

**First Regular Session
Sixty-third General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 01-0413.01 Pam Cybyske [Tom Morris]

HOUSE BILL 01-1068

HOUSE SPONSORSHIP

Mitchell

SENATE SPONSORSHIP

Dyer (Durango)

House Committees

Agriculture, Livestock, & Natural Resources

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ENACTMENT OF THE "COLORADO DORMANT OIL AND**
102 **GAS INTERESTS ACT".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Enacts the "Uniform Dormant Mineral Interests Act", which establishes streamlined procedures for quieting title to mineral interests that have been abandoned or the owners of which cannot be located within a specified period of time. Reunites the surface and mineral estates in property where the mineral estate has been severed in the past but has been unused for 20 years or more and where the owner of the mineral estate does not appear or record his or her interest.

Expressly excludes water rights and mineral rights held by federal

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
February 8, 2001

HOUSE
Amended 2nd Reading
February 6, 2001

or state government entities and Indian tribes. Makes the uniform provisions applicable beginning in 2003 and precludes the termination of any mineral interest, or the implicit repeal of any conflicting statute, before July 1, 2005.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Title 38, Colorado Revised Statutes, is amended BY
3 THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 42.5**

5 **Dormant Oil and Gas Interests**

6 **38-42.5-101. Statement of policy.** (a) THE PUBLIC POLICY OF THIS
7 STATE IS TO ENABLE AND ENCOURAGE MARKETABILITY OF REAL PROPERTY
8 AND TO MITIGATE THE ADVERSE EFFECT OF DORMANT OIL AND GAS
9 INTERESTS ON THE FULL USE AND DEVELOPMENT OF BOTH SURFACE ESTATE
10 AND OIL AND GAS INTERESTS IN REAL PROPERTY.

11 (b) THIS ARTICLE SHALL BE CONSTRUED TO EFFECTUATE ITS
12 PURPOSE TO PROVIDE A MEANS FOR TERMINATION OF DORMANT OIL AND
13 GAS INTERESTS THAT IMPAIR MARKETABILITY OF REAL PROPERTY.

14 **38-42.5-102. Definitions.** AS USED IN THIS ARTICLE:

15 (1) "MINERAL INTEREST" MEANS AN INTEREST IN A MINERAL
16 ESTATE, HOWEVER CREATED AND REGARDLESS OF FORM, WHETHER
17 ABSOLUTE OR FRACTIONAL, DIVIDED OR UNDIVIDED, CORPOREAL OR
18 INCORPOREAL, INCLUDING A FEE SIMPLE OR ANY LESSER INTEREST OR ANY
19 KIND OF ROYALTY, PRODUCTION PAYMENT, EXECUTIVE RIGHT,
20 NONEXECUTIVE RIGHT, LEASEHOLD, OR LIEN, IN MINERALS, REGARDLESS OF
21 CHARACTER.

22 (2) "MINERALS" MEANS GAS, OIL, AND OTHER GASEOUS AND LIQUID
23 HYDROCARBONS.

1 **38-42.5-103. Exclusions.** (a) THIS ARTICLE DOES NOT APPLY TO:

2 (1) A MINERAL INTEREST OF THE UNITED STATES OR AN INDIAN
3 TRIBE, EXCEPT TO THE EXTENT PERMITTED BY FEDERAL LAW; OR

4 (2) A MINERAL INTEREST OF THIS STATE OR AN AGENCY OR
5 POLITICAL SUBDIVISION OF THIS STATE, EXCEPT TO THE EXTENT PERMITTED
6 BY STATE LAW OTHER THAN THIS ARTICLE.

7 (b) THIS ARTICLE DOES NOT AFFECT WATER RIGHTS.

