# WEST VIRGINIA CODE CHAPTER 37B ARTICLE 2

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## §37B-2-1. Short title.

This article shall be known and may be cited as the “Unknown and Unlocatable Interest Owners Act.”

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## §37B-2-2. Relationship between unknown and unlocatable interest provisions and unclaimed property provisions.

The provisions of this article shall be read in conjunction and not in conflict with the provisions of the West Virginia Uniform Unclaimed Property Act in §36-8-1 et seq. of this code.

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## §37B-2-3. Definitions.

Terms used in this article shall have the meanings as provided in §36-8-1 et seq. and §37B-1-1 et seq. of this code. In addition, as used in this article:

"Reserved interests" means all amounts payable for the use, development, extraction, production or sale of minerals due for an unknown or unlocatable interest owner. The term includes amounts payable:

(i) For the acquisition and retention of a mineral lease, including bonuses, royalties, compensatory royalties, shut-in royalties, minimum royalties and delay rentals;

(ii) For the extraction, production or sale of minerals, including net revenue interests, royalties, overriding royalties, extraction payments and production payments; and

(iii) Under an agreement or option, including a joint operating agreement, unit agreement, pooling agreement and farm-out agreement.

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## §37B-2-4. Report of unknown and unlocatable interest owners.

(a) The holder shall make a report to the administrator each calendar quarter concerning each reserved interest for each unknown or unlocatable interest owner and shall concurrently remit the amount reserved to the administrator. The quarterly report and remittances shall be submitted by the first day of the month following each calendar quarter.

(b) The report shall contain:

(1) A full legal description of the real property interest and any other information that identifies the interest, including without limitation, division orders;

(2) If known, the name, last known address, and social security number or taxpayer identification number of the unknown or unlocatable interest owner or apparent owner;

(3) The date or dates on which the reserved interest became payable with respect to the property; and

(4) All other information the administrator by rule prescribes as necessary for the administration of this article.

(c) Before the date for filing the report, the holder of the reserved interests may request the administrator extend the time for filing the report. The administrator may grant the extension for good cause.

(d) The holder is not liable to any person for the wrongful use or appropriation of personal information of interest owners by another person described in the reports required under this section.

(e) With respect to all unknown or unlocatable interest owners, all obligations under this chapter of the holder are satisfied once an adequate report is filed and reserved interests are remitted to the administrator.

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**§37B-2-5. Unknown and unlocatable interest owners fund; duties of the State Treasurer.**

(a) The Unknown and Unlocatable Interest Owners Fund is created in the State Treasury as a special revenue and interest-bearing account to be administered by the State Treasurer for the purposes prescribed in this article.

(b) The administrator shall deposit all moneys received pursuant to §37B-1-1 et seq. and §37B-2-1 et seq. of this code into the fund. All expenditures from the fund shall be in accordance with this article and as otherwise determined by the Legislature.

(c) The administrator may invest the moneys in the fund with the West Virginia Board of Treasury Investments. All earnings shall accrue to the fund and are available for expenditure in accordance with this article.

(d) The administrator shall pay all lawful claims of unknown and unlocatable interest owners from the fund.

(e) The administrator may deduct the following expenses from the fund:

(1) Expenses incurred identifying, locating, and returning the property to owners, including without limitation the costs of mailing, publication, and real estate title investigations within this state and in other jurisdictions;

(2) Reasonable service charges; and

(3) Expenses incurred in examining the reports of the holder and in collecting the reserved interest from the holders.

(f) After deducting the claims paid and the expenses specified in subsection (e) of this section and maintaining a sum of money which the administrator estimates will be needed to pay claims and expenses duly allowed from the reserved interests received and deposited in the fund, the administrator shall determine the amount that is transferrable from the Fund. Beginning July 1, 2023, and every six months thereafter, the administrator shall transfer 50 percent of the amount the administrator determines is transferrable to the Oil And Gas Reclamation Fund established under §22-6-29 of this code and expended for the purposes provided by that section and §22-10-6 of this code, and 50 percent of the revenue shall be deposited into the Public Employees Insurance Agency Stability Fund and expended pursuant to §11B-2-32 of this code.

(g) At least sixty days prior to the seven year anniversary of the first report to the administrator concerning the property of an unknown or unlocatable interest owner, the administrator shall publish a notice in a newspaper of general circulation in each county of this state where the minerals are located once a week for two successive weeks as provided by the West Virginia Rules of Civil Procedure. Said publication should provide notification of

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the impending seven year anniversary to all possible surface owners and unknown or unlocatable interest owners.

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## §37B-2-6. Crediting of interest to owner's account.

(a) The administrator shall credit the amount of interest earned to each owner's account and shall pay the interest earned when a claim is paid on that account.

(b) In no event shall the administrator be required to pay the owner any income or gain realized or accruing on the account after the third anniversary of the payment of the owner's interest to the administrator.

(c) Nothing in this section shall be construed to entitle an owner to interest on property which did not realize or accrue income or gain while in possession of the administrator.

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## §37B-2-7. Rules.

On or before July 1, 2018, the administrator shall promulgate emergency legislative rules in accordance with the provisions of §29A-3-15 of this code. The administrator shall propose legislative rules for promulgation in accordance with the requirements of the Secretary of State and the provisions of §29A-1-1 et seq. of this code to otherwise effectuate the purposes of this article.

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## §37B-2-8. Severability clause.

The provisions of this article are severable and accordingly, if any part of this article is adjudged to be unconstitutional or invalid, that determination does not affect the continuing validity of the remaining provisions of this article.

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## §37B-2-9. Effective date.

This article shall take effect on July 1, 2018.

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