WEST VIRGINIA CODE CHAPTER 37B

WV Legislature

§37B-1-1. Short title.

This article shall be known as the Cotenancy Modernization and Majority Protection Act.

WV Legislature

§37B-1-2. Declaration of public policy; legislative findings.

It is declared to be the public policy of this state and in the public interest to:

(1) Foster, encourage and promote exploration for and development, production, and conservation of oil, natural gas and their constituents;

(2) Prohibit waste of oil, natural gas, and their constituents and unnecessary surface loss of oil, natural gas, and their constituents;

(3) Encourage the maximum recovery of oil, natural gas, and their constituents;

(4) Safeguard, protect and enforce the correlative rights of operators and mineral owners in that each such operator and mineral owner may obtain his or her just and equitable share of production;

(5) Safeguard, protect and enforce the integrity of the passive royalty owner’s interest in his or her minerals.

(6) Safeguard, protect and enforce the rights of surface owners; and

(7) Protect and enforce the clear provisions of contracts lawfully made.

WV Legislature

§37B-1-3. Definitions.

As used in this article:

“Consenting Cotenant” means a tenant in common, joint tenant, or parcener having an interest in the mineral property who consents in writing to a lawful use of the mineral property through a bona fide lease made in an arms-length transaction.

“Nonconsenting Cotenant” means an owner who for any reason chooses not to consent to a lawful use of the mineral property agreed to by the consenting cotenants owning, cumulatively, at least an undivided three-fourths interest in and to the mineral property.

“Operator” means any owner of at least an undivided three-fourths interest of the right to develop, operate and produce oil, natural gas, or their constituents, and to appropriate the oil, natural gas, or their constituents produced therefrom.

“Person” means any individual, corporation, partnership, joint venture, limited liability company, association, receiver, trustee, executor, administrator, guardian, fiduciary or other representative of any kind, and includes any government or any political subdivision or any agency thereof.

“Post-production expense” means an expense or cost subsequent to production including, but not limited to, an expense or cost related to severance taxes, pipelines, surface facilities, telemetry, gathering, dehydration, transportation, fractionation, compression, manufacturing, processing, treating or marketing of oil or natural gas and their constituents.

“Prorata share” means the allocation of revenues and costs attributable to the lawful use of a mineral property that is calculated based on the proportion that the net acreage of such ownership interest bears to the total net acreage in the mineral property, in a development or production unit that includes, all or part of, that mineral property.

“Royalty owner” means any owner in place of oil or natural gas and their constituents, owners of oil or natural gas leasing rights, and owners vested with any leasehold estate less than 25 percent of the total, to the extent that the owners are not an operator as defined in this section. A royalty owner does not include a person whose interest is limited to: (A) A working interest in a wellbore only; (B) overriding royalties; (C) nonparticipating royalty interests; (D) nonexecutive mineral interests; or (E) net profit interests.

“Unknown or unlocatable interest owner” means a person vested with a present ownership interest in the oil or natural gas and their constituents in place in a mineral property whose present identity or location cannot be determined from:

(A) A reasonable review of the records of the clerk of the county commission, the sheriff, the assessor, and the clerk of the circuit court in the county or counties in which the interest is located, and includes unknown heirs, successors and assigns known to be alive;

WV Legislature

(B) A reasonable inquiry in the vicinity of the owner's last known place of residence;

(C) A diligent inquiry into known interest owners in the same tract; and

(D) A reasonable review of available Internet resources commonly utilized by the industry.

WV Legislature

§37B-1-4. Lawful use and development by cotenants; election of interests; reporting and remitting of interests of unknown or unlocatable cotenants; establishment of terms and provisions for development; and merging of surface and oil and gas.

(a) If an operator or owner makes or has made reasonable efforts to negotiate with all royalty owners in an oil or natural gas mineral property and royalty owners vested with at least three fourths of the right to develop, operate, and produce oil, natural gas, or their constituents consent to the lawful use or development of the oil or natural gas mineral property, the operator's or owner's use or development of the oil or natural gas mineral property is permissible, is not waste, and is not trespass. In that case, the consenting cotenants and their lessees, operators, agents, contractors, or assigns are not liable for damages for waste or trespass due to the lawful use or development and shall pay the nonconsenting cotenants in accordance with subsections (b), (c), and (e) of this section, reserve the amounts specified in subsection (d) and (e) of this section for the benefit of unknown or unlocatable interest owners, and report and remit the reserved interests as provided in subsection (d) of this section.

