

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

FLOOR SUBSTITUTE  
FOR  
SENATE BILL NO. 575

By: Lerblance of the Senate

and

Braddock of the House

FLOOR SUBSTITUTE

[ mineral interests - mineral interests subject to  
escheat -

emergency ]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 60 O.S. 2001, Section 658.1, is amended to read as follows:

Section 658.1 Any mineral interest in land in Oklahoma shall be subject to ~~escheat~~ sale under the provisions of Sections ~~271~~ 271.1 through 277 of Title 84 of the Oklahoma Statutes if it generates an intangible property interest which is presumed abandoned for a period of fifteen (15) years under the Uniform Unclaimed Property Act ~~as provided in Sections 651 through 686 of this title~~ or under similar laws of another state.

All holders of intangible property interests generated by a mineral interest in land in Oklahoma shall report to the State Treasurer, in addition to the reporting otherwise required by law, the names and the last-known addresses of owners of record of the unclaimed mineral interest, the legal description of the land affected, and the extent of the property rights in the mineral interest. Only one report with respect to each owner and mineral interest is necessary; subsequent reports must include complete

information with respect to all new owners and new unclaimed mineral interests.

The State Treasurer shall send a copy of the report required by this section to the Attorney General, ~~to~~ and the district attorney of the county in which the land is located, ~~and~~. Except to a claimant of the unclaimed mineral interest, or as necessary to effectuate a judicial sale as set forth in Section 271.1 of Title 84 of the Oklahoma Statutes, the legal description of the mineral interest and the extent of the property rights in the mineral interest shall be deemed confidential and not released to the general public by the State Treasurer, Attorney General or district attorney. The State Treasurer shall send a report reflecting only the names and last-known addresses of owners of record of the unclaimed mineral interest to the county clerk of the county in which the land is located, and the clerk shall maintain the list for public viewing. The clerk shall also report to the board of county commissioners that the report has been received, and note the receipt in the minutes of the meeting, so the public can be informed.

The State Treasurer is authorized to develop procedures for the implementation of the Uniform Unclaimed Property Act.

SECTION 2. AMENDATORY 84 O.S. 2001, Section 271, is amended to read as follows:

Section 271. ~~If any~~ Subject to the provisions of Sections 271.1 through 277 of this title, the estate or property of any person shall escheat to and vest in the state if:

1. Such person die seized of any real property, including minerals or mineral interests, or possessed of any personal estate, without any devise thereof, and having no heirs, ~~or~~ or ~~if~~

2. Such person is the owner of any real or personal estate (except mineral interests subject to sale under Section 271.1 of this title), and shall be absent for the term of seven (7) years,

and is not known to exist, ~~such estate shall escheat to and vest in the state.~~ Provided, that where no will is recorded or probated in the county where such property is situate within seven (7) years after the death of such owner, it shall be prima facie evidence that there was no will, and where no lawful claim is asserted to, or lawful acts of ownership exercised in such property for the period of seven (7) years, and this has been proved to the satisfaction of the court, it shall be deemed prima facie evidence of the death of the owner and of the failure of heirs; and the court trying the cause, may, if such evidence is not rebutted, find therefrom in favor of the state; provided, further, that the state may, without waiting the limit of seven (7) years, bring proceedings and escheat any such property by making proof of the death of the owner and the failure of heirs, and nonexistence of will.

SECTION 3. AMENDATORY 84 O.S. 2001, Section 271.1, is amended to read as follows:

Section 271.1 If the proceeds or other intangible property interest from any mineral interests are abandoned for a period of fifteen (15) years, as provided for in ~~Sections 651 through 684 of Title 60 of the Oklahoma Statutes, or provided for in the laws of another state as described in Section 660 of Title 60 of the Oklahoma Statutes~~ the Uniform Unclaimed Property Act, then the mineral interest which generates the intangible property interest shall not be subject to escheat, but shall be subject to judicial sale by the state as provided for in Sections ~~271~~ 273 through 277 of this title.

If a judgment is rendered in favor of the state in such proceedings, a sale of the mineral interest shall be ordered, then:

1. All ~~escheatable~~ abandoned mineral interests within a single production unit shall be grouped together as far as practicable for purposes of sale; and

2. Any interest ~~escheated to the state or~~ sold by the state ~~in an escheat sale~~ shall remain subject to all prior valid pooling and drilling orders, rules, or regulations of the Corporation Commission; and

3. The record owner or owners of the surface from which abandoned mineral interests have been severed shall be mailed at the last-known address as shown by the records of the county treasurer a notice of the sale of such abandoned mineral interest at least ~~ten~~ (10) thirty (30) days prior to said sale; and

4. ~~the action authorized to be brought by the provisions of this section may be brought by any party who has an interest in either the surface rights or the mineral rights of the property involved; and~~

5. The successful bidder at said sale shall pay the costs and expenses of bringing the ~~escheat~~ action as determined by the court.

