HOUSE BILL NO. 8

Introduced: 01/03/83 Referred to Committee on Natural Resources: 01/03/83 Hearing: 1/10/83 Report: 02/03/83, Do Pass, As Amended 2nd Reading: 02/05/83, Do Pass 3rd Reading: 02/08/83, Do Pass Transmitted to Senate: 2/8/83 Referred to Committee on Natural Resources: 02/09/83 Hearing: 3/7/83Minority Report, 03/10/83, Be Concurred In Substitute Motion, 3/10/83, That the Bill Be Referred to Committee on Taxation, Motion Failed On Motion, 3/10/83, That Bill Be Referred to the Committee on Natural Resources. Motion Passed Unanimously Report: 3/10/83, Be Concurred In Report: 3/15/83, Be Concurred In, As Amended 2nd Reading: 03/16/83, Be Concurred In, As Amended 2nd Reading 03/16/83, Be Indefinitely Postponed On Motion, 3/17/83, That Pass Consideration of the Bill Be Given Until 3/18/83. Motion Passed Unanimously. 2nd Reading: 3/18/83, Be Concurred In 2nd Reading: 3/18/83, Pass Consideration 2nd Reading: 3/18/83, Be Indefinitely Postponed Returned to House: 03/18/83 On Motion, 3/19/83, That the Senate Reconsider Their Action Taken the Previous Day. Motion Failed Bill Killed

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| 1 | HOUSE BILL NO. 8 | 2 | the provisions of |
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| 2 | INTRODUCED BY RYAN | 2 | of fractionalized (|
| 3 | | 3 | chances for develo |
| 4 | A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE | 4 ¹ | |
| 5 | TERMINATION OF CERTAIN SEVERED MINERAL INTERESTS OWNED BY | 5 | BE IT ENACTED BY T |
| 6 | PERSONS OTHER THAN THE SURFACE OWNER AND REVERSION OF | 6 | Section 1. D |
| 7 | OWNERSHIP TO THE SURFACE OWNER; AND ALLOWING THE | 7 | the context clear |
| 8 | PRESERVATION OF SEVERED MINERAL INTERESTS BY USE OR | 8 | definitions apply: |
| 9 | RERECORDATION." | 9 | (1) "Severed |
| 10 | | 10 | is created by a t |
| 11 | WHEREAS, there exist in Montana many fractional | 11 | inheritance, opera |
| 12 | interests in severed minerals such as coal, oil and gas, and | 12 | of any kind in c |
| 13 | other minerals; and | 13 | person other than |
| 14 | WHEREAS, difficulty in locating the owners of | 14 | that interest lies |
| 15 | fractional mineral rights may prevent or delay development | 15 | (2) "Person" |
| 16 | of scarce natural resources and the proper payment of taxes; | 16 | corporation, assoc |
| 17 | and | 17 | other legal enti |
| 18 | WHEREAS, the United States Supreme Court, in the case | 18 | of America or t |
| 19 | of <u>Texaco+Inc+Y+Short</u> +US(decided January 12+ | 19 | subdivision thereo |
| 20 | 1982), recently upheld the constitutionality of the Indiana | 20 | (3) "Unused |
| 21 | Dormant Minerals Interests Act, which provides for a lapse | 21 | mineral interest: |
| 22 | of severed mineral rights unless those rights are used or | 22 | (a) from whi |
| 23 | registered by the owners. | 23 | which no operati |
| 24 | THEREFORE, it is in the intent of the Legislature to | 24 | withdrawal, storag |
| 25 | enact a dormant minerals interests act nearly identical to | 25 | fluid substances; |
| | | | |

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the provisions of the Indiana act; in order that the owners
 of fractionalized mineral interests may be determined and
 chances for development of those minerals increased.

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

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

9 (1) "Severed mineral interest" means the interest that 10 is created by a transfer by grant, assignment, reservation, 11 inheritance, operation of law, or otherwise, of an interest 12 of any kind in coal, oil and gas, or other minerals to any 13 person other than the surface owner of the land in which 14 that interest lies.

15 (2) "Person" means an individual or private 16 corporation, association, partnership, joint venture, or 17 other legal entity, but does not include the United States 18 of America or the state of Montana or any political 19 subdivision thereof.

20 (3) "Unused severed mineral interest" means a severed
21 mineral interest:

(a) from which no minerals are being produced or upon.
which no operations are being conducted for injection,
withdrawal, storage, or disposal of water, gas, or other
fluid substances;

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(b) for which no rentals or royalties are being paid
 by the owner thereof for the purpose of delaying or enjoying
 the use or exercise of such rights;
 (c) upon which none of the operations under subsection
 (a) or any of the payments under subsection (b) are being
 carried out or made upon any tract with which the severed

7 mineral interest way be unitized or pooled for production 8 purposes;

9 (d) from which, in the case of coal or other solid
10 minerals, there is no production from a common vein or seam
11 by the owner of the severed mineral interest;

(e) on which no taxes are being paid by the owner; and
(f) for which no statement of claim has been filed
pursuant to [section 3].

