

JUDICIARY Varr. Chair: Fuhrman and Mann

FILED FEB 26 1987

SENATE FILE 285
BY COMMITTEE ON JUDICIARY
(formerly SSB 25)
Approved (y. 496)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the lapse of stale mineral interests.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 285

1 Section 1. NEW SECTION. 614.41 LAPSE OF MINERAL INTEREST
2 -- PRESERVATION.

3 No action based upon a claim arising or existing by reason
4 of the provisions of a deed, contract, will, or other recorded
5 document or instrument granting or reserving a mineral
6 interest, as defined in section 614.42, in the land described
7 in the document, may be maintained either at law or in equity
8 in any court to recover real estate in this state or to
9 recover or establish an interest in or claim to the real
10 estate, legal or equitable, against the holder of the record
11 title to the real estate out of which the mineral interest was
12 carved, if the mineral interest has not been used for a period
13 of twenty years unless the claimant, personally, or by the
14 claimant's attorney or agent, or if the claimant is a minor or
15 under legal disability, by the claimant's conservator,
16 trustee, or either parent or next friend, has filed a verified
17 claim with the recorder of the county where the real estate is
18 located within the twenty-year period. If the deed, contract,
19 or other document or instrument was recorded, or the will was
20 admitted to probate, more than twenty years prior to the
21 effective date of this Act, the verified claim may be filed on
22 or before two years from the effective date of this Act. The
23 verified claim must set forth the nature of the claim,
24 including the name and address of the owner of the mineral
25 interest, the description of the land on or under which the
26 mineral interest is located, and the time and manner in which
27 the mineral interest was acquired. Upon the expiration of the
28 twenty-year period without a claim being timely filed as
29 provided in this section, the mineral interest shall lapse and
30 revert to the then owner of the real estate out of which the
31 mineral interest was carved.

32 Sec. 2. NEW SECTION. 614.42 MINERAL INTEREST --
33 DEFINITION.

34 As used in sections 614.41 through 614.49, "mineral
35 interest" means an interest of any kind in coal (as described

1 in chapter 83), oil and gas (as described in chapter 84), or
2 other minerals (as described in chapter 83A, but not limited
3 to surface mining of those minerals) separate and apart from
4 the fee title to the surface of the property upon or beneath
5 which the mineral interest has been created. However,
6 "mineral interest" does not include a lease of mineral rights.

7 Sec. 3. NEW SECTION. 614.43 USE OF MINERAL INTERESTS.

8 A mineral interest is deemed to be used when there are any
9 minerals produced or when operations are being conducted for
10 injection, withdrawal, storage, or disposal of fluid
11 substances, or when rentals or royalties are being paid by the
12 owner of the interest for the purpose of delaying or enjoying
13 the use or exercise of the interest, or when any such activity
14 is being carried out on any tract with which the mineral
15 interest may be unitized or pooled for production purposes, or
16 when, in the case of coal or other solid minerals, there is
17 production from a common vein or seam by the owners of the
18 mineral interests, or when taxes are paid on the mineral
19 interest by the owner of the interest. Any use pursuant to or
20 authorized by the instrument creating the mineral interest is
21 effective to continue in force all rights granted by the
22 instrument.

23 Sec. 4. NEW SECTION. 614.44 RECORDED LEASES, NOTICE TO
24 LESSEE.

25 A lapse of a mineral interest pursuant to section 614.41 is
26 subject to any lease of the interest of record existing at the
27 time of the lapse. The owner of the fee title to the
28 property, however, shall serve written notice of the lapse
29 upon the lessee by using one of the following methods:

30 1. By delivery of the notice with acceptance of service to
31 be signed by the lessee.

32 2. By serving the notice personally, or if personal
33 service cannot be achieved, by publication, on the same
34 condition and in the same manner as provided for the service
35 of original notice, except that when notice is served by

1 publication, no affidavit is required. Service by publication
2 is completed on the day of last publication.

3 3. By mailing the notice by certified mail, and such
4 service is deemed to be completed when the notice is enclosed
5 in a sealed envelope, addressed to the lessee at the last
6 known mailing address and deposited in a mail receptacle
7 provided by the United States postal service. The notice
8 shall include the name and address of the owner of the lapsed
9 mineral interest, and the lessee, thereafter, shall be
10 obligated to pay royalties, rentals, shut-in royalty payments,
11 or other payments that may be provided for in the lease to the
12 owner of the fee title unless notice has not been served as
13 provided for in this section.

