

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 100**

**Representative Cera**

**Cosponsor: Representative Patterson**

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**A BILL**

To amend section 5301.56 of the Revised Code to 1  
revise the requirements governing abandoned 2  
mineral rights. 3

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 5301.56 of the Revised Code be 4  
amended to read as follows: 5

**Sec. 5301.56.** (A) As used in this section: 6

(1) "Holder" means the record holder of a mineral 7  
interest, and any ~~person~~ successor or assignee of record who 8  
derives ~~the person's~~ rights from, or has a common source with, 9  
the record holder and whose claim does not indicate, expressly 10  
or by clear implication, that it is adverse to the interest of 11  
the record holder. 12

(2) "Drilling or mining permit" means a permit issued 13  
under Chapter 1509., 1513., or 1514. of the Revised Code to the 14  
holder to drill an oil or gas well or to mine other minerals. 15

(3) "Mineral interest" means a fee interest in at least 16  
one mineral regardless of how the interest is created and of the 17

form of the interest, which may be absolute or fractional or 18  
divided or undivided. 19

(4) "Mineral" means gas, oil, coal, coalbed methane gas, 20  
other gaseous, liquid, and solid hydrocarbons, sand, gravel, 21  
clay, shale, gypsum, halite, limestone, dolomite, sandstone, 22  
other stone, metalliferous or nonmetalliferous ore, or another 23  
material or substance of commercial value that is excavated in a 24  
solid state from natural deposits on or in the earth. 25

(5) "Owner of the surface of the lands subject to the 26  
interest" includes the owner's successors and assignees. 27

(6) "Public record" means any document pertaining to a 28  
mineral interest filed or recorded with the auditor, recorder, 29  
and all courts situated within each county in which the lands 30  
subject to the mineral interest are located. 31

(B) Any mineral interest held by any person, other than 32  
the owner of the surface of the lands subject to the interest, 33  
~~shall be deemed~~ is abandoned, extinguished, and voided, and 34  
vested in the owner of the surface of the lands subject to the 35  
interest if the requirements established in division (E) of this 36  
section are satisfied and none of the following applies: 37

(1) The mineral interest is in coal, or in mining or other 38  
rights pertinent to or exercisable in connection with an 39  
interest in coal, as described in division (E) of section 40  
5301.53 of the Revised Code. However, if a mineral interest 41  
includes both coal and other minerals that are not coal, the 42  
mineral interests that are not in coal ~~may be deemed~~ are 43  
~~abandoned, extinguished, and voided,~~ and vest in the owner of 44  
the surface of the lands subject to the interest. 45

(2) The mineral interest is held by the United States, 46

this state, or any political subdivision, body politic, or 47  
agency of the United States or this state, as described in 48  
division (G) of section 5301.53 of the Revised Code. 49

(3) Within the twenty years immediately preceding the date 50  
on which notice is served or published under division (E) of 51  
this section, one or more of the following has occurred: 52

(a) The mineral interest has been the subject of a title 53  
transaction that has been filed or recorded in the office of the 54  
county recorder of the county in which the lands are located. 55

(b) There has been actual production or withdrawal of 56  
minerals by the holder from the lands, from lands covered by a 57  
lease to which the mineral interest is subject, from a mine a 58  
portion of which is located beneath the lands, or, in the case 59  
of oil or gas, from lands pooled, unitized, or included in unit 60  
operations, under sections 1509.26 to 1509.28 of the Revised 61  
Code, in which the mineral interest is participating, provided 62  
that the instrument or order creating or providing for the 63  
pooling or unitization of oil or gas interests has been filed or 64  
recorded in the office of the county recorder of the county in 65  
which the lands that are subject to the pooling or unitization 66  
are located. 67

(c) The mineral interest has been used in underground gas 68  
storage operations by the holder. 69

(d) A drilling or mining permit has been issued to the 70  
holder, provided that an affidavit that states the name of the 71  
permit holder, the permit number, the type of permit, and a 72  
legal description of the lands affected by the permit has been 73  
filed or recorded, in accordance with section 5301.252 of the 74  
Revised Code, in the office of the county recorder of the county 75

in which the lands are located. 76

(e) A claim to preserve the mineral interest has been 77  
filed in accordance with division (C) of this section. 78

(f) In the case of a separated mineral interest, a 79  
separately listed tax parcel number has been created for the 80  
mineral interest in the county auditor's tax list and the county 81  
treasurer's duplicate tax list in the county in which the lands 82  
are located. 83

(C) (1) A claim to preserve a mineral interest from being 84  
~~deemed abandoned, extinguished, and voided~~ under division (B) of 85  
this section may be filed for record by its holder. Subject to 86  
division (C) (3) of this section, the claim shall be recorded in 87  
accordance with division (H) of this section and sections 317.18 88  
to 317.20 and 5301.52 of the Revised Code, and shall consist of 89  
a notice that does all of the following: 90

(a) States the nature of the mineral interest claimed and 91  
any recording information upon which the claim is based; 92