(b) A nonconsenting cotenant is entitled to receive, based on his or her election, either:

(1) A pro rata share of production royalty, paid on the gross proceeds received at the first point of sale to an unaffiliated third-party purchaser and free of post-production expenses, equal to the highest royalty percentage paid to his or her consenting cotenants in the same mineral property, under a bona fide, arms-length lease transaction and lease bonus and delay rental payments or other non-royalty mineral payments, calculated on a weighted-average net mineral acre basis; or

(2) To participate in the development and receive his or her pro rata share of the revenue and cost equal to his or her share of production attributable to the tract or tracts being developed according to the interest of such nonconsenting cotenant, exclusive of any royalty or overriding royalty reserved in any lease, assignments thereof, or agreements relating thereto, after the market value of such nonconsenting cotenant's share of production, exclusive of such royalty and overriding royalty, equals double the share of such costs payable or charged to the interest of such nonconsenting cotenant.

(c) A nonconsenting cotenant shall have 45 days following the operator's written delivery of its best and final lease offer in which to make his or her election for either a production royalty or a revenue share as specified in subsection (b) of this section. If the nonconsenting cotenant fails to deliver a written election to the operator prior to the expiration of the 45-day period, he or she shall be deemed to have made the election set forth in subdivision (1), subsection (b) of this section. Within 30 days after a nonconsenting cotenant has chosen or is deemed to have chosen the production royalty option, the nonconsenting cotenant shall have the right to appeal to the commission regarding the issue of whether there has been compliance with subdivision (1) of subsection (b) of this section, to verify the highest royalty paid in the same mineral property and the value for the lease bonus and delay rental payments: *Provided*, That the operations upon the parcel may continue during the

WV Legislature

proceedings.

(d) Unknown or unlocatable interest owners are deemed to have made the election provided by subdivision (1), subsection (b) of this section and are only entitled to receive the amount provided by that subdivision. Within 120 days from the date upon which an amount is reserved for an unknown or unlocatable interest owner pursuant to subsection (a) of this section, the consenting cotenants and their lessees, operators, agents, contractors, or assigns shall make a report to the State Treasurer as the unclaimed property administrator and each calendar quarter, thereafter, concerning each reserved interest for each unknown or unlocatable interest owner and shall concurrently remit the amount reserved, in accordance with the provisions of §37B-2-1 *et seq*. and §36-8-1 *et seq*. of this code and as determined by the State Treasurer. The quarterly report and remittances shall be submitted by the first day of the month following each calendar quarter.

(e) Unless otherwise agreed to in writing or defined by this section, any nonconsenting cotenant and any unknown or unlocatable interest owner who elects or is deemed to elect a production royalty under subdivision (1), subsection (b) of this section is subject to and shall benefit from the other terms and provisions defined by the lease executed by a consenting cotenant which contains terms and provisions most favorable to the nonconsenting cotenant or the unknown or unlocatable interest owner: *Provided*, That nonconsenting cotenants and unknown or unlocatable interest owners shall not be subject to or liable under any warranty of title, jurisdictional or choice of law provisions, arbitration provisions, injection well provisions, disposal well provisions, and storage provisions: *Provided, however*, That consenting cotenants and their lessees, operators, agents, contractors, or assigns shall only develop the specifically targeted stratigraphic formation and 100 feet above and below said formation; nonconsenting cotenants and unknown or unlocatable interest owners will retain all rights to all other formations unless or until reasonable efforts are made to renegotiate under this section for each additional formation. If a consenting cotenant has made a lease only for the targeted formation, in that case the nonconsenting cotenants and unknown and unlocatable cotenants shall receive the highest royalty, bonus, and delay rental in the lease which was executed for the targeted formation.

(f) Unless otherwise agreed to in writing or defined by this section, a nonconsenting cotenant who elects to participate under subdivision (2), subsection (b) of this section, shall be subject to and shall benefit from other terms and provisions determined to be just and reasonable by the Oil and Gas Conservation Commission in a manner similar to the provisions of §22C-9-7(b)(5)(B) of this code governing deep wells. The commission may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq*. of this code, to implement and make effective the provisions of this section and the powers and authority conferred and the duties imposed upon the commission under the provisions of this section. Notwithstanding the determination of participation terms by the commission, an operator may proceed with the development of oil, natural gas, or their constituents pursuant to this section.

