



2025 South Dakota Legislature

House Bill 1240

Introduced by: **Representative** Mortenson

1 **An Act to require an affidavit of succession for purposes of succeeding to the**
 2 **ownership of an abandoned mineral interest.**

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

4 **Section 1. That § 43-30A-5 be AMENDED:**

5 **43-30A-5.** Failure to record the statement of claim within the time period provided
 6 in § 43-30A-4 does not cause a mineral interest to be abandoned, if the record owner of
 7 the mineral interest records a statement of claim, pursuant to § 43-30A-4, within sixty
 8 days after ~~completion of the publication of the notice of lapse pursuant to the recording~~
 9 requirements under § 43-30A-6 are satisfied.

10 **Section 2. That § 43-30A-6 be AMENDED:**

11 **43-30A-6.** ~~In order to~~ To succeed to the ownership of an abandoned mineral
 12 interest, a surface owner ~~shall give~~ must, by first class mail, provide to the record owner
 13 of the mineral interest notice of the lapse of the mineral interest ~~by publication. The~~
 14 ~~publication shall be made once each week for three weeks in the official newspaper of the~~
 15 ~~county in which the mineral interest is located. Notice shall also be given by mailing a~~
 16 ~~copy of the notice by registered or certified mail to the record owner of the mineral interest~~
 17 ~~at the record owner's address of record no later than ten days after the last publication~~
 18 and, after providing the notice, record an affidavit of succession with the register of deeds
 19 for the county in which the mineral interest is located.

20 The surface owner may rely upon the ~~record mineral owner's~~ last address of record
 21 of the record owner of the mineral interest in the office of the county register of deeds in
 22 which the mineral interest is located. It is the record ~~mineral~~ owner's obligation to maintain
 23 an address of record in the office of the register of deeds in the county in which ~~their~~ the
 24 mineral interest is located. ~~Failure~~ If the record owner of the mineral interest fails to
 25 maintain an address of record is a waiver by the record mineral owner of, the requirement

1 ~~to mail a copy of that the surface owner mail~~ the notice of lapse ~~to the record mineral~~
2 ~~owner is waived.~~

3 ~~The notice shall state the~~An affidavit of succession required by this section must
4 include:

5 (1) The name of the record owner of the mineral interest,~~the;~~

6 (2) The legal description of the land on or under which the mineral interest
7 involved is located;~~and the name of the person giving the notice~~

8 (3) The name and signature of any person claiming to be a successor to
9 ownership of the mineral interest;

10 (4) A statement that the twenty-three-year period, as described in § 43-30A-
11 2, has elapsed;

12 (5) A statement that the notice required under this section has been given to
13 the record owner of the mineral interest; and

14 (6) A statement that no one, other than a claiming successor, has a right to the
15 mineral interest in the described property.

16 Each affiant shall swear or affirm that all statements in the affidavit of succession
17 are true and material and further acknowledge that any false statement may subject the
18 person to criminal penalties.

19 ~~Recording a copy of the notice and an affidavit of its publication and any mailing in~~
20 ~~the office of the register of deeds for the county in which the mineral interest is located,~~
21 The affidavit of succession required by this section is prima facie evidence that the notice
22 has been properly given.

23 A register of deeds may not accept a recording to succeed to the ownership of an
24 abandoned mineral interest if the recording does not meet the requirements of this
25 section.