

AN ACT

ENTITLED, An Act to revise certain provisions for establishing a trust for an unlocatable mineral owner.

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

Section 1. That § 43-30B-1 be amended to read:

43-30B-1. Any person or entity who holds an interest in a particular tract of land may petition the court in the county where the land is located to declare a trust in favor of an owner of a mineral interest in the particular tract of land if the location or identity of the owner cannot be determined.

Section 2. That § 43-30B-2 be amended to read:

43-30B-2. If the petitioner can demonstrate that the creation of a trust is in the best interest of the owner and that the petitioner cannot, after due diligence, locate or identify the owner, the court may create a trust, as provided for in § 43-30B-1.

Section 3. That § 43-30B-3 be amended to read:

43-30B-3. If the court determines the petitioner meets the burdens provided for in § 43-30B-2, the court shall declare a trust in favor of the unlocated or unidentified mineral owner, shall appoint the county treasurer or another person or entity as trustee of the trust, and shall authorize the trustee to execute and deliver a mineral lease, a ratification, a division order, or any other related document or instrument on such terms and conditions as the court may approve. The county treasurer may decline to act as the trustee and in such event the court shall appoint an alternate trustee. The court may issue other appropriate orders upon request of the petitioner or trustee.

Section 4. That § 43-30B-4 be amended to read:

43-30B-4. Except as otherwise provided in this chapter, the trustee shall administer the trust in compliance with title 55. The trustee may engage agents to assist in the administration of the trust. Trustee fees, agent fees, and any other administrative costs must be reasonable and may be paid from

the trust upon approval by the court. All bonuses, rental payments, royalties, and other income shall be paid to the trustee until the trust is terminated. If the county treasurer or other county official or employee is the trustee, the trustee's fee shall be paid to the general fund of the county. A county official acting as trustee shall account for, keep, and invest the funds in the same manner as other county funds. If the bonuses, rental payments, royalties, and other income paid to the trust are not sufficient to pay trustee fees, agent fees, and any other administrative costs paid by the trustee, the petitioner shall indemnify the fund for such costs and expenses.

Section 5. That § 43-30B-5 be amended to read:

43-30B-5. A trust in favor of an unlocatable or unidentifiable mineral owner shall remain in force until an order of the court is entered, after such notice as may be required by the court, finding that an owner has appeared and been identified. The court shall fix the date upon which the owner is deemed to have owned the interest. The court shall determine the division of the remaining funds of the trust, provide for the payment of fees and expenses to dissolve and distribute the trust, and determine any other matters raised by the petitioner, owner, or trustee.

Section 6. That § 43-30B-6 be amended to read:

43-30B-6. No act taken by or upon the permission of a trustee, petitioner, or court under this chapter shall be considered use of a mineral interest under chapter 43-30A.

Section 7. That § 43-30B-7 be repealed.

An Act to revise certain provisions for establishing a trust for an unlocatable mineral owner.

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I certify that the attached Act  
originated in the

HOUSE as Bill No. 1081

\_\_\_\_\_  
Chief Clerk

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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1081

File No. \_\_\_\_\_

Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State