(g) After seven years from the date of the first report to the treasurer, a bona fide surface

www.Legislature

owner may file an action to quiet title to the interests of all unknown and unlocatable interest owners of the oil and natural gas estate underlying the surface tract. To the extent relevant and practical, such action shall follow the provisions of §55-12A-1 *et seq*. of this code. Upon presentation of sufficient proof, a bona fide surface owner shall be entitled to receive a special commissioner's deed transferring title to the interest of any or all unknown or unlocatable interest owners in an oil and natural gas estate which underlies the surface tract. The surface owner shall only be entitled to their proportionate share of all future proceeds and is not entitled to any of the accrued funds which have been remitted to the treasurer prior to the execution of the special commissioner's deed. The unknown or unlocatable interest owners are not entitled to any amounts paid to the grantees of the special commissioner's deed after delivery of said deed.

WV Legislature

§37B-1-5. Limitations of liability for certain cotenants.

Nonconsenting cotenants who elect to receive a production royalty pursuant to §37B-1-4(b)(1) of this code and unknown or unlocatable interest owners shall have no liability for bodily injury, property damage, warranty of title, or environmental claims, arising out of site preparation, mineral extraction, maintenance, reclamation, and other operations with respect to minerals produced from the cotenant's property, except nonconsenting cotenants and unknown or unlocatable interest owners are liable for their intentional acts.

WV Legislature

§37B-1-6. Surface use.

(a) When any tract of mineral property where an interest in the oil or natural gas in place is owned by a nonconsenting cotenant is used or developed pursuant to §37B-1-4 of this code, in no event shall drilling be initiated upon, or other surface disturbance occur, without the surface owner's consent regardless of whether such surface owner possesses any actual ownership in the mineral interest: Provided, That this subsection shall not require surface owner consent for tracts on which surface disturbance does not occur or tracts otherwise subject to an existing surface use agreement, oil and gas lease which includes surface use rights, or other valid contractual arrangement in which the owner has granted rights to the operator to use the surface for horizontal drilling or any other use for which this article is used.

(b) Except as specifically described in subsection (a) of this section, nothing contained in this chapter is intended to alter in any way, and this chapter shall not diminish or increase, the rights of the owners of the surface overlying the minerals developed in this state. Except as specifically described in subsection (a) of this section, in enacting this chapter in 2018, it is the intention of the Legislature to leave unchanged the common law of this state as it relates to the mineral owner's right to utilize the surface for the extraction of minerals.

WV Legislature

§37B-1-7. Severability.

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.

WV Legislature

§37B-2-1. Short title.

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

WV Legislature

§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.

WV Legislature

§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.

WV Legislature

§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.

WV Legislature

§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

WV Legislature

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

WV Legislature

§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.

WV Legislature

§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.

WV Legislature

§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.

WV Legislature

§37B-2-9. Effective date.

This article shall take effect on July 1, 2018.

WV Legislature

§37B-3-1. Short title.

This article is known and may be cited as the Coal Co-tenancy Modernization and Miners Protection Act.

WV Legislature

§37B-3-2. Legislative findings; declaration of public policy.

The Legislature finds that it is the public policy of this state and in the public interest to:

(1) Promote the safe and efficient mining, extraction, and production of coal in this state;

(2) Protect the health and safety of coal miners;

(3) Prohibit the waste of coal;

(4) Encourage the maximum recovery of coal;

(5) Safeguard, protect, and enforce the correlative rights of coal producers and coal owners;

(6) Protect the rights of surface owners; and

(7) Promote the execution and performance of contracts lawfully made.

WV Legislature

§37B-3-3. Definitions.

As used in this article, the following words and phrases have the meanings ascribed to them.

"Coal" means a sedimentary deposit composed predominantly of carbon that is readily combustible and includes, but is not limited to, anthracite, bituminous, semi-bituminous, subbituminous, and lignite coal.

"Coal land" means the coal estate in land containing coal, for which a present ownership interest has been leased, purchased in fee, or otherwise acquired by an operator.

"Consenting co-tenant" means a tenant in common, joint tenant, or parcener having a present ownership interest in coal land who consents in writing to the lawful production of the coal land through a bona fide lease made in an arms-length transaction.

"Nonconsenting co-tenant" means a tenant in common, joint tenant, or parcener having a present ownership interest in coal land who, for any reason, does not consent to the lawful use of coal land agreed to by consenting co-tenants owning a present ownership interest in the coal. Nonconsenting co-tenant includes, but is not limited to, an unknown or unlocatable interest owner.

"Operator" means any owner of an interest in the right to mine, develop, and produce coal from coal land, and to appropriate the coal produced from the coal land.

"Person" means any individual, corporation, partnership, joint venture, limited liability company, association, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind, and includes any government or any political subdivision or any agency thereof.

"Pro rata share" means the proportion that the net acreage of a nonconsenting co-tenant’s ownership interest bears to the total net acreage in a coal estate.