SECTION 4. AMENDATORY 84 O.S. 2001, Section 273, is amended to read as follows:

Section 273. Where the Attorney General of this State or the district attorney of any county shall be informed, or have reason to believe that the title to any real or personal property has vested in this state, or is subject to sale, ~~under the first Section One of this article, or that the title to any real estate has vested in this state under the preceding section, or that the condition of the title to any real estate is such as to bring the same within either of said sections~~ Section 271 or 271.1 of this title, ~~he~~ the Attorney General or district attorney shall forthwith file a petition in the name of the State of Oklahoma, in the district court of the county where such property, or any part thereof is situate, which petition shall set forth a description of the said property, the name of the person, or corporation, last lawfully seized or possessed of the same, the names of the tenants or persons in actual possession of same, if any; the names of the persons claiming such property, if

any such are known to claim; and the facts or circumstances in consequence of which such property is claimed to be subject to escheat or sale, praying writ of possession in behalf of the state.

SECTION 5. AMENDATORY 84 O.S. 2001, Section 274, as amended by Section 1, Chapter 29, O.S.L. 2003 (84 O.S. Supp. 2004, Section 274), is amended to read as follows:

Section 274. Upon the filing of the petition in an action authorized to be brought pursuant to Section 271.1 or 273 of this title, the clerk of the court shall issue summons as in other civil cases, requiring the persons named to appear and answer as in other civil cases, and in like manner the clerk shall also issue a summons for publication, setting forth briefly the contents of the petition, for all persons interested in the property to appear and answer within thirty (30) days from the date of first publication, which summons shall be published as required in other civil suits except that it shall not be required to be published exceeding thirty (30) days before answer required. If the petition has been filed by a ~~party other than the Attorney General of this state~~ the district attorney for the county where the property is located, a summons and a copy of the petition shall be sent by certified mail, return receipt requested, to the Attorney General of this state.

SECTION 6. AMENDATORY 84 O.S. 2001, Section 275, is amended to read as follows:

Section 275. All persons named in such petition as tenants or persons in actual possession, or claimants of the property, or any part of the same, may appear and plead to such proceeding, and therein may traverse the facts stated in the petition, the title of the state to the lands and property therein mentioned as in other civil cases, and any person claiming an interest in such estate may appear and be made a defendant, and plead as in other cases, except such appearance must be made within or at the expiration of thirty (30) days from the first publication of the notice hereinabove

mentioned, except on order of the court. If no person after notice as aforesaid shall appear and plead within the time prescribed by law, which shall not be less than thirty days after the first publication of notice, judgment shall be rendered by default in behalf of the state; if any person appear and deny the title set up by the state, or traverse any material fact in the petition, issue shall be made up and tried as other issue of fact; and if after the issues and trial it appears from the facts found or admitted that the state has good title to the property, real or personal in the petition mentioned, or good right thereto, or any part thereof, judgment shall be rendered that the state shall be seized and possessed thereof, and a writ for the possession shall be awarded and executed as in other cases, and at the discretion of the court the state may recover costs against the defendants, which costs shall include a reasonable amount for attorney's fees, ~~and an amount to cover compensation for the person bringing the information upon which the proceedings were had.~~ If it appears that the state has no title to such property the defendant or defendants shall recover their costs, to be taxed and certified by the clerk, to the State Treasurer, upon which such certificate such State Treasurer is authorized to cash the same out of any monies in his hand not otherwise appropriated.

SECTION 7. AMENDATORY 84 O.S. 2001, Section 276, is amended to read as follows:

Section 276. In case a judgment is rendered in favor of the state in such proceedings, a writ shall be issued to the sheriff, or any constable, of the proper county commanding ~~him to seize the seizure of~~ such property ~~so vested in the state,~~ and if the same be personal property, ~~he it~~ shall ~~dispose of the same~~ be sold at public auction in the manner provided by law for the sale of property of like kind under execution; if the property be real estate, minerals or mineral interests, it shall be sold under the order of the court

by the sheriff or a constable of the county, and the proceeds, less the costs, ~~taxed by the court,~~ and attorney's fees taxed by the court, and ~~compensation awarded~~ shall be ~~by him~~ paid to the Treasurer of the state: ~~Provided, that no;~~ provided, however, that any proceeds paid to the Treasurer resulting from a sale of minerals deemed abandoned pursuant to Sections 658.1 and 658.1A of Title 60 of the Oklahoma Statutes and Section 271.1 of this title shall be treated as proceeds subject to the Uniform Unclaimed Property Act. No real estate or mineral interest shall be sold by the sheriff (or constable) at less than the minimum price to be fixed by the judge before whom the case was tried, such minimum valuation to be stated in the notice of sale. Should there be on the day of sale, no bona fide bid for as high an amount as the valuation fixed by the judge before whom the case is tried, there shall be no sale, and the writ or order of sale shall be immediately returned to the court issuing the same, and thereafter a new writ procured, and if necessary, a new order of appraisement value fixed by the judge of the court.

SECTION 8. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

50-1-1562

MJM

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