15 Section 2. Lapse of mineral interest --- prevention. 16 Unless a statement of claim is filed in accordance with 17 [section 3], or [section 4] is fulfilled, a severed mineral 18 interest in coal, oil and gas, or other minerals that is 19 unused for a period of 20 continuous years is extinguished 20 and ownership of the interest reverts to the surface owner 21 of the land out of which the severed mineral interest was 22 carved.

23 Section 3. Statement of claim -- filing --24 requirements. (1) The statement of claim provided for in 25 [section 2] must be filed by the owner of the severed

1 mineral interest prior to the end of the 20-year period set 2 forth in [section 2] or within 2 years after [the effective ъ date of this act], whichever is later, and must contain: 4 (a) the name and address of the owner of the interest: 5 (b) the nature of the interest; 6 (c) a description of the land on or under which such 7 mineral interest is located; and 8 (d) a statement that the claimant intends to preserve 9 and not abandon the severed mineral interest. 10 (2) The statement of claim must be filed in the office 11 of the county clerk and recorder in the county in which the 12 severed mineral interest is located. Upon the filing of the 13 statement of claim within the time provided, the mineral 14 interest is considered to be used on the date the statement 15 of claim is filed. 16 Section 4. Exception to lapse of severed mineral 17 interest. Failure to file a statement of claim within the 18 time provided in [section 3] does not cause a severed 19 mineral interest to be extinguished if the owner of that interest: 20 21 (1) was at the time of the expiration of the pariod

22 provided in [section 3] the owner of 10 or more severed 23 mineral interests in the same county in which the mineral 24 interest in question is located;

(2) made a diligent effort to preserve all of such

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interests as were not being used and, within a period of 10
 years prior to the expiration of the period provided in
 [section 3], preserved other mineral interests in the same
 county by the filing of statements of claim as herein
 required;

6 (3) failed to preserve the interest in question7 through inadvertence; and

8 (4) filed the statement of claim required by (section 9 2] within 60 days after publication of notice as provided in 10 [section 5] if such notice is published and, if no such 11 notice is published, within 60 days after receiving actual 12 knowledge that the mineral interest in question had lapsed. 13 Section 5. Successor in interest ----notice requirements --- prima facie evidence. (1) Any person who 14 succeeds to the ownership of any severed mineral interest 15 16 may, upon the lapse of that interest, give notice of the 17 lapse of that interest:

18 (a) by publishing the same in a newspaper of general
19 circulation in the county in which the mineral interest is
20 located; and

(b) if the address of the mineral interest owner is
shown of record or can be determined by reasonable inquiry,
by mailing a copy of such notice to the owner of the mineral
interest within 10 days after publication.

25 (2) The notice must state:

1 (a) the name of the owner of the mineral interest as 2 shown of record: 3 (b) a description of the land; (c) the nature of the interest; and 4 5 (d) the name of the person giving notice. 6 (3) If a copy of the notice, together with an 7 affidavit of compliance with subsection (1), is filed in the office of the county clerk and recorder in the county in 6 which the mineral interest is located, the record is prima 9 10 facie evidence in any legal proceedings begun after that 11 notice was given. 12 Section 6. Statement of claim - filing -- duty of clerk and recorder. Upon the filing of the statement of 13 claim provided for in [section 3] or the affidavit of 14 compliance with [section 5(1)] in the clerk and recorder's 15 office of the county in which the interest is located, the 16 clerk shall record the same in a book to be kept for that 17 18 purpose. which shall be known as the "Dormant Mineral Interest Record, and shall indicate by marginal notation, 19 20 on the instrument creating the original mineral interest, the filing of the statement of claim or affidavit of 21 publication and service of notice. 22

23 Section 7. Rerecordation not to revive lost interests.
24 Rerecordation under [section 3] serves only to preserve a
25 severed mineral interest from extinguishment under the

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provisions of [section 2]. A lease or other terminable
 interest that has expired, lapsed, or otherwise been lost by
 its own terms or by operation of law is not revived by
 rerecordation under [section 3].

5 Section 8. Waiver of [act] — time limit. The 6 provisions of this [act] may not be waived at any time prior 7 to the expiration of the 20-year period provided in [section 8 2].

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48th Legislature

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Approved by Committee on Natural Resources

HOUSE BILL NO. 8

INTRODUCED BY RYAN

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 AND REVERSION OF
UWNERSHIP TO THE SURFACE OWNER; <u>PROVIDING FOR NOTICE AND A</u>
<u>60:DAY_REDEMPTION_PERIOD</u>: AND ALLOWING THE PRESERVATION OF
SEVERED MINERAL INTERESTS BY USE OR RERECORDATION."

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31 WHEREAS, there exist in Montana many fractional 12 interests in severed minerals such as coal, oil and gas, and 13 other minerals; and

14 MHEREAS, difficulty in locating the owners of 15 fractional mineral rights may prevent or delay development 16 of scarce natural resources and the proper payment of taxes; 17 and

18 WHEREAS, the United States Supreme Court, in the case of <u>Iexacos_Incs___xs_Short</u>, __US __ (decided January 12, 1982), recently upheld the constitutionality of the Indiana 21 Dormant Minerals Interests Act, which provides for a lapse of severed mineral rights unless those rights are used or registered by the owners.

24 THEREFORE, it is in the intent of the Legislature to 25 enact a dormant minerals interests act nearly--identical <u>SUBSTANTIALLY_SIMILAR</u> to the provisions of the Indiana act;
 in order that the owners of fractionalized mineral interests
 may be determined and chances for development of those
 minerals increased.

