

State of South Dakota

EIGHTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2013

283U0076

HOUSE BILL NO. 7

Introduced by: _____

1 FOR AN ACT ENTITLED, An Act to provide for the creation of a trust account for unlocatable
2 mineral interest owners.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. A person that owns a mineral interest, leasehold, or royalty interest underlying
5 a tract of land may petition the district court in the county where the tract of land, or a part of
6 the tract of land, is located to declare a trust in favor or any other owners of the same mineral
7 interest, leasehold, or royalty interest if the place of residence and present whereabouts of the
8 owner is unknown and cannot be reasonably ascertained.

9 Section 2. In requesting the creation of a trust provided for in section 1 of this Act, the
10 petitioner shall show that a diligent but unsuccessful effort to locate the absent owners has been
11 made and that the creation of a trust and the appointment of a trustee is in best interest of all
12 owners.

13 Section 3. If the court determines the petitioner has met the burdens required in section 2
14 of this Act, the court shall declare a trust in favor of the unlocatable owners, shall appoint the
15 county treasurer as trustee of the trust, and shall authorize the county treasurer to execute and
16 deliver a mineral lease, a ratification, a division order, or any other related document or



1 instrument on the terms and conditions as the court may approve.

2 Section 4. The trustee shall administer the trust in compliance with the provisions regulating
3 trusts and trustees in Title 55. Except as provided in this section, trustee or attorney's fees may
4 not be paid from the trust proceeds. All bonuses, rental payments, royalties, and other income
5 shall be paid to the trustee until the trust is terminated and notice of the termination is given to
6 all interested parties. Upon receipt, the trustee shall credit fifty percent of the moneys paid to
7 the general fund of the county where the trustee is located to defray the costs of administration.
8 The trustee shall invest the funds in prudent manner.

9 Section 5. A trust in favor of unlocatable owners is to remain in force until the unlocatable
10 owners in question have successfully claimed their share of the funds held in trust and have filed
11 the notice as provided in section 6 of this Act. The trustee shall distribute all moneys held in the
12 trust to the person entitled to the money upon the order of the district court. A person who
13 succeeds to ownership of a mineral interest by any means owns the mineral interest and the
14 proceeds from the mineral interest from the date of succession. Funds held in trust pursuant to
15 this Act are subject to the laws governing abandoned property as provided in chapter 42-41B.

16 Section 6. A person claiming ownership of a mineral interest, leasehold, or royalty interest
17 that is the subject of a trust established pursuant to section 1 of this Act may record with the
18 recorder of each county where the land overlaying the mineral interest is located a notice
19 containing the person's address with a description of the person's ownership interest. Recording
20 the interest pursuant to this section creates a rebuttable presumption that the person owns the
21 interest claimed.