February 13, 1981	Introduced and referred to Committee on Natural Resources.
February 21, 1981	Committee recommend bill do pass.
February 23, 1981	Bill printed and placed on members' desks. Second reading pass consideration.
February 24, 1981	Second reading do pass.
February 25, 1981	On motion rules suspended and bill placed on third reading this day. Third reading passed.

In The Senate

March 3, 1981	Introduced and referred to Committee on Judiciary.
March 24, 1981	Committee recommend bill not concurred.

In The House

March 25, 1981	Returned from Senate not concurred.
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HOUSE BILL NO. 758

INTRODUCED BY *Reusch, Truitt, Ingersoll, Jacobson*

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE TERMINATION OF CERTAIN SEVERED MINERAL INTERESTS OWNED BY

PERSONS OTHER THAN THE SURFACE OWNER BY PROVIDING FOR THE ABANDONMENT OF SUCH INTERESTS, THE PRESERVATION OF SEVERED MINERAL INTERESTS BY RERECORDATION, THE VESTING OF TITLE OF SEVERED MINERAL INTERESTS IN THE SURFACE OWNER, THE INSTITUTION OF A QUIET TITLE ACTION, AND THE REVIVAL OF SEVERED MINERAL INTERESTS."

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

Section 1. Definitions. As used in [this act], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Severed mineral interest" means a real property freehold estate in oil, gas, or other hydrocarbons or coal or uranium owned or claimed by any person other than the owner of the surface of the tract of land in which such severed mineral interest lies.

(2) "Person" means an individual or private corporation, association, partnership, joint venture, or other legal entity but does not include the United States of America or the state of Montana or any political

subdivisions thereof.

Section 2. Scope of [act]. [This act] applies to severed mineral interests, whether participating or nonparticipating royalty, minerals in place, or otherwise and whether granted or obtained by inheritance, by operation of law, or by deed or other document or form of transfer.

Section 3. Abandonment of severed mineral interests.

(1) Any severed mineral interest held or claimed by any person is considered to be abandoned unless the instrument under which the interest is owned or claimed is recorded or the interest is rerecorded under [section 4], prior to the later of:

- (a) 7 years after [the effective date of this act]; or
(b) 20 years after the latest devise, sale, lease, mortgage, or transfer of the interest by an instrument recorded in the office of the county clerk and recorder of the county where the land is located.

(2) Abandonment of any severed mineral interest under this section creates the rebuttable presumption that title thereto has reverted to the owner of the surface estate.

(3) Any severed mineral interest that is considered abandoned under subsection (1) is subject to the provisions of [section 6].

Section 4. Rerecordation of severed mineral interests.

(1) Any severed mineral interest may be rerecorded by filing

1 a verified written notice in the office of the county clerk
 2 and recorder of the county where the interest is located.
 3 The notice shall describe the land and the nature of the
 4 claimed mineral interest, give the name and address of the
 5 person claiming the interest, and state that the claimant
 6 intends to preserve and not to abandon the severed mineral
 7 interest.

8 (2) The filing of this notice preserves the severed
 9 mineral interest from abandonment under [section 3] for a
 10 period of 20 years.

11 (3) A notice of intent not to abandon a severed
 12 mineral interest may be filed as frequently as desired by
 13 the claimant.

14 (4) A fee for each filing of a notice under this
 15 section must be charged by the county clerk and recorder in
 16 accordance with 7-4-2631 or 7-4-2632. The fee must be paid
 17 regardless of the quality and quantity of the mineral
 18 interest being claimed.

19 Section 5. Rerecording not to revive lost interests.
 20 Rerecording under [section 4] serves only to preserve a
 21 severed mineral interest from abandonment under the
 22 provisions of [section 3]. A lease or other terminable
 23 interest that has expired, lapsed, or otherwise been lost by
 24 its own terms or by operation of law may not be revived by
 25 rerecording under [section 4].

1 Section 6. Quiet title action for abandoned severed
 2 mineral interests -- revival of abandoned rights. (1) An
 3 owner of the surface of a tract of land may institute a
 4 quiet title action to all or any of the abandoned severed
 5 mineral interests associated with the tract that are subject
 6 to [this act]. No person other than a surface owner may
 7 bring an action under this section. The provisions of the
 8 Montana Rules of Civil Procedure and Title 70, chapter 28,
 9 part 1, shall be employed in a quiet title action under this
 10 section.

11 (2) Any holder or claimant of a severed mineral
 12 interest considered abandoned under [section 3] who is
 13 classed as a defendant, whether named or unnamed, in an
 14 action under this section may revive his interest by
 15 recording or rerecording the interest as provided for in
 16 [section 3] at any time prior to the time the judgment
 17 becomes final. Such recording or rerecording constitutes a
 18 complete defense to any action brought under this section.
 19 The recording or rerecording is subject to the limitations
 20 provided in [section 5]. Once revived, the interest may be
 21 preserved pursuant to [section 4].

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Approved by Committee
on Natural Resources

HOUSE BILL NO. 758

Conroy

INTRODUCED BY *Roush, Freet, Jansen, Doo, Hoag, Jacobson*A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
TERMINATION OF CERTAIN SEVERED MINERAL INTERESTS OWNED BY

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ABANDONMENT OF SUCH INTERESTS, THE PRESERVATION OF SEVERED
MINERAL INTERESTS BY RERECORDATION, THE VESTING OF TITLE OF
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Section 3. Abandonment of severed mineral interests.
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person is considered to be abandoned unless the instrument
under which the interest is owned or claimed is recorded or
the interest is rerecorded under [section 4], prior to the
later of:

(a) 7 years after [the effective date of this act]; or
(b) 20 years after the latest devise, sale, lease,
mortgage, or transfer of the interest by an instrument
recorded in the office of the county clerk and recorder of
the county where the land is located.

(2) Abandonment of any severed mineral interest under
this section creates the rebuttable presumption that title
thereto has reverted to the owner of the surface estate.

(3) Any severed mineral interest that is considered
abandoned under subsection (1) is subject to the provisions
of [section 6].

Section 4. Rerecordation of severed mineral interests.
(1) Any severed mineral interest may be rerecorded by filing

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HOUSE BILL NO. 758

INTRODUCED BY *Paula Sweet* *Donna* *Donna Jacobson*

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-2- THIRD READING
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