WEST VIRGINIA CODE: §22-11B-18

§22-11B-18. Subsurface pore space or container space.

(a) Title to pore space in all strata underlying the surface of lands and waters is vested in the owner of the overlying surface estate.

(b) A conveyance of title to the surface of real property conveys the pore space in all strata underlying the surface of the real property.

(c) Title to pore space may not be severed from title to the surface of the real property overlying the pore space. An instrument or arrangement that seeks to sever title to pore space from title to the surface is void and unenforceable as to the severance of the pore space from the surface interest.

(d) This article does not affect transactions before the effective date of this article, where the terms are clear and unambiguous upon the face of the instruments which severed pore space from title to the surface estate. However, there shall be a rebuttable presumption that for all transactions prior to the effective date of this article, that the pore space remains vested with the surface owner unless there was a clear and unambiguous reservation, conveyance, and/or severance of the pore space from the surface upon the face of the instruments.

(e) In the relationship between a severed mineral owner and a pore space estate, this article does not change or alter the common law, as it relates to the rights belonging to, or the dominance of, the mineral estate.

WV Legislature