8 **38-42.5-104. Termination of dormant mineral interest.** (a) THE
9 SURFACE OWNER OF REAL PROPERTY SUBJECT TO A MINERAL INTEREST MAY
10 MAINTAIN AN ACTION TO TERMINATE A DORMANT MINERAL INTEREST. A
11 MINERAL INTEREST IS DORMANT FOR THE PURPOSE OF THIS ARTICLE IF THE
12 INTEREST IS UNUSED WITHIN THE MEANING OF SUBSECTION (b) OF THIS
13 SECTION FOR A PERIOD OF TWENTY OR MORE YEARS NEXT PRECEDING
14 COMMENCEMENT OF THE ACTION AND HAS NOT BEEN PRESERVED PURSUANT
15 TO SECTION 38-42.5-105. THE ACTION MUST BE IN THE NATURE OF AND
16 REQUIRES THE SAME NOTICE AS IS REQUIRED IN AN ACTION TO QUIET TITLE.
17 THE ACTION MAY BE MAINTAINED WHETHER OR NOT THE OWNER OF THE
18 MINERAL INTEREST OR THE OWNER'S WHEREABOUTS IS KNOWN OR
19 UNKNOWN. DISABILITY OR LACK OF KNOWLEDGE OF ANY KIND ON THE
20 PART OF ANY PERSON DOES NOT SUSPEND THE RUNNING OF THE
21 TWENTY-YEAR PERIOD.

22 (b) FOR THE PURPOSE OF THIS SECTION, ANY OF THE FOLLOWING
23 ACTIONS TAKEN BY OR UNDER AUTHORITY OF THE OWNER OF A MINERAL
24 INTEREST IN RELATION TO ANY MINERAL THAT IS PART OF THE MINERAL
25 INTEREST CONSTITUTES USE OF THE ENTIRE MINERAL INTEREST:

26 (1) ACTIVE MINERAL OPERATIONS ON OR BELOW THE SURFACE OF
27 THE REAL PROPERTY OR OTHER PROPERTY UNITIZED OR POOLED WITH THE

1 REAL PROPERTY, INCLUDING PRODUCTION, GEOPHYSICAL EXPLORATION,
2 EXPLORATORY OR DEVELOPMENTAL DRILLING, MINING, EXPLOITATION,
3 PAYMENT OF SHUT-IN ROYALTIES, AND DEVELOPMENT, BUT NOT INCLUDING
4 INJECTION OF SUBSTANCES FOR PURPOSES OF DISPOSAL OR STORAGE.
5 ACTIVE MINERAL OPERATIONS CONSTITUTE USE OF ANY MINERAL INTEREST
6 OWNED BY ANY PERSON IN ANY MINERAL THAT IS THE OBJECT OF THE
7 OPERATIONS.

8 (2) PAYMENT OF TAXES ON A SEPARATE ASSESSMENT OF THE
9 MINERAL INTEREST OR OF A TRANSFER OR SEVERANCE TAX RELATING TO
10 THE MINERAL INTEREST.

11 (3) RECORDATION OF AN INSTRUMENT THAT CREATES, RESERVES,
12 OR OTHERWISE EVIDENCES A CLAIM TO OR THE CONTINUED EXISTENCE OF
13 THE MINERAL INTEREST, INCLUDING AN INSTRUMENT THAT TRANSFERS,
14 LEASES, OR DIVIDES THE INTEREST. RECORDATION OF AN INSTRUMENT
15 CONSTITUTES USE OF (i) ANY RECORDED INTEREST OWNED BY ANY PERSON
16 IN ANY MINERAL THAT IS THE SUBJECT OF THE INSTRUMENT, AND (ii) ANY
17 RECORDED MINERAL INTEREST IN THE PROPERTY OWNED BY ANY PARTY TO
18 THE INSTRUMENT.

19 (4) RECORDATION OF A JUDGMENT OR DECREE THAT MAKES
20 SPECIFIC REFERENCE TO THE MINERAL INTEREST.

