

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 145

7 S.P. 53

In Senate, January 11, 1983

8 Reference to the Committee on Energy and Natural Resources. Sent down
9 for concurrence and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Perkins of Hancock.

Cosponsors: Representative Martin of Eagle Lake, Representative Livesay
of Brunswick and Representative Foster of Ellsworth.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Extinguish Obsolete Mineral
18 and Mining Rights.
19

20 Be it enacted by the People of the State of Maine as
21 follows:

22 14 MRSA c. 722 is enacted to read:

23 CHAPTER 722

24 EXTINGUISHMENT OF MINERAL INTERESTS

25 §6611. Definitions

1 As used in this chapter, unless the context
2 indicates otherwise, the following terms have the
3 following meanings.

4 1. Mineral interest. "Mineral interest" means
5 the interest which is created by an instrument trans-
6 ferring, either by grant, assignment, reservation or
7 otherwise, any interest of any kind in coal, oil and
8 gas or other minerals on or under any land.

9 2. Use of mineral interest. A mineral interest
10 is "used" when:

11 A. Any minerals are produced on the land to
12 which the mineral interest pertains;

13 B. Operations are being conducted on the land to
14 which the mineral interest pertains for injec-
15 tion, withdrawal, storage or disposal of water,
16 gas or other fluid substances;

17 C. Rents or royalties are being paid by the
18 owner of the mineral interest for the purpose of
19 delaying or enjoying the use or exercise of the
20 activities described in paragraph A or B;

21 D. Any activity is being carried out on any
22 tract with which a mineral interest may be util-
23 ized or pooled for production purposes;

24 E. In the case of solid minerals, there is pro-
25 duction from a common vein or seam by the owner
26 or owners of the mineral interests;

27 F. Taxes are paid on the mineral interest by the
28 owner; or

1 G. Any activity pursuant to or authorized by the
2 instrument creating the mineral interest is
3 undertaken.

4 §6612. Extinguishment of mineral interest; preven-
5 tion

6 Any mineral interest, if unused for a period of
7 20 years, shall be extinguished and the ownership
8 shall revert to the then current owner of the land on
9 or under which the mineral interest pertained, unless
10 a statement of claim is filed in accordance with
11 section 6613.

12 §6613. Statement of claim; filing; requirements

13 The statement of claim described in section 6612
14 shall be filed by the owner of the mineral interest
15 prior to the end of the 20-year period set forth in
16 section 6612, or 2 years after the effective date of
17 this chapter, whichever is later. The statement of
18 claim shall contain the name and address of the owner
19 of the mineral interest and a description of the land
20 on or under which the mineral interest pertains, and
21 shall be filed in the registry of deeds of the county
22 in which the land is located. In addition, a true
23 copy of the statement of claim shall be sent by cer-
24 tified mail, return receipt requested, to each owner
25 of the land, on or under which the mineral interest
26 pertains, at his last known address. Proof of this
27 mailing shall be filed in the registry of deeds of
28 the county in which the land is located.

29 §6614. Avoidance of extinguishment through failure
30 to file.

31 Failure to file a statement of claim within the
32 time provided in section 6613 shall not cause a min-
33 eral interest to be extinguished if the owner of that
34 mineral interest:

1 1. Ten or more interests in same county. Was,
2 at the time of the expiration of the period provided
3 in section 6613, the owner of 10 or more mineral
4 interests, in the county in which that mineral inter-
5 est is located;

6 2. Efforts to preserve interests. Made diligent
7 effort to preserve all of those interests as were not
8 being used, and did, within a period of 10 years
9 prior to the expiration of the period provided in
10 section 6613, preserve other mineral interests in
11 that county by the filing of statements of claim as
12 required;

13 3. Inadvertance in filing. Failed to preserve
14 the interest through inadvertence; and

15 4. Filing after notice or actual knowl-
16 edge. Filed the statement of claim within 60 days
17 after publication of notice as provided in section
18 6615, and if no such notice is published, then files
19 within 60 days after receiving actual knowledge that
20 the mineral interest had lapsed.

21 §6615. Successor in interest; notice requirements;
22 prima facie evidence

23 Any person who succeeds to the ownership of any
24 mineral interest upon its lapse may give notice of
25 the lapse by publishing the following notice in a
26 newspaper of general circulation in the county in
27 which the mineral interest is located. The notice
28 shall state the name, as shown of record, of the
29 owner of the mineral interest, a description of the
30 land, the fact that the interest has lapsed and the
31 name of the person giving notice.

32 If the address of the mineral interest owner of
33 record is shown or can be determined through reason-
34 able inquiry, the owner shall be mailed by certified
35 mail a copy of the newspaper notice within 10 days of
36 its publication.

1 If a copy of the notice and, if appropriate,
2 proof of mailing is filed in the registry of deeds in
3 the county in which the land is located within 15
4 days of publication of the notice, it shall be prima
5 facie evidence, in any legal proceeding, that notice
6 was given.

7 §6616. Statement of claim; successor in interest
8 notice; filing; registrar's duty.

9 Upon the filing of the statement of claim pur-
10 suant to section 6613 or the provision of notice by a
11 successor in interest pursuant to section 6615, the
12 registrar shall record the same and shall indicate by
13 marginal notation on the appropriate instrument to
14 which these documents pertain the fact that they have
15 been filed.

16 §6617. Waiver of provisions; time limit

17 The provisions of this chapter may not be waived
18 at any time prior to the expiration of the 20-year
19 period provided in section 6612.

20 STATEMENT OF FACT

21 Land titles in several and perhaps many Maine
22 communities are plagued by obsolete mineral and
23 mining rights conveyed generations ago, often in the
24 19th century. Typically, the corporation which ac-
25 quired the mineral rights is long defunct, the stock-
26 holders are dead and it is virtually impossible to
27 determine who, if anyone, could legitimately claim
28 such land today.

29 This problem constitutes a cloud on the title to
30 real estate which depreciates its market value and
31 seriously affects the free transferability of titles.
32 Courts have held that such claims remain valid irre-
33 spective of the number of years they have lain idle,

1 because statutes of limitations pertaining to adverse
2 possession do not run against such rights.

3 In 1971, Indiana enacted a law that provided for
4 the extinguishment of mineral interests that had not
5 been utilized for more than 20 years. The statute
6 provided owners of such interests with a 2-year grace
7 period in which to file in the appropriate registry
8 of deeds a "statement of claim" which would thereby
9 preserve the interest, even if it remained
10 unutilized. In approximately 1978, the law was chal-
11 lenged as unconstitutional. The United States
12 Supreme Court in Texaco v. Short (70 L.Ed.2d 783
13 decided January 12, 1982) upheld the law as constitu-
14 tional.

15 This bill is modeled very closely on the Indiana
16 law so as to forestall any challenge of
17 unconstitutionality. It provides that any mineral
18 interest that has not been "used" for 20 years is
19 subject to extinguishment, unless a statement of
20 claim has been filed in the appropriate registry of
21 deeds.

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