14 Sec. 5. NEW SECTION. 614.45 EFFECT OF FILING CLAIM.

15 Upon the filing of a verified claim in accordance with the
16 requirements of section 614.41 and within the time period
17 provided, it shall be deemed that the mineral interest was
18 being used on the date the claim was filed. Successive
19 verified claims for further like extensions may be filed.

20 Sec. 6. NEW SECTION. 614.46 INDEXING.

21 Section 614.18 is applicable to claims filed pursuant to
22 sections 614.41 through 614.49.

23 Sec. 7. NEW SECTION. 614.47 PERSONS UNDER DISABILITY.

24 Section 614.8, as to the rights of minors and mentally ill
25 persons, does not apply against sections 614.41 through
26 614.49.

27 Sec. 8. NEW SECTION. 614.48 BARRED CLAIMS -- PENDING
28 LITIGATION.

29 1. Sections 614.41 through 614.49 or the filing of a claim
30 under those sections do not revive or permit an action to be
31 brought or maintained upon any claim or cause of action which
32 is barred by any other statute.

33 2. Sections 614.41 through 614.49 do not affect litigation
34 pending on the effective date of this Act.

35 Sec. 9. NEW SECTION. 614.49 WAIVER OF PROVISIONS -- TIME

1 LIMIT.

2 The provisions of sections 614.41 through 614.49 may not be
3 waived at any time prior to the expiration of the twenty-year
4 period provided in section 614.41.

5 EXPLANATION

6 This bill provides for the termination of stale mineral
7 interests. Such interests, if unused, may only be preserved
8 by filing a claim. If the claim is not filed and the mineral
9 interest has not been used for twenty years, the interest
10 reverts to the owner of the land.

11 Owners of mineral interests which were created more than
12 twenty years ago are given a two-year grace period in which to
13 file their claims.

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SENATE FILE 285

3142

Amend Senate File 285 as follows:

1. Page 1, line 20, by striking the word "twenty" and inserting the word "seventeen".
2. Page 1, line 22, by striking the word "two" and inserting the word "three".
3. Page 1, by striking lines 25 through 29 and inserting the following: "interest and the description of the land on or under which the mineral interest is located, which description may be provided by a schedule filed with the recorder of each county where the land is situated, listing each grantee or buyer and the date of the deed, contract, or other document or instrument creating the carved out mineral interest. Upon the expiration of the twenty-year period without a claim being timely filed as provided in this section, if notice was given pursuant to section 614.44 by the owner of the real estate out of which the mineral interest was carved and neither the lessee nor the owner of the mineral interest renewed the claim within ninety days from receipt of the notice, the mineral interest shall lapse and".
4. Page 2, line 6, by inserting after the word "of" the following: "or option to lease".
5. Page 2, by striking lines 8 through 13 and inserting the following:

"A mineral interest is deemed to be used when it is being leased for mineral exploration or upon recording of a lease or option, or short form or memorandum of lease or option, with the recorder of the county where the mineral interest is situated, or when there are any minerals produced or when operations are being conducted for injection, withdrawal, storage, or disposal of fluid substances, or when rentals or royalties or other payments are being paid or have been paid by the owner or the user of the interest for the purpose of delaying or enjoying the use or exercise of the interest, or when expenditures are being incurred in the exploration of the mineral interest or its development, or when any such activity".
6. Page 2, line 19, by inserting after the word "owner" the following: "or on behalf of the owner".
7. By striking page 2, line 23 through page 3, line 9 and inserting the following:

"Sec. ____ . NEW SECTION. 614.44 NOTICE TO OWNERS AND LESSEES OF MINERAL INTEREST -- LAPSE IS SUBJECT TO LEASE.

 1. The owner of the real estate out of which the mineral interest was carved shall serve written notice of the lapse upon the owner of the carved out mineral

S-3142 pg. 2

1 interest and upon the lessee of the mineral interest,
2 if a lease is recorded, by using one of the following
3 methods:

4 a. By delivery of the notice to the owner of the
5 mineral interest and to the lessee, if any, with
6 acceptance of service signed by the owner of the
7 mineral interest and the lessee, respectively.

8 b. By serving the notice personally, or if
9 personal service cannot be achieved, by mailing the
10 notice by certified mail with postage prepaid, and the
11 service is deemed to be completed when the notice is
12 enclosed in a sealed envelope, addressed to the owner
13 of the mineral interest and to the lessee at their
14 last known mailing addresses and deposited in a mail
15 receptacle provided by the United States postal
16 service, and by publication, on the same conditions
17 and in the same manner as provided for the service of
18 original notice to parties who cannot be located and
19 served by delivery and signed acceptance or by
20 personal service, except that when notice is served by
21 publication, no affidavit is required and the service
22 by publication is deemed to be completed on the day of
23 last publication.