21 (c) THIS SECTION APPLIES NOTWITHSTANDING ANY PROVISION TO
22 THE CONTRARY IN THE INSTRUMENT THAT CREATES, RESERVES, TRANSFERS,
23 LEASES, DIVIDES, OR OTHERWISE EVIDENCES THE CLAIM TO OR THE
24 CONTINUED EXISTENCE OF THE MINERAL INTEREST OR IN ANOTHER
25 RECORDED DOCUMENT UNLESS THE INSTRUMENT OR OTHER RECORDED
26 DOCUMENT PROVIDES AN EARLIER TERMINATION DATE.

27 **38-42.5-105. Preservation of mineral interest by notice.** (a) AN

1 OWNER OF A MINERAL INTEREST MAY RECORD AT ANY TIME A NOTICE OF
2 INTENT TO PRESERVE THE MINERAL INTEREST OR A PART THEREOF. THE
3 MINERAL INTEREST IS PRESERVED IN EACH COUNTY IN WHICH THE NOTICE
4 IS RECORDED. A MINERAL INTEREST IS NOT DORMANT IF THE NOTICE IS
5 RECORDED WITHIN TWENTY YEARS NEXT PRECEDING COMMENCEMENT OF
6 THE ACTION TO TERMINATE THE MINERAL INTEREST OR PURSUANT TO
7 SECTION 38-42.5-106 AFTER COMMENCEMENT OF THE ACTION.

8 (b) THE NOTICE MAY BE EXECUTED BY AN OWNER OF THE MINERAL
9 INTEREST OR BY ANOTHER PERSON ACTING ON BEHALF OF THE OWNER,
10 INCLUDING AN OWNER WHO IS UNDER A DISABILITY OR UNABLE TO ASSERT
11 A CLAIM ON THE OWNER'S OWN BEHALF OR WHOSE IDENTITY CANNOT BE
12 ESTABLISHED OR IS UNCERTAIN AT THE TIME OF EXECUTION OF THE NOTICE.
13 THE NOTICE MAY BE EXECUTED BY OR ON BEHALF OF A CO-OWNER FOR THE
14 BENEFIT OF ANY OR ALL CO-OWNERS OR BY OR ON BEHALF OF AN OWNER
15 FOR THE BENEFIT OF ANY OR ALL PERSONS CLAIMING UNDER THE OWNER OR
16 PERSONS UNDER WHOM THE OWNER CLAIMS.

17 (c) THE NOTICE MUST CONTAIN THE NAME OF THE OWNER OF THE
18 MINERAL INTEREST OR THE CO-OWNERS OR OTHER PERSONS FOR WHOM THE
19 MINERAL INTEREST IS TO BE PRESERVED OR, IF THE IDENTITY OF THE OWNER
20 CANNOT BE ESTABLISHED OR IS UNCERTAIN, THE NAME OF THE CLASS OF
21 WHICH THE OWNER IS A MEMBER, AND MUST IDENTIFY THE MINERAL
22 INTEREST OR PART THEREOF TO BE PRESERVED BY ONE OF THE FOLLOWING
23 MEANS:


24 (1) A REFERENCE TO THE LOCATION IN THE RECORDS OF THE
25 INSTRUMENT THAT CREATES, RESERVES, OR OTHERWISE EVIDENCES THE
26 INTEREST OR OF THE JUDGMENT OR DECREE THAT CONFIRMS THE INTEREST.

27 (2) A LEGAL DESCRIPTION OF THE MINERAL INTEREST.

1 (3) A REFERENCE GENERALLY AND WITHOUT SPECIFICITY TO ANY
2 OR ALL MINERAL INTERESTS OF THE OWNER IN ANY REAL PROPERTY
3 SITUATED IN THE COUNTY. THE REFERENCE IS NOT EFFECTIVE TO PRESERVE
4 A PARTICULAR MINERAL INTEREST UNLESS THERE IS, IN THE COUNTY, IN THE
5 NAME OF THE PERSON CLAIMING TO BE THE OWNER OF THE INTEREST, (i) A
6 PREVIOUSLY RECORDED INSTRUMENT THAT CREATES, RESERVES, OR
7 OTHERWISE EVIDENCES THAT INTEREST OR (ii) A JUDGMENT OR DECREE
8 THAT CONFIRMS THAT INTEREST.