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

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

10 +1}--*Severed-mineral-interest=-means-the-interest-that 11 is--created-by-a-transfer-by-granty-assignmenty-reservationy 12 inheritancev-operation-of-lawy-or-otherwisev-of-an--interest 13 of--any--kind-in-coaly-oil-and-gasy-or-other-minerals-to-any 14 15 that-interest-lies. 16 (1)___SEVERED___MINERAL__INTEREST___MEANS_AN_INTEREST_IN 17 MINERALS_OWNED_BY_A_PERSON_CIHER_THAN_THE_OWNER_DE_THE 18 SURFACE_DE_INE_LAND_IN_WHICH_THE_BINERAL_LIES, EXCEPTING 19 ROYALTY_INTERESTS*_LEASES*_AND_OTHER_CONTRACTUAL_RIGHTS__FOR 20 DEVELOPMENI. 121_"MINERALS"___MEANS__ALL__FORMS__AND__VARIETIES__OE 21

- 22 MATERIALS_AND_SUBSTANCES_FORMED_OR_DEPOSITED_IN_THE_CRUSI_OE
- 23 <u>THE EARTH BY NATURAL AGENCIES ALONE, WHICH HAVE VALUE, WHEN</u>
- 24 SEPARAIED_FROM_THE_CRUST_OF_THE_EARTH_AND_EXCLUDING_ONLY
- 25 WAIER AND COMMON FORMS OF SAND AND GRAVEL.

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| 1 | (31MROYALIY_INTERESIS#_MEANSEXPENSE=EREEINTERESIS | 1 | by-the-owner-of-the-severed-mineral-interest; |
|----|--|----|--|
| 2 | INPRODUCTION_DEMINERALSWHICH_ARE_NOT_ENTITLED_ID_ANY | 2 | te;on-which-no-toxes-are-being-poid-by-the-owner;-and |
| 3 | SHARE DE BONUSES OR RENTALS UNDER LEASES OR OTHER TYPES OF | 3 | ff;for-which-no-statement-ofclaimhasbeenfiled |
| 4 | DEVELOPMENT_AGREEMENTS. | 4 | pursuanttofsection33 MUICHIS_NQIUSED. A_MINERAL |
| 5 | {2}(<u>4)</u> "Person" means an individual or private | 5 | INTEREST_SHALL_BE_DEEMED_TO_BE_USED_WHEN_ANY_DE_THE |
| 6 | corporation, association, partnership, joint venture, IRUSI. | 6 | EOLLOWING_EXISIS: |
| 7 | or other legal entity, but does not include the United | 7 | (A)UINERALSAREPRODUCEDTHEREEBOMOREROM_LANDS |
| 8 | States of America or the state of Montana or any political | 8 | POOLED_OR_UNITIZED_THEREWITHOROPERATIONSARECONDUCTED |
| 9 | subdivision thereof. | 9 | IHEREONOR_ON_LANDS_POOLED_OB_UNITIZED_IHEREHITH.IN |
| 10 | (3)(<u>5)</u> "Unused severed mineral interest" means a | 10 | EURTHERANCE_QE_DEVELOPMENT_QE_ANY_MINERAL_INIEREST_INCLUDING |
| 11 | severed mineral interest+ | 11 | INJECTION. WITHDRAWAL. STORAGE. OR DISPOSAL OFWATERGAS. |
| 12 | tstfromwhich-no-minerats-are-baing-produced-or-upon | 12 | OB_DIHER_ELUID_SUBSIANCES: |
| 13 | which-nooperationsarebeingconductedforinjection+ | 13 | (B)IHEMINERALINTERESIISSUBJECIIO_A_LEASE_OB |
| 14 | withdrawalystorageyordisposalof-watery-gasy-or-other | 14 | DIHER_CONTRACT_HAVING_AS_IIS_OBJECT_THE_DEVELOPMENT_DESUCH |
| 15 | fluid-substancest | 15 | INTEREST_AND_WHICH_LEASE_OB_OTHER_CONTRACT_TOR_A_MEMORANOUM |
| 16 | tb;for-which-no-rentals-or-royalties-arebeingpaid | 16 | IHEREOFI_IS_RECORDED_IN_IHE_DEFICE_DE_IHE_CLERK_AND_RECORDER |
| 17 | by-the-owner-thereof-for-the-purpose-of-detaying-or-enjoying | 17 | DE_EACH_COUNTY_WHEREIN_THE_INTEREST_IS_LOCATED: |
| 18 | the-use-or-exercise-of-such-rights; | 18 | (C)IN_THE_CASE_DE_COAL_OR_DIHER_SOLID_MATERIALS*_WHEN |
| 19 | {c}upon-which-none-of-the-operations-under-subsection | 19 | IHERE_IS_PRODUCTION_ERGM_A_COMMON_YEIN_OR_SEAM_BY_IHEQWNER |
| 20 | tatorBnyof-the-payments-under-subsection-tbt-are-being | 20 | DETHE_SEVERED_MINERAL_INTEREST_DR_BY_THE_DWNER*S_LESSEE_DR |
| 21 | caffied-out-of-made-upon-any-tract-withwhichthesevered | 21 | PERMITIEEL |
| 22 | mineralinterestmaybe-unitized-or-pooled-for-production | 22 | (D)IAXES_ABE_BEING_PAID_BY_THE_OWNER1_DR |
| 23 | putposes; | 23 | (E)A_STATEMENT_DE_CLAIM_IS_EILED_PURSUANT_IO_[SECIION |
| 24 | td;from-which;-in-the-case-ofcealorethersolid | 24 | 3]* |
| 25 | mineralsythere-is-no-production-from-a-common-yein-or-seam | 25 | Section 2. Lapse of mineral interest prevention. |
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| | -3- HB B | | -+- HB 8 |