24 2. The notice shall include the name and address
25 of the owner of the real estate out of which the
26 mineral interest was carved, a description of the
27 owned real estate, the name and address of the owner
28 of the mineral interest, and the name and address of
29 the lessee of the mineral interest, if any. The
30 notice shall state that the mineral interest will
31 lapse and revert to the owner of the real estate out
32 of which it was carved unless renewed, shall state the
33 expiration date and shall set forth the procedures for
34 filing a claim under section 614.41 or otherwise
35 establishing that the mineral interest is being used,
36 and shall state that the owner of the real estate out
37 of which the mineral interest was carved or the lessee
38 has ninety days after receipt of the notice to renew
39 the claim.

40 3. A lapse of a mineral interest pursuant to
41 section 614.41 is subject to any lease of the interest
42 of record existing at the time of the lapse. The
43 lessee, if any, thereafter shall be".

44 8. Page 3, line 19, by inserting after the word
45 "filed" the following: "and the claim will be renewed
46 for an additional twenty-year period from the date of
47 filing".

48 9. By numbering and renumbering as necessary.

SENATE FILE 285

S-3679

1 Amend Senate File 285 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. NEW SECTION. 84.31 RECEIVER FOR
5 MINERAL INTERESTS OWNED BY NONRESIDENT OR ABSENTEE.

6 1. The purpose of this section is to encourage the
7 exploration and development of mineral resources.

8 2. In the following actions, a district court may
9 appoint a receiver for the mineral interest or
10 leasehold interest under a mineral lease owned by a
11 defendant who meets the requirements of subsection 3.

12 a. An action that is brought by a person claiming
13 or owning an undivided mineral interest in land in
14 this state or an undivided leasehold interest under a
15 mineral lease of land in this state and that has one
16 or more defendants who have, claim, or own an
17 undivided mineral interest in the same property.

18 b. An action that is brought by a person claiming
19 or owning an undivided leasehold interest under a
20 mineral lease of land in this state and that has one
21 or more defendants who have, claim, or own an
22 undivided leasehold interest under a mineral lease of
23 the same property.

24 3. The defendant for whom the receiver is sought
25 must meet both of the following requirements:

26 a. Is a person whose residence or identity is
27 unknown or who is a nonresident of the state.

28 b. Has not paid taxes on the interest or rendered
29 it for taxes during the five-year period immediately
30 preceding the filing of the action.

31 4. The plaintiff in the action must allege by
32 verified petition and prove both of the following:

33 a. That the plaintiff has made a diligent but
34 unsuccessful effort to locate the defendant.

35 b. That the plaintiff will suffer substantial
36 damage or injury unless the receiver is appointed.

37 5. In an action under subsection 2, paragraph "a":

38 a. The plaintiff, in the verified petition, shall
39 name the last known owner or the last record owner of
40 the interest as defendant.

41 b. The court may appoint as receiver any resident
42 of the county in which the land is located.

43 c. The receiver is not required to post bond.

44 6. A receivership created under this section
45 continues as long as the defendant or the defendant's
46 heirs, assigns, or personal representatives fail to
47 appear in court in person or by agent or attorney to
48 claim the defendant's interest.

49 7. If ordered by the court, the receiver shall
50 immediately:

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1 a. Execute and deliver to a lessee or successive
2 lessees mineral leases on the outstanding undivided
3 mineral interest.

4 b. Execute and deliver to a lessee or successive
5 lessees an assignment of the outstanding undivided
6 leasehold interest.

7 c. Enter into agreements or take other actions
8 with respect to the mineral interest or leasehold
9 interest as authorized by this chapter.

10 8. Money consideration paid for the execution of a
11 lease, assignment, or other agreement by the receiver
12 shall be paid to the clerk of the district court in
13 the county in which the case is pending before the
14 receiver executes the instrument. The court shall
15 apply the money to the costs accruing in the case and
16 shall hold any balance for the use and benefit of the
17 nonresident or person of unknown identity or residence
18 who owns the mineral or leasehold interest. Payments
19 made at a later time under the lease, assignment, or
20 other agreement shall also be paid to the clerk of the
21 district court and held for the use and benefit of the
22 owner of the mineral or leasehold interest. Money
23 held for the use and benefit of the owner of the
24 mineral or leasehold interest is property held by a
25 fiduciary subject to section 556.7.

26 9. This section is cumulative of other laws
27 relating to removal of a cloud from title or
28 appointment of a receiver.

29 10. As used in this section:

30 a. "Leasehold interest" includes ownership created
31 under a mineral lease or carved out of a leasehold
32 estate granted under a mineral lease, including
33 production payments, overriding royalty interests, and
34 working interests.