9 **38-42.5-106. Late recording by mineral owner.** (a) IN THIS
10 SECTION, "LITIGATION EXPENSES" MEANS COSTS AND EXPENSES THAT THE
11 COURT DETERMINES ARE REASONABLY AND NECESSARILY INCURRED IN
12 PREPARING FOR AND PROSECUTING AN ACTION, INCLUDING REASONABLE
13 ATTORNEY'S FEES.

14 (b) IN AN ACTION TO TERMINATE A MINERAL INTEREST PURSUANT
15 TO THIS ARTICLE, THE COURT SHALL PERMIT THE OWNER OF THE MINERAL
16 INTEREST TO RECORD A LATE NOTICE OF INTENT TO PRESERVE THE MINERAL
17 INTEREST AS A CONDITION OF DISMISSAL OF THE ACTION, UPON PAYMENT
18 INTO COURT FOR THE BENEFIT OF THE SURFACE OWNER OF THE REAL
19 PROPERTY THE LITIGATION EXPENSES ATTRIBUTABLE TO THE MINERAL
20 INTEREST OR PORTION THEREOF AS TO WHICH THE NOTICE IS RECORDED.

21 
22 **38-42.5-107. Effect of termination.** A COURT ORDER
23 TERMINATING A MINERAL INTEREST, WHEN RECORDED, MERGES THE
24 TERMINATED MINERAL INTEREST, INCLUDING EXPRESS AND IMPLIED
25 APPURTENANT SURFACE RIGHTS AND OBLIGATIONS, WITH THE SURFACE
26 ESTATE IN SHARES PROPORTIONATE TO THE OWNERSHIP OF THE SURFACE
27 ESTATE, SUBJECT TO EXISTING LIENS FOR TAXES OR ASSESSMENTS.

1 **38-42.5-108. Savings and transitional provisions.** (a) EXCEPT
2 AS OTHERWISE PROVIDED IN THIS SECTION, THIS ARTICLE APPLIES TO ALL
3 MINERAL INTERESTS, WHENEVER CREATED.

4 (b) AN ACTION MAY NOT BE MAINTAINED TO TERMINATE A MINERAL
5 INTEREST PURSUANT TO THIS ARTICLE UNTIL JULY 1, 2005.

6 (c) THIS ARTICLE DOES NOT LIMIT OR AFFECT ANY OTHER
7 PROCEDURE PROVIDED BY LAW FOR CLEARING AN ABANDONED MINERAL
8 INTEREST FROM TITLE TO REAL PROPERTY.

9

10 **38-42.5-109. Uniformity of application and construction.** THIS
11 ARTICLE SHALL BE APPLIED AND CONSTRUED TO EFFECTUATE ITS GENERAL
12 PURPOSE TO MAKE UNIFORM THE LAW WITH RESPECT TO THE SUBJECT OF
13 THIS ARTICLE AMONG STATES ENACTING IT.

14 **38-42.5-110. Short title.** THIS ARTICLE MAY BE CITED AS THE
15 "COLORADO DORMANT OIL AND GAS INTERESTS ACT".

16 **SECTION 2. Effective date.** This act shall take effect at 12:01
17 a.m. on the day following the expiration of the ninety-day period after
18 final adjournment of the general assembly that is allowed for submitting
19 a referendum petition pursuant to article V, section 1 (3) of the state
20 constitution; except that, if a referendum petition is filed against this act
21 or an item, section, or part of this act within such period, then the act,
22 item, section, or part, if approved by the people, shall take effect on the
23 date of the official declaration of the vote thereon by proclamation of the
24 governor.