Unless a statement of claim is filed RECORDED in accordance 1 with [section 3], or [section 4] is fulfilled, a severed 2 mineral interest in conty--oth-and-gasy-or-other minerals 3 4 that is CONTINUOUSLY unused for a period of 20 continuous 5 years is extinguished SUBJECT_TO_THE_RIGHT_DE_REDEMPTION PROVIDED FOR IN ISECTION 41. and ownership of the interest 6 reverts to the surface owner of the land out of which the 7 severed mineral interest was carved. 8

9 Section 3. Statement of claim -- filing <u>RECORDING</u> --10 requirements. (1) The statement of claim provided for in 11 [section 2] must be filed <u>EXECUTED.</u> <u>ACKNOWLEDGED.</u> <u>AND</u> 12 <u>RECORDED</u> by the owner of the severed mineral interest prior 13 to the end of the 20-year period set forth in [section 2] or 14 within 2 years after [the effective date of this act], 15 whichever is later, and must contain:

16 (a) the name and address of the owner of the interest;

fb1--the-nature-of-the-interestf

17

18 tc?[B] a description <u>BY_LEGAL_SUBDIVISION.TOWNSHIP.</u>
19 <u>AND_BANGE</u> of the land on or under which such mineral
20 interest is located; and

21 (d)(<u>C</u>) a statement that the claimant intends to
 22 preserve and not abandon the <u>WHATEYER</u> severed mineral
 23 interest <u>15_OWNED_BY_THE_CLAIMANI</u>.

(2) The statement of claim must be filed <u>RECORDED</u> in
 the office of the county clerk and recorder in the <u>EACH</u>

1 county in which the severed mineral interest is located. 2 Upon the fifing <u>RECORDING</u> of the statement of claim within 3 the time provided, the mineral interest is considered to be 4 used on the date the statement of claim is filed RECORDED. 5 Section-4--Exception---to--lapse--of--severed--mineral 6 interestv--Failure-to-file-a-statement-of-claim--within--the 7 time--provided--in--fsection--37--does--not--couse-o-severed 8 mineral-interest-to-be-extinguished-if--the--owner--of--that q interest:

fli--was--at--the--time-of-the-expiration-of-the-period 10 11 provided-in-fsection-3]-the-owner--of--10--more--severed 12 mineral--interests--in--the-same-county-in-which-the-mineral 13 interest-in-question-is-located: 14 t21--made-a-diffgent-effort-to--preserve--aff--of--such 15 interests--as-were-not-being-used-andy-within-a-period-of-10 16 years-prior-to-the-expiration--of--the--period--provided--in 17 Fsection--3it--preserved-other-minerol-interosts-in-the-same 18 county-by-the--filing--of--statements--of--claim--as--herein 19 required; +3}--failed---to--preserve--the--interest--in--question 20 21 through-inadvertence;-and 22 +++--filed-the-statement-of-claim-required-by--fisection 23 23-within-60-days-after-publication-of-notice-as-provided-in 24 fsection--Si--if--such--notice--is-published-andy-if-no-such 25 notice-is-publishedy-within-60-days-after--receiving--actual

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| 1 | knowledgethat-the-mineral-interest-in-question-had-lapsed. |
|----|--|
| 2 | Section 4. Successor in interest notice |
| 3 | requirements pr imafacieevidence <u>REDEMPIION</u>. (1) Any |
| 4 | person who succeeds to the ownership of any severed mineral |
| 5 | interest may <u>EURSUANT_TO_THIS_PART_SHALL</u> , upon the-tapse-of |
| 6 | <u>SUCCEEDING_IO</u> that interest, give notice of thetapseof |
| 7 | that-interest <u>SAME</u> : |
| 8 | (a) by publishing the same in a newspaper of general |
| 9 | circulation in the county in which the mineral interest is |
| 10 | located; end |
| 11 | (b) if the address of the mineral interest owner is |
| 12 | shown of record or can be determined by reasonable inquiry, |
| 13 | by mailing a copy of such notice to the owner of the mineral |
| 14 | interest within 10 days after publication <u>:_AND</u> |
| 15 | LC1BY_RECORDING_IN_IHE_DEEICE_DE_IHE_COUNTY_CLERK_AND |
| 16 | RECORDERINEACHCOUNTYIN_WHICH_THE_MINERAL_INTERESI_IS |
| 17 | LOCATED.A.COPY_DE_INS_NEWSPAPER_NOTICEIDGETHERNITHAN |
| 18 | AEEIDAVII_DE_COMPLIANCE_WITH_CSUBSECTION_11)(B)]. |
| 19 | (2) The notice must state: |
| 20 | (a) the name of the owner of the mineral interest as |
| 21 | shown of record; |
| 22 | (b) a description of the land; |
| 23 | (c) the nature of the interest; and |
| 24 | (d) the name of the person giving notice <u>: AND</u> |
| 25 | LE1IHE_OHNEB_DE_A_LAPSED_SEVERED_MINERAL_INIERESI_MAY |
| | |