"Unknown or unlocatable interest owner" means a person vested with a present ownership interest in coal land whose identity or present location cannot be determined from:

(1) An examination of county real property records, grantor-grantee indices, and tax rolls;

(2) A review of probate, estate, and civil records in the county of situs and any reasonably identifiable county of residence; and

(3) A review of available online public databases.

WV Legislature

§37B-3-4. Lawful use and development by co-tenants; reporting and remitting of interests of unknown or unlocatable interest owners; establishing terms and provisions for development; and merging of surface and coal.

(a) An operator's mining, use, or development of the coal estate is permissible, is not waste, and is not trespass if:

(1) The operator has made reasonable efforts to negotiate with all known, locatable owners of coal land; and

(2) At least three fourths of the undivided interests in the right to mine, develop, lease, operate, and produce coal have consented to the lawful use or development of the coal land.

(b) If the criteria in subdivisions (1) and (2), subsection (a) of this section have been satisfied, any consenting co-tenant and his or her lessees, operators, agents, contractors, or assigns:

(1) Are not liable for damages for waste or trespass due to the lawful use or development of the coal estate;

(2) Shall pay any nonconsenting co-tenant in accordance with subsections (c) and (e) of this section;

(3) Shall reserve the amounts specified in subsections (d) and (e) of this section for the benefit of unknown or unlocatable interest owners; and

(4) Shall report and remit the reserved interests as provided in subsection (d) of this section.

(c) A nonconsenting co-tenant is entitled to receive a pro rata share of production royalty, paid on the gross proceeds received at the first point of sale to an unaffiliated third-party purchaser, equal to the greater of:

(1) The highest royalty percentage paid to any consenting co-tenant in the same coal land; or

(2) Seven percent, with no deductions for any related mining, processing, transportation, or marketing costs.

(d) An operator shall:

(1) Submit a report concerning each reserved interest for each unknown or unlocatable interest owner to the State Treasurer, as the unclaimed property administrator, not more than 120 days from the date upon which any amount is reserved for an unknown or unlocatable interest owner pursuant to subsections (a) and (b) of this section and §37B-4-1 *et seq*. of this code, and each calendar quarter thereafter;

(2) Concurrently with the report required in subdivision (1) of this subsection, remit the

WV Legislature

amount reserved in accordance with the provisions of §37B-4-1 *et seq*. and §36-8-1 *et seq*. of this code and as determined by the State Treasurer; and

(3) Submit any quarterly report and remittance required by this subsection by the first day of the month following each calendar quarter.

(e) Unless otherwise agreed to in writing or defined by this section, any nonconsenting co-tenant or unknown or unlocatable interest owner:

(1) Is subject to and shall benefit from the terms and provisions most favorable to the nonconsenting co-tenant or unknown or unlocatable interest owner that are contained in any lease executed by a consenting co-tenant; and

(2) Is not subject to nor liable under any warranty of title, jurisdictional or choice of law provision, or arbitration provision contained in any lease executed by a consenting co-tenant.

(f) A nonconsenting co-tenant may challenge an operator's representations regarding the highest royalty the operator has paid in the same coal estate pursuant to subsection (c) of this section, and the lease terms and provisions pursuant to subsection (e) of this section, by filing a petition for accounting with the West Virginia Tax Commissioner within 45 days following the operator's written delivery of royalty and lease information required by subsections (c), (d), and (e) of this section. The Tax Commissioner shall make a written ruling on the nonconsenting co-tenant's petition within 60 days of receipt of the petition. If either the nonconsenting co-tenant or the operator is dissatisfied with the Tax Commissioner's ruling, he or she may file a petition for appeal with the West Virginia Office of Tax Appeals. Judicial review of a decision by the Office of Tax Appeals is governed by §11-10A-19 of this code. At the operator's discretion, disclosure of the payment terms may be made under seal. While a petition is pending:

(1) Production of the coal estate may continue during the proceedings; and

(2) Proceedings regarding the petition shall be limited in scope to the disclosure of the payment terms or other terms and provisions the operator has made pertaining to the same coal land.

(g) After seven years from the date of the first report to the State Treasurer, a surface owner may file an action to quiet title to the interests of all unknown and unlocatable interest owners of the coal estate. To the extent relevant and practical, the action shall follow the provisions of §55-12A-1 *et seq*. of this code.

(1) Upon presentation of proof sufficient in the court's discretion, a surface owner is entitled to receive a special commissioner's deed transferring title to the interest of any unknown or unlocatable interest owner in a coal estate which underlies the surface tract.