(b) Otherwise complies with section 5301.52 of the Revised 93  
Code; 94

(c) States that the holder does not intend to abandon, but 95  
instead to preserve, the holder's rights in the mineral 96  
interest. 97

(2) A claim that complies with division (C) (1) of this 98  
section or, if applicable, divisions (C) (1) and (3) of this 99  
section preserves only the rights of ~~all holders of a mineral~~ 100  
~~interest in the same lands~~ the holder who files the claim. 101

(3) Any holder of an interest for use in underground gas 102  
storage operations may preserve the holder's interest, and those 103

of any lessor of the interest, by a single claim, that defines 104  
the boundaries of the storage field or pool and its formations, 105  
without describing each separate interest claimed. The claim is 106  
prima-facie evidence of the use of each separate interest in 107  
underground gas storage operations. 108

(D) (1) A mineral interest may be preserved indefinitely 109  
from being ~~deemed~~-abandoned, extinguished, and voided under 110  
division (B) of this section by the occurrence of any of the 111  
circumstances described in division (B) (3) of this section, 112  
including, but not limited to, successive filings of claims to 113  
preserve mineral interests under division (C) of this section. 114

(2) The filing of a claim to preserve a mineral interest 115  
under division (C) of this section does not affect the right of 116  
a lessor of an oil or gas lease to obtain its forfeiture under 117  
section 5301.332 of the Revised Code. 118

(E) Before a mineral interest becomes vested under 119  
division (B) of this section in the owner of the surface of the 120  
lands subject to the interest, the owner of the surface of the 121  
lands subject to the interest shall do both of the following: 122

(1) Serve notice by certified mail, return receipt 123  
requested, to each holder ~~or each holder's successors or~~ 124  
~~assignees~~, at the last known address of each, of the owner's 125  
intent to declare the mineral interest abandoned, extinguished, 126  
and voided. If service of notice, after the owner conducts a 127  
search of public records to locate the holder, the owner cannot 128  
be completed to any holder attempt or complete notice via 129  
certified mail, the owner shall publish notice of the owner's 130  
intent to declare the mineral interest abandoned, extinguished, 131  
and voided. The owner shall publish the notice at least once a 132  
week for three successive weeks in a newspaper of general 133

circulation in each county in which the land that is subject to 134  
the interest is located. The notice shall contain all of the 135  
information specified in division (F) of this section. 136

(2) At least thirty, but not later than sixty days after 137  
the date on which the last notice required under division (E) (1) 138  
of this section is served or published, as applicable, file in 139  
the office of the county recorder of each county in which the 140  
surface of the land that is subject to the interest is located 141  
an affidavit of abandonment that contains all of the information 142  
specified in division (G) of this section. 143

(F) The notice required under division (E) (1) of this 144  
section shall contain all of the following: 145

(1) The name of each applicable holder ~~and the holder's~~ 146  
~~successors and assignees, as applicable;~~ 147

(2) A description of the surface of the land that is 148  
subject to the mineral interest. The description shall include 149  
the volume and page number of the recorded deed or other 150  
recorded instrument under which the owner of the surface of the 151  
lands claims title or otherwise satisfies the requirements 152  
established in division (A) (3) of section 5301.52 of the Revised 153  
Code. 154

(3) A description of the mineral interest to be abandoned,  155  
extinguished, and voided. The description shall include the 156  
volume and page number of the recorded instrument on which the 157  
mineral interest is based. 158

(4) A statement attesting that nothing specified in 159  
division (B) (3) of this section has occurred within the twenty 160  
years immediately preceding the date on which notice is served 161  
or published under division (E) of this section; 162

(5) A statement of the intent of the owner of the surface 163  
of the lands subject to the mineral interest to file in the 164  
office of the county recorder an affidavit of abandonment at 165  
least thirty, but not later than sixty days after the date on 166  
which notice is served or published, as applicable. 167

(G) An affidavit of abandonment shall contain all of the 168  
following: 169

(1) A statement that the person filing the affidavit is 170  
the owner of the surface of the lands subject to the interest; 171

(2) The volume and page number of the recorded instrument 172  
on which the mineral interest is based; 173

(3) A statement that the mineral interest has been 174  
abandoned, extinguished, and voided pursuant to division (B) of 175  
this section; 176

(4) A recitation of the facts constituting the 177  
abandonment; 178

(5) A statement that notice was served on each holder ~~or~~ 179  
~~each holder's successors or assignees~~ by certified mail or 180  
~~published by publication~~ in accordance with division (E) of this 181  
section. 182

(H) (1) If a holder ~~or a holder's successors or assignees~~ 183  
~~claim~~ claims that the mineral interest that is the subject of a 184  
notice under division (E) of this section has not been 185  
abandoned, extinguished, and voided, the holder ~~or the holder's~~ 186  
~~successors or assignees,~~ not later than sixty days after the 187  
last date on which the notice was served or published, as 188  
applicable, shall file an affidavit in the office of the county 189  
recorder of each county where the land that is subject to the 190  
mineral interest is located ~~one of the following:~~ 191