| 1 | REDEEY_IHAI_INIERESI_BY_RECORDING_A_SIAIEMENIOECLAIMAS |
|----|--|
| 2 | PROVIDEDEOBIN[SECIION_3]_WITHIN_60_DAYSOETHE |
| 3 | RECORDATION_PURSUANI_TO_[SECIION_41111C1]+ |
| 4 | {3} Ifacopyofthenoticeytogetherwithan |
| 5 | affidavit-of-compliance-with-subsection-(l)v-is-filed-in-the |
| 6 | officeofthecountyelerk-and-recorder-in-the-county-in |
| 7 | which-the-mineral-interest-is-locatedy-the-recordisprima |
| 8 | fac ie -evidenceinanytegat-proceedings-begun-after-that |
| 9 | notice-was-given= |
| 10 | Section 5. Statementofelaimfilingduty |
| 11 | <u>RECORDING_DUILES</u> of clerk and recorder. Upon the filing |
| 12 | BECEIPI of the statement of claim provided for in [section |
| 13 | 3] <u>s_[SECTION_4(3)]s</u> or the affidavit of compliance with |
| 14 | [section 5 4(1)] in-the-clerk-and-recorderis-officeofthe |
| 15 | countyinwhichtheinterest-is-located, the clerk shall |
| 16 | record the same in a book to be kept for that purpose, which |
| 17 | shall be known as the "Dormant Mineral Interest Record" y~and |
| 18 | shall-indicatebymorginalnotationyontheinstrument |
| 19 | creatingtheoriginalminaral-interesty-the-filing-of-the |
| 20 | statement-of-claim-or-affidavit-of-publicationandservica |
| 21 | of-notice. |
| 22 | Section 6. Rerecordation not to revive lost interests. |
| 23 | Rerecordation under [section 3] serves only to preserve a |
| 24 | severed mineral interest from extinguishment under the |

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provisions of [section 2]. A lease or other terminable

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interest that has expired, lapsed, or otherwise been lost by
 its own terms or by operation of law is not revived by
 rerecordation under [section 3].

4 Section 7. Walver of [act] -- time limit. The 5 provisions of this [act] may not be walved at any time prior 6 to the expiration of the 20-year period provided in [section 7 2].

8 IHERE_IS_A_NEW_MCA_SECTION_IHAT_READS:

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9 Section 8. County not required to conduct title
10 search. Nothing in this part shall be construed to require
11 any county official or employee to conduct a title search to
12 locate any severed mineral interest.

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1 HOUSE BILL NO. 8 1 SUBSTANTIALLY_SIMILAR to the provisions of the Indiana act, 2 INTRODUCED BY RYAN 2 in order that the owners of fractionalized mineral interests 3 3 may be determined and chances for development of those A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE minerals increased. 4 TERMINATION OF CERTAIN SEVERED MINERAL INTERESTS OWNED BY 5 5 6 PERSONS OTHER THAN THE SURFACE OWNER AND REVERSION OF 6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 7 OWNERSHIP TO THE SURFACE OWNER; PROVIDING EDR. NOTICE AND A 7 Section 1. Definitions. As used in [this act]. unless 60-DAY REDEMPTION PERIDD: AND ALLOWING THE PRESERVATION OF 8 8 the context clearly indicates otherwise, the following q SEVERED MINERAL INTERESTS BY USE OR RERECORDATION.* 9 definitions apply: 10 10 +1+---*Severed-mineral-interest=-meens-the-interest-that WHEREAS. there exist in Montana many fractional 11 11 to--created-by-a-transfor-by-gronty-assignmenty-reservations interests in severed minerals such as coal, oil and gas, and 12 12 inheritancey-operation-of-lawy-or-otherwisey-of-an--interest 13 other minerals; and 13 of--any--kind-in-coaly-oil-and-asy-or-other-minerals-to-any WHEREAS, difficulty in locating the owners of 14 14 person-other-than-the-surface-ownar-of--the--tand--the-which fractional mineral rights may prevent or delay development 15 15 thet-faterest-lies. 16 (1) "SEVERED MINERAL: INTEREST" MEANS AN INTEREST IN of scarce natural resources and the proper payment of taxes; 16 17 MINERALS OWNED BY A PERSON_OTHER_IMAN THE OWNER OF THE 17 and SURFACE_OF_THE_LAND_IN_NHICH_THE_MINERAL_LIES. EXCEPTING 18 WHEREAS, the United States Supreme Court, in the case 18 of Texacos Incs vs Short, US __ (decided January 12, 19 ROYALTY_INTERESTS. LEASES. AND DIHER_CONTRACTUAL_RIGHTS_FOR 19 1982), recently upheld the constitutionality of the Indiana 20 DEVELOPMENT. 20 Dormant Minerals Interests Act, which provides for a lapse 21 121__MINEBALS___MEANS_ALL_EOBMS_AND_VABIETIES_DE 21 MATERIALS_AND_SUBSTANCES_FORMED_OR_DEPOSITED_IN_THE_CRUST_OF of severed mineral rights unless those rights are used or 22 22 23 registered by the owners. 23 THE EARTH BY NATURAL AGENCIES ALONE. WHICH HAVE ... VALUE __ WHEN THEREFORE, it is in the intent of the Legislature to 24 24 SEPARATED__EROM_THE_CRUST_DE_THE_EARTH_AND_EXCLUDING_ONLY enact a dormant minerals interests act nearly--identical 25 25 WATER AND COMMON FORMS DE SAND AND GRAVEL.