(2) A surface owner is entitled to his or her proportionate share of any of the accrued funds attributable to the interests of the unknown or unlocatable interest owners that have been

WV Legislature

remitted to the State Treasurer prior to the execution of the special commissioner's deed and to any future proceeds.

(3) An unknown or unlocatable interest owner is not entitled to any amounts paid to any grantee of the special commissioner's deed after that deed is recorded with the clerk of the county commission of the county in which the coal estate is located.

WV Legislature

§37B-3-5. Limitations of liability for nonconsenting co-tenants.

A nonconsenting co-tenant including, but not limited to, any unknown or unlocatable interest owner:

(1) Is not liable for any bodily injury, property damage, warranty of title, or environmental claim arising out of site preparation, coal extraction, maintenance, reclamation, or any other operation regarding coal produced from the co-tenant's property; and

(2) Is liable for his or her intentional acts.

WV Legislature

§37B-3-6. Surface use.

(a) It is the intent of the Legislature in enacting this article to leave unchanged the common law of this state as it relates to a coal owner's right to use the land surface for extracting coal.

(b) This article does not modify the obligations imposed by §22-3-1 *et seq*. of this code.

WV Legislature

§37B-4-1. Short title.

This article is and may be cited as the Unknown and Unlocatable Coal Interest Owners Act.

WV Legislature

§37B-4-2. Relationship between unknown and unlocatable interests and unclaimed property.

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

WV Legislature

§37B-4-3. Definitions.

As used in this article:

Terms and phrases have the meanings provided in §36-8-1 *et seq.* and §37B-3-1 *et seq*. of this code;

"Fund" means the Unknown and Unlocatable Coal Interest Owners Fund created in §37B-4-5 of this article; and

"Reserved interests" means all amounts payable for the use, development, extraction, production, or sale of coal due to an unknown or unlocatable interest owner. Reserved interests includes all royalties and any other amounts due and payable to an unknown or unlocatable interest owner based on the mining, extraction, production, or sale of coal.

WV Legislature

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

(a) A holder shall:

(1) Make a report to the administrator each calendar quarter concerning reserved interests for each unknown or unlocatable interest owner;

(2) Concurrently with the report required by subdivision (1) of this subsection, remit to the administrator the amount of the reserved interests; and

(3) Submit the report and remittances required by this subsection by the first day of the month following each calendar quarter.

(b) A report required by this section shall contain:

(1) A full legal description of the coal interest and any other information that identifies the interest;

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

(3) Any date on which reserved interests became payable with respect to the property; and

(4) Any other information the administrator may prescribe by rule as necessary for the administration of this article.

(c) Prior to the date a report is due to be filed, the holder of reserved interests may request the administrator extend the filing deadline. The administrator may grant an extension for good cause.

(d) A holder is not liable to any person for wrongful use or appropriation of an interest owner's personal information by another person described in the reports required by this section.

(e) A holder's obligations regarding any unknown or unlocatable interest owner, as required by this chapter, are satisfied when the report and remittances required by this section are submitted to the administrator.

WV Legislature

§37B-4-5. Unknown and Unlocatable Coal Interest Owners Fund; duties of the State Treasurer.

(a) The Unknown and Unlocatable Coal 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-3-1 *et seq*. and §37B-4-1 *et seq*. of this code into the fund. All expenditures from the fund shall be in accordance with this article.

(c) The administrator shall 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 expend moneys from the fund for the following expenses:

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

(2) Reasonable administrative fees, not to exceed four percent; and

(3) Expenses incurred in examining the holders' reports and collecting the reserved interests.

(f) The administrator shall determine the amount that is transferrable from the fund after: (i) Deducting the claims paid and the expenses provided in subsection (e) of this section; and (ii) 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 into the fund.

(g) At least 60 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 coal is located once a week for two successive weeks as defined by §59-3-1 of this code. The publication shall provide notice of the impending seven-year anniversary to all possible surface owners and unknown or unlocatable interest owners.

WV Legislature

§37B-4-6. Crediting interest to an 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) This section does not entitle an owner to interest on property that did not realize or accrue income or gain while in the administrator's possession.

WV Legislature

§37B-4-7. Rules.

(a) The administrator shall propose rules for legislative approval pursuant to §29A-3-1 *et seq*. of this code to implement the provisions of this article.

(b) The Legislature finds that an emergency exists and, therefore, on or before September 1, 2026, the administrator shall promulgate an emergency rule to implement the provisions of this article in accordance with §29A-3-1 *et seq*. of this code.

WV Legislature