35 b. "Lessee" includes an assignee under an
36 assignment of a mineral lease.

37 c. "Mineral lease" includes any lease of oil, gas,
38 or other minerals that contains provisions necessary
39 or incident to the orderly exploration, development,
40 and recovery of oil, gas, or other minerals."

41 2. Title page, by striking the words "the lapse
42 of stale".

S-3679
Filed April 16, 1987

BY EDGAR H. HOLDEN

SENATE FILE 285

S-3237

- 1 Amend Senate File 285 as follows:
2 1. Page 1, by striking lines 25 through 27 and
3 inserting the following: "interest, the description
4 of the land on or under which the mineral interest is
5 located, which land may be described by a schedule
6 filed with the recorder of each county where the land
7 is situated listing each grantee or buyer, the date of
8 the deed, contract, or other document or instrument
9 creating the carved out mineral interest, and the
10 legal description contained in the deed, contract, or
11 other document or instrument creating the interest.
12 Upon the expiration of the".
13 2. Page 1, line 29, by inserting after the word
14 "section," the following: "or if the mineral interest
15 has not been used for the twenty-year period,".
16 3. Page 2, line 11, by striking the word "by" and
17 inserting the word "to".
18 4. Page 2, line 13, by inserting after the word
19 "interest," the following: "or when expenditures are
20 being incurred in the exploration of the mineral
21 interest or its development,".
22 5. Page 3, line 8, by inserting after the word
23 "include" the following: "the name and address of the
24 owner of the fee title to the real estate, a
25 description of the owned real estate, and".
26 6. Page 3, line 19, by inserting after the word
27 "filed" the following: "and the interest is renewed
28 for an additional twenty-year period from the date of
29 filing".

S-3237

Filed March 23, 1987

BY RICHARD VARN

SSB #25
Judiciary
Amended
5/25

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the lapse of stale mineral interests.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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COMMITTEE ASSIGNMENTS
CHAIR: *Mann*
COMMITTEE: *Judiciary*
1-21-87

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2. -- PRESERVATION.

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16 trustee, or either parent or next friend, has filed a verified
17 claim with the recorder of the county where the real estate is
18 located within the twenty-year period. If the deed, contract,
19 or other document or instrument was recorded, or the will was
20 admitted to probate, more than twenty years prior to the
21 effective date of this Act, the verified claim may be filed on
22 or before two years from the effective date of this Act. The
23 verified claim must set forth the nature of the claim,
24 including the name and address of the owner of the mineral
25 interest, the description of the land on or under which the
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29 provided in this section, the mineral interest shall lapse and
30 revert to the then owner of the real estate out of which the
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32 Sec. 2. NEW SECTION. 614.42 MINERAL INTEREST --
33 DEFINITION.

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35 interest" means an interest of any kind in coal (as described

1 in chapter 83), oil and gas (as described in chapter 84), or
2 other minerals (as described in chapter 83A, but not limited
3 to surface mining of those minerals) separate and apart from
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6 "mineral interest" does not include a lease of mineral rights.

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13 the use or exercise of the interest, or when any such activity
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12 owner of the fee title unless notice has not been served as
13 provided for in this section.

14 Sec. 5. NEW SECTION. 614.45 EFFECT OF FILING CLAIM.

15 Upon the filing of a verified claim in accordance with the
16 requirements of section 614.41 and within the time period
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19 verified claims for further like extensions may be filed.

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22 sections 614.41 through 614.49.

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24 Section 614.8, as to the rights of minors and mentally ill
25 persons, does not apply against sections 614.41 through
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27 Sec. 8. NEW SECTION. 614.48 BARRED CLAIMS -- PENDING
28 LITIGATION.

29 1. Sections 614.41 through 614.49 or the filing of a claim
30 under those sections do not revive or permit an action to be
31 brought or maintained upon any claim or cause of action which
32 is barred by any other statute.

33 2. Sections 614.41 through 614.49 do not affect litigation
34 pending on the effective date of this Act.

35 Sec. 9. NEW SECTION. 614.49 WAIVER OF PROVISIONS -- TIME

1 LIMIT.

2 The provisions of sections 614.41 through 614.49 may not be
3 waived at any time prior to the expiration of the twenty-year
4 period provided in section 614.41.

5 EXPLANATION

6 This bill provides for the termination of stale mineral
7 interests. Such interests, if unused, may only be preserved
8 by filing a claim. If the claim is not filed and the mineral
9 interest has not been used for twenty years, the interest
10 reverts to the owner of the land.

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12 twenty years ago are given a two-year grace period in which to
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