# House File 2327 - Introduced

HOUSE FILE 2327
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 599)

# A BILL FOR

- 1 An Act requiring recording of claims involving mineral rights
- 2 in real estate owned by another person and providing for
- 3 loss of mineral rights if a claim is not timely recorded.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 DIVISION I 2 **GENERAL** 3 Section 1. NEW SECTION. 614.24A Requirement for recording 4 interest in minerals — timely recording. 1. As used in this section, unless the context otherwise 5 6 requires: "Interest in minerals" means a perpetual interest in real 8 estate granting ownership of one or more minerals in the real 9 estate to a person other than the person who owns the remainder 10 of the real estate in which the minerals are located. "Interest 11 in minerals" does not include a lease of real estate that allows 12 the tenant to remove minerals from the real estate. "Mineral" means coal, gas, oil or other gaseous, liquid, 14 or solid hydrocarbons; oil shale; gemstones; fissionable or 15 nonfissionable ore; and steam or other geothermal resources. 2. a. An action based upon any claim by a person to an 16 17 interest in minerals in real estate owned by another person, 18 which interest in minerals was created prior to July 1, 1994, 19 shall not be maintained either at law or in equity in any court 20 to enforce or recover such interest in minerals against the 21 holder of the record title to such real estate in possession, 22 unless the person claiming the interest in minerals files a 23 verified claim with the recorder of the county where the real 24 estate is located not later than June 30, 2015. An action based upon any claim by a person to an interest 26 in minerals in real estate owned by another person, which 27 interest in minerals was created on or after July 1, 1994, 28 shall not be maintained either at law or in equity in any court 29 to enforce or recover such interest in minerals against the 30 holder of the record title to such real estate in possession 31 after twenty-one years from the recording of the instrument 32 creating the interest in minerals or within twenty-one years 33 after filing the last verified claim, unless the person 34 claiming the interest in minerals files a verified claim with

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35 the recorder of the county where the real estate is located

- 1 within that twenty-one year period.
- c. If the interest in minerals is separately listed and
- 3 assessed by an assessor for property taxation purposes, the
- 4 provisions of paragraph "a" or "b" requiring the filing of a
- 5 verified claim shall not apply to the interest in minerals so
- 6 listed and assessed for so long as the interest in minerals
- 7 remains listed and assessed as a separate tax parcel. At such
- 8 time as the assessor may cease to separately list and assess
- 9 the interest in minerals, the person claiming such interest in
- 10 the minerals must file a verified claim by not later than the
- 11 latest of the following:
- 12 (1) Twenty-one years after the date of recording of the
- 13 instrument creating the interest in minerals.
- 14 (2) Twenty-one years after the date of filing the last
- 15 verified claim.
- 16 (3) December 31 of the year after the year the interest in
- 17 minerals is no longer listed and assessed as a separate tax
- 18 parcel.
- 19 3. The claimant may be any person claiming an interest in
- 20 minerals, regardless of whether that interest in minerals is a
- 21 present interest or an interest that would come into existence
- 22 if the happening or contingency provided in the instrument
- 23 creating the interest in minerals were to happen at once. A
- 24 claimant also may be any member of a class of persons entitled
- 25 to claim such interest.
- 26 4. A verified claim must comply with all of the following:
- 27 a. Be filed by the claimant personally or by the claimant's
- 28 attorney or agent. However, if the claimant is a minor or
- 29 under legal disability, the verified claim may be filed by the
- 30 claimant's guardian, custodian, parent, or next friend.
- 31 b. Identify the name and address of the person claiming
- 32 the interest in minerals, the nature of the interest, the
- 33 instrument creating the interest, together with dates of
- 34 execution and recording of the instrument, the instrument
- 35 number provided in the records of the recorder as provided in