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| .1 . | 131ROYALIY_INTERESISH_MEANSEXPENSE=EREE_INTERESIS | 1 | by-the-owner-of-the-severed-minersl-interest; |
|------|--|----|--|
| 2 | INPRODUCTION_OEMINERALSWHICHARE_NOT_ENTITLED_TO_ANY | 2 | te)on-whi ch-no-taxes-are-being-paid-by-the-ownert-and |
| 3 | SHARE DE BONUSES OR RENTALS UNDER LEASES OR OTHER TYPES OF | 3 | ff;for-which-no-statement-ofclaimmasbeenfiled |
| 4 | DEVELOPMENT_AGREEMENTS. | 4 | pursuantto[section3] <u>WUICH_IS_NQI_USE</u> . <u>A_MINEBAL</u> |
| 5 | (2)[4] "Person" means an individual or private | 5 | INTEREST_SHALL_BE_DEEMED_TO_BE_USED_WHEN_ANY_OE_THE |
| 6 | corporation, association, partnership, joint venture, <u>IRUSI</u> | 6 | EQLLOWING_EXISIS: |
| 7 | or other legal entity, but does not include the United | 7 | (A)MINEBALSABEPRODUCEDIHEREEROHOBEROM_LANDS |
| 8 | States of America or the state of Montana or any political | 8 | 200LE0_08_UNITIZED_THEREWITH_U8OPERATIONSARECONDUCTED |
| 9 | subdivision thereof. | 9 | THEREON. DR. ON LANDS POOLED OR UNITIZED THEBEWITH. IN |
| 10 | [3][<u>5]</u> "Unused severed mineral interest" means a | 10 | EURTHERANCE_DE_DEVELOPMENT_DE_ANY_MINERAL_INTEREST_INCLUDING |
| 11 | severed mineral interest+ | 11 | INJECTION& WITHDRAWAL& STORAGE OR DISPOSAL DE WATER. GAS. |
| 12 | ta)fromwhich-no-minerals-are-being-produced-or-upon | 12 | QB_QIHEB_ELUID_SUBSIANCES: |
| 13 | which-nooperationsarebeingconductedforinjections | 13 | (B)THEHINERAL_INTEREST_IS_SUBJECT_TO_A_LEASE_OR |
| 14 | withdrawelystorageyordisposelof-watery-gasy-or-other | 14 | OTHER_CONTRACT_HAVING_AS_ITS_OBJECT_THE_DEVELOPMENT_OFSUCH |
| 15 | fluid-substances; | 15 | INTEREST_AND_WHICH_LEASE_DB_OTHER_CONTRACT_LOR_A_MEMORANDUM |
| 16 | tb)for-which-no-rentals-or-royalties-arebeingpaid | 16 | THEREOFI IS RECORDED IN THE OFFICE OF THE CLERK AND RECORDER |
| 17 | by-the-owner-thereof-for-the-purpose-of-dataying-or-enjoying | 17 | DE_EACH_COUNTY_WHEREIN_THE_INTEREST_IS_LOCATEDI |
| 18 | tha-use-or-extrcise-of-such-rights; | 18 | (C)IN_THE_CASE_DE_COAL_OR_OTHER_SOLID_MATERIALS+_WHEN |
| 1'9 | {c}upon-which-none-of-the-operations-under-subsection | 19 | THERE IS PRODUCTION FROM & COMMON VEIN OR SEAM BY THE OWNER |
| 20 | ta)oranyof-the-payments-under-subsection-(b)-are-being | 20 | DEIHE_SEVERED_MINERAL_INTEREST_DB_BY_THE_OWNERSS_LESSEE_DR |
| 21 | corried-out-or-made-upon-any-tract-withwhichthoseverad | 21 | 2ERMITTEE: |
| 22 | mineralinterestmaybe-unitized-or-pooled-for-production | 22 | (D)IAXES_ABE_BEING_PAID_BY_IME_OWNER:_OB |
| 23 | purposest | 23 | (E)A_STATEMENT_DE_CLAIM_IS_EILED_BURSUANT_TO_(SECTION |
| 24 | td)from-whichy-in-the-case-ofcoaiorothersoiid | 24 | 3]. |
| 25 | mineralsythere-is-no-production-from-p-common-vein-or-seem | | Section 2. Lapse of mineral interest prevention. |
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| | 100 | | -4- HB 8 |

Unless a statement of claim is filed RECORDED in accordance 1 2 with [section 3], or [section 4] is fulfilled, a severed 3 mineral interest in coaly--off-and-coasy-or-other minerals 4 that is <u>CONTINUOUSLY</u> unused for a period of 20 continuous 5 years is extinguished <u>SUBJECT_ID_THE_BIGHT_DE_REDEMPTION</u> 6 PROVIDED FOR IN [SECTION 4], and ownership of the interest 7 reverts to the surface owner of the land out of which the 8 severed mineral interest was carved.