~~(a) A claim to preserve the mineral interest in accordance with division (C) of this section;~~ 192  
193

~~(b) An~~. The holder shall identify in the affidavit ~~that~~ 194  
~~identifies~~ an event described in division (B) (3) of this section 195  
that has occurred within the twenty years immediately preceding 196  
the date on which the notice was served or published under 197  
division (E) of this section. 198

The holder ~~or the holder's successors or assignees~~ shall 199  
notify the person who served or published the notice under 200  
division (E) of this section of the filing under this division. 201

(2) If a holder ~~or a holder's successors or assignees~~ who 202  
~~claim~~ claims that the mineral interest that is the subject of a 203  
notice under division (E) of this section has not been 204  
~~abandoned, extinguished, and voided~~ fails to file a claim to 205  
~~preserve the mineral interest, files such a claim more than~~ 206  
~~sixty days after the date on which the notice was served or~~ 207  
~~published under division (E) of this section, fails to file an~~ 208  
affidavit that identifies an event described in division (B) (3) 209  
of this section that has occurred within the twenty years 210  
immediately preceding the date on which the notice was served or 211  
published under division (E) of this section, or files such an 212  
affidavit more than sixty days after the date on which the 213  
notice was served or published under that division, the owner of 214  
the surface of the lands subject to the interest who is seeking 215  
to have the interest ~~deemed~~ abandoned, extinguished, and voided, 216  
and vested in the owner shall file in the office of the county 217  
recorder of each county where the land that is subject to the 218  
mineral interest is located a notice of failure to file. The 219  
notice shall contain all of the following: 220

(a) A statement that the person filing the notice is the 221



owner of the surface of the lands subject to the mineral 222  
interest; 223

(b) A description of the surface of the land that is 224  
subject to the mineral interest; 225

(c) The statement: "This mineral interest is abandoned, 226  
extinguished, and voided pursuant to an affidavit of abandonment 227  
recorded in volume . . . . , page . . . . ." 228

Immediately after the notice of failure to file a mineral 229  
interest is recorded, the mineral interest shall vest in the 230  
owner of the surface of the lands formerly subject to the 231  
interest, and the record of the mineral interest shall cease to 232  
be notice to the public of the existence of the mineral interest 233  
or of any rights under it. In addition, the record shall not be 234  
received as evidence in any court in this state on behalf of the 235  
former holder ~~or the former holder's successors or assignees~~ 236  
against the owner of the surface of the lands formerly subject 237  
to the interest. However, the abandonment, extinguishment, and 238  
voiding, and vesting of a mineral interest pursuant to divisions 239  
(E) to (I) of this section is only ~~shall be~~ effective as to the 240  
property of the owner that filed the affidavit of abandonment 241  
under division (E) of this section. 242

(3) (a) Filing an affidavit under division (H) (1) of this 243  
section that identifies an event described in division (B) (3) of 244  
this section does not preclude a surface owner from taking legal 245  
action in a court of competent jurisdiction to determine the 246  
validity of the statements made by the holder in the affidavit. 247

(b) If the court finds that the affidavit is not valid or 248  
finds that the event described in the affidavit did not occur or 249  
did not occur within the twenty years immediately preceding the 250

date on which the notice was served or published under division 251  
(E) of this section, the surface owner of the lands subject to 252  
the interest shall file a notice in the office of the county 253  
recorder of each county where the land that is subject to the 254  
mineral interest is located. The notice shall contain all of the 255  
following: 256

(i) A statement that the person filing the notice is the 257  
owner of the surface of the lands subject to the mineral 258  
interest; 259

(ii) A description of the surface of the land that is 260  
subject to the mineral interest; 261

(iii) A statement specifying that the court has determined 262  
that the affidavit filed under division (H) (1) of this section 263  
is not valid, that the event described in the affidavit did not 264  
occur, or that the event described in the affidavit did not 265  
occur within the twenty years immediately preceding the date on 266  
which the notice was served or published under division (E) of 267  
this section; 268

(iv) The statement: "This mineral interest is abandoned, 269  
extinguished, and voided pursuant to an affidavit of abandonment 270  
recorded in volume . . . . , page . . . . ." 271

(c) Immediately after the notice is recorded, the mineral 272  
interest vests in the surface owner of the lands formerly 273  
subject to the interest, and the record of the mineral interest 274  
shall cease to be notice to the public of the existence of the 275  
mineral interest or of any rights under it. In addition, the 276  
record shall not be received as evidence in any court in this 277  
state on behalf of the former holder against the owner of the 278  
surface of the lands formerly subject to the interest. However, 279

the abandonment, extinguishment, and voiding, and vesting of a 280  
mineral interest pursuant to divisions (E) to (I) of this 281  
section is only effective as to the property of the owner that 282  
filed the affidavit of abandonment under division (E) of this 283  
section. 284

(I) For purposes of a recording under this section, a 285  
county recorder shall charge the fee established under section 286  
317.32 of the Revised Code. 287

**Section 2.** That existing section 5301.56 of the Revised 288  
Code is hereby repealed. 289