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- 1 section 331.606B, and the legal description of the real estate
- 2 subject to the interest in minerals.
- 3 c. Certify that the verified claim was delivered by
- 4 certified mail or personal delivery to the record owner of the
- 5 real estate where the minerals are located. If the verified
- 6 claim is sent by certified mail it will be sufficient if it is
- 7 mailed to the address of the record owner of the real estate
- 8 where the minerals are located that is shown in the records of
- 9 the assessor who assesses such real estate for taxation.
- 10 5. This section shall not be construed to do any of the
- 11 following:
- 12 a. Revive or extinguish an interest in coal, including
- 13 but not limited to a mineral interest in coal as provided in
- 14 chapter 557C.
- 15 b. Impair the validity of an environmental covenant
- 16 established pursuant to chapter 455I.
- 17 c. Revive an interest in minerals that has expired or been
- 18 terminated under the terms of the instrument creating such
- 19 interest in minerals.
- 20 d. Bar or extinguish any right to remove gravel, limestone,
- 21 or sand of such right.
- 22 DIVISION II
- 23 CONFORMING AMENDMENTS
- Sec. 2. Section 614.25, Code 2014, is amended to read as
- 25 follows:
- 26 614.25 Effect of filing claim.
- 27 The filing of such a claim under section 614.24 or 614.24A
- 28 shall extend for a further period of twenty-one years the
- 29 time within which such an action may be brought by any person
- 30 entitled thereto to bring such action, and successive claims
- 31 for further like extensions may be filed.
- 32 Sec. 3. Section 614.26, Code 2014, is amended to read as
- 33 follows:
- 34 **614.26** Indexing.
- 35 The provisions of section 614.18 are made applicable to the

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- 1 provisions of sections 614.24 to through 614.28.
- 2 Sec. 4. Section 614.27, Code 2014, is amended to read as
- 3 follows:
- 4 614.27 Persons under disability.
- 5 The provisions of section 614.8 as to the rights of minors
- 6 and persons with mental illness shall not be applicable against
- 7 the provisions of sections 614.24 to through 614.28.
- 8 Sec. 5. Section 614.28, Code 2014, is amended to read as
- 9 follows:
- 10 614.28 Barred claims.
- 11 The provisions of sections 614.24 to through 614.27,
- 12 inclusive, or the filing of a claim or claims, hereunder under
- 13 those sections, shall not revive or permit an action to be
- 14 brought or maintained upon any claim or cause of action  $\frac{\text{which}}{\text{c}}$
- 15 that is barred by any other statute. Provided further, that
- 16 nothing contained in these sections shall affect litigation
- 17 pending on July 4, 1965.
- 18 EXPLANATION
- The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.
- 21 GENERAL. This bill provides for the reservation of a right
- 22 to bring a claim in district court involving an interest in
- 23 one or more minerals underlying the surface of real estate to
- 24 which another person holds record title. The bill does not
- 25 revive or extinguish an interest in coal (Code chapter 557C),
- 26 impair the validity of an environmental covenant (Code chapter
- 27 455I), revive an interest in minerals that has expired or been
- 28 terminated, or bar a right to remove gravel, limestone, or sand
- 29 in some circumstances.
- 30 RIGHTS BASED ON WHEN INTEREST WAS CREATED. The bill provides
- 31 for two different circumstances: (1) an interest in minerals
- 32 created prior to July 1, 1994, or (2) an interest in minerals
- 33 created on or after that date. In the first circumstance,
- 34 the person must file a verified claim with the appropriate
- 35 county recorder by June 30, 2015. In the second circumstance,

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- 1 the person must file a verified claim with the appropriate
- 2 county recorder within 21 years from the recording of the
- 3 instrument creating the interest in minerals or within 21 years
- 4 after filing the last verified claim. However, one exception
- 5 applies in both circumstances: when an interest in minerals
- 6 is separately listed and assessed by an assessor for property
- 7 taxation purposes. A verified claim is not required to be
- 8 filed until the assessor ceases to separately list and assess
- 9 the interest in minerals. In that case, the person must file
- 10 the verified claim by the later of 21 years after the date of
- 11 recording of the instrument, 21 years after the date of filing
- 12 the last verified claim, or December 31 of the year after the
- 13 year the interest in minerals is no longer listed and assessed
- 14 as a separate tax parcel.