9 Section 3. Statement of claim -- filing <u>RECORDING</u> --10 requirements. (1) The statement of claim provided for in 11 [section 2] must be filed <u>EXECUTED.</u> <u>ACKNOWLEDGED.</u> <u>AND</u> 12 <u>RECORDED</u> by the owner of the severed mineral interest prior 13 to the end of the 20-year period set forth in [section 2] or 14 within 2 years after [the effective date of this act], 15 whichever is later, and must contain:

16 (a) the name and address of the owner of the interest;
17 fbf--the-nature-of-the-interest;

18 (e)(B) a description <u>BY_LEGAL_SUBDIVISIONs_TOWNSHIPs</u> 19 <u>AND_BANGE</u> of the land on or under which such mineral 20 interest is located; and

21 (d)(C) a statement that the claimant intends to
 22 preserve and not abandon the WHAIEYER severed mineral
 23 interest IS_DWNED_BY_THE_CLAIMANI.

24 (2) The statement of claim must be filed <u>RECORDED</u> in
 25 the office of the county clerk and recorder in the <u>EACH</u>

1 county in which the severed mineral interest is located. 2 Upon the filing <u>RECORDING</u> of the statement of claim within 3 the time provided, the mineral interest is considered to be used on the date the statement of claim is filed RECORDED. 4 5 Section-4s--Exception---to--lapse--of--severed--sineral 6 interests--Failure-to-file-s-statement-of-claim--within--the 7 time--provided--in--fsection--3i--does--not--cause-s-severed 8 minerol-interest-to-be-extinguished-if--the--owner--of--that 9 interest: flt--was--at--the--time-of-the-expiration-of-the-period 10 11 provided-in-faction-31-the-owner--of--to--or--acre--severed 12 minerel--interests--in--the-seme-county-in-which-the-mineral 13 interest in-question-is-located+ 14 t2)--made-a-diligent-effort-to--preserve--all--of--such 15 interests--as-were-not-being-used-andy-within-a-period-of-10 16 years-prior-to-the-expiration--of--the--period--provided--in Fsection--31v--preserved-other-mineral-interests-in-the-same 17 county-by-the--filing--of--statements--of--claim--as--herein 18 19 requiredt 20 (3)--failed---to--preserve--the--interest--in-ouestion 21 through-inadvertencet-and 22 t++--filed-the-statement-of-claim-required-by--fsection 23 27-within-60-days-after-publication-of-notice-as-provided-in Fsection--5]--if--such--notice--is-published-andy-if-no-such 24 25 notice-is-publishedy-within-60-days-after--receiving--actual

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| est-in-question-had-lapsedw | 1 | REDEET_IHAT_INTEREST_BY_RECORDING_A_STATEMENT_OECLAIMAS |
|-------------------------------------|----|---|
| interest notice | 2 | PROVIDEDEORIN[SECIION_3]_WIIHIN_60_DAYS_QEIHE |
| vidence <u>REDEMPIION</u> . (1) Any | 3 | RECORDATION_PURSUANI_IO_LSECIION_4(1)(C)]. |
| hip of any severed mineral | 4 | {3}If-scopyofthenoticeytogetherwithon |
| <u>BI_SHALL</u> , upon the-lapse-of | 5 | affidevit-of-compliance-with-subsection-tly-is-filed-in-the |
| notice of thetopseof | 6 | officeofthecountyelerk-and-recorder-in-the-county-in |
| | 7 | which-the-mineral-interest-is-locatedy-the-recordisprime |
| e in a newspaper of general | 8 | fecieevidenceinanylegal-proceedings-begun-after-that |
| h the mineral interest is | 9 | notice-was-givenv |
| | 10 | Section 5. Statementofclaimfilingduty |
| e mineral Interest owner is | 11 | <u>RECORDING_DUTIES</u> of clerk and recorder. Upon the filing |
| ned by reasonable inquiry. | 12 | BECEIPI of the statement of claim provided for in [section |
| to the owner of the mineral | 13 | 3] <u>s[SECIION_4(3)]</u> s or the affidavit of compliance with |
| lication <u>:_AND</u> | 14 | [section 5 4(1)] +n-the-clerk-and-recorder's-officeofthe |
| ICE OF THE COUNTY CLEBE AND | 15 | countyinwhichtheinterest-is-located, the clerk shall |
| ICH THE MINERAL INTEREST IS | 16 | record the same in a book to be kapt for that purpose, which |
| NOTICE. IDGETHER WITH AN | 17 | shall be known as the "Dormant Hineral Interest Record"-ond |
| SECTION (1)(B)]. | 18 | shall-indicatebymarginalnotationsontheinstrument |
| | 19 | creatingtheoriginalmineral-interesty-the-filing-of-the |
| of the mineral interest as | 20 | statement-of-cloim-or-affidavit-of-publicationandservice |
| | 21 | of-notice. |
| nd; | 22 | Section 6. Rerecordation not to revive lost interests. |
| est; and | 23 | Rerecordation under [section 3] serves only to preserve a |
| giving notice <u>: AND</u> | 24 | severed mineral interest from extinguishment under the |
| EVERED_HINERAL_INTEREST_MAY | 25 | provisions of [section 2]. A lease or other terminable |
| НВ 8 | | -8- HB 8 |
| | | |

knowledge--thet-the-mineral-intere 1 2 Section 4. Successor in 3 requirements -- prima--facie--ev 4 person who succeeds to the ownersh 5 interest may PURSUANT_TO_THIS_PAR SUCCEEDING_ID that interest, give 6 7 that-interest SAME:

8 (a) by publishing the same 9 circulation in the county in which 10 located; end

11 (b) if the address of the 12 shown of record or can be determine 13 by mailing a copy of such notice to 14 interest within 10 days after publ

15 1C1__BX_BECORDING_IN_IHE_DEEL 16 RECORDER_IN_EACH_COUNTY_IN_HHIC 17 LOCATED. A COPY OF THE NEWSPAPER NO 18 AFEIDAVIT_DE_COMPLIANCE_WITH_ESUBS

(2) The notice must state:

19

20 (a) the name of the owner of 21 shown of records

22 (b) a description of the land

Z3 (c) the nature of the interes

24 (d) the name of the person g

LET THE OWNER DE A LARSED SET 25

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interest that has expired, lapsed, or otherwise been lost by 2 its own terms or by operation of law is not revived by rerecordation under [section 3].

4 Section 7. Waiver of [act] -- time limit. The provisions of this [act] may not be waived at any time prior 5 6 to the expiration of the 20-year period provided in [section 7 2].

8 THERE IS A NEW MCA SECTION THAT READS:

1

3

9 Section 8. County not required to conduct title 10 search. Nothing in this part shall be construed to require 11 any county official or employee to conduct a title search to 12 locate any severed mineral interest.

-End-

-9-

SENATE STANDING COMMITTEE REPORT (Natural Resources)

That House Bill No. 8 be amended as follows: 1. Title, line 8. Strike: "60-DAY" Insert: "ONE YEAR" 2. Title, line 8. Following: "PERIOD;" Insert: "PROVIDING FOR CIVIL ACTIONS TO SET ASIDE THE REVERSION OF OWNERSHIP" 3. Page 4, line 5. Strike: "DEEMED" Insert: "considered" 4. Page 5, line 6. Following: "[SECTION 4]" Insert: "and the right to bring a civil action provided for in [section 5]" 5. Page 5, line 11. Strike: "EXECUTED, ACKNOWLEDGED, AND" 6. Page 7, lines 3 and 4. Strike: "Any person" Insert: "A surface owner" 7. Page 7, line 23. Following: ";" Insert: "and" 8. Page 7, line 24. Strike: "AND" Insert: "." 9. Page 7, line 25. Strike: "(E)" Insert: "(3)" 10. Page 8, line 2. Strike: "60 DAYS" Insert: "one year"

Senate Standing Committee Report Matural REsources Page 2 House Bill No. 8

11. Page 8.

Following: line 9

Insert: "NEW SECTION. Section 5. There is a new MCA section that reads:

"Section 5. Action challenging defective notice of reversion. Within one year of receipt of notice in fact of the reversion (1)pursuant to this part of any mineral interest owned by him, a mineral owner qualifying under this subsection may petition the district court of the county in which any of that interest is locate to set aside the reversion of the interest. The petition may be filed by the owner of a mineral interest who

(a) is not a resident of this state:

(b) has received no other prior notice in fact of the reversion; and

(c) has not received a copy of a notice pursuant to [section 4 (1) (b)] of the reversion of that interest.

(2) Upon the filing of a petition alleging the matters set forth in subsection (1) and alleging that the address of the petitioner was shown as of record or could have been reasonably ascertained under [section 4 (1) (b)], the burden is on the surface owner to whom the interest has reverted to disprove those allegations. The ability of the surface owner to determine the address of the mineral interest owner by reasonable inquiry may be disproved only by proof that the surface owner employed a competent petroleum landman who after a diligent search was unable to locate the mineral interest owner. If the surface owner fails to disprove the allegations of the mineral owner, the court shall set aside the reversion of the interest.

(3) A court setting aside the reversion of an interest pursuant to this section shall

(a) determine the amount or value of any payment made or owned to such surface owner as a result of the reversion and order the same paid to the petitioner if the surface owner to whom an interest has reverted under this part has:

(i) sold his interest to another; or

(ii) received payment or a right to payment in money or product upon the production and marketing of any minerals from the property in which the interest lies.

award the petitioning mineral interest owner the costs of (b) bringing the petition, including his reasonable attorney fees, and interest thereon.

The remedy provided in this section may be exercised only (4)once by an owner of a mineral interest."" Renumber: subsequent sections

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12. Page 9, line 4. Strike: "[act]" Insert: "provisions" Strike: "limit." Insert: "limits. (l)" 13. Page 9, line 5. Strike: "this [act]" Insert: "[sections 1 through 4 and 6 through 8]" 14. Page 9. Following: line 7

Insert: "(2) The provisions of [section 5] may not be waived."