

## HOUSE BILL NO. HB0089

Ownership of subsurface pore space.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to property; specifying ownership of pore  
2 space in strata underlying surfaces; specifying  
3 applicability of act; specifying legislative intent; and  
4 providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 34-1-152 is created to read:

9

10 **34-1-152. Ownership of pore space underlying**  
11 **surfaces.**

12

13 (a) The ownership of all pore space in all strata  
14 below the surface lands and waters of this state is  
15 declared to be vested in the several owners of the surface  
16 above the strata.

17

1           (b) A conveyance of the surface ownership of real  
2 property shall be a conveyance of the pore space in all  
3 strata below the surface of such real property unless the  
4 ownership interest in such pore space previously has been  
5 severed from the surface ownership or is explicitly  
6 excluded in the conveyance. The ownership of pore space in  
7 strata may be conveyed in the manner provided by law for  
8 the transfer of mineral interests in real property. No  
9 agreement conveying mineral or other interests underlying  
10 the surface shall act to convey ownership of any pore space  
11 in the stratum unless the agreement explicitly conveys that  
12 ownership interest.

13

14           (c) No provision of law, including a lawfully adopted  
15 rule or regulation, requiring notice to be given to a  
16 surface owner, to an owner of the mineral interest, or to  
17 both, shall be construed to require notice to persons  
18 holding ownership interest in any pore space in the  
19 underlying strata unless the law specifies notice to such  
20 persons is required.

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22           (d) As used in this section, the term "pore space" is  
23 defined to mean subsurface space of any size and whether  
24 vacant or filled which can be used as storage space for

1 carbon dioxide or other substances injected into the space  
2 for storage.

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4 (e) Nothing in this section shall be construed to  
5 change or alter the common law as of the date of the  
6 passage of this section as it relates to the rights  
7 belonging to, or the dominance of, the mineral estate.

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9 (f) All instruments which transfer the rights to pore  
10 space under this section shall describe the scope of any  
11 right to use the surface estate. The owner of any pore  
12 space right shall have no right to use the surface estate  
13 beyond that set out in a properly recorded instrument.

14

15 (g) Transfers of pore space rights made after the  
16 effective date of this section are null and void at the  
17 option of the owner of the surface estate if the transfer  
18 instrument does not contain a specific description of the  
19 location of the pore space. The validity of pore space  
20 rights under this paragraph shall not affect the respective  
21 liabilities of any party and such liabilities shall operate  
22 in the same manner as if the pore space transfer were  
23 valid.

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1           **Section 2.** W.S. 34-1-202(e) is amended to read:

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3           **34-1-202. Creation; conveyance; acceptance and**  
4 **duration.**

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6           (e) This act shall not alter the law of Wyoming  
7 regarding the primacy of the mineral estate and any  
8 easement created hereunder shall not limit the right of a  
9 mineral owner or his lessee to reasonable use of the  
10 surface for the purpose of mineral exploration and  
11 production unless the owners and lessees of the entire  
12 mineral estate and geologic sequestration right are a party  
13 to the conservation easement or consent to the conservation  
14 easement.

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16           **Section 3.** It is the intent of the legislature to  
17 clarify the ownership of pore space underlying the surface  
18 of the lands and waters of this state. All conveyances of  
19 interests in real property on and after the effective date  
20 of this act shall be subject to the provisions of this act.  
21 All conveyances of real property made prior to the  
22 effective date of this act shall be construed in accordance  
23 with the provisions of this act unless a person claiming an  
24 ownership interest contrary to the provisions of this act

1 establishes such ownership by a preponderance of the  
2 evidence in an action to establish ownership of such  
3 interest.

4

5 **Section 4.** This act is effective July 1, 2008.

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7

(END)