

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. _____

Ownership of subsurface voids.

Sponsored by: Joint Judiciary Interim Commi

**PREPARED
FOR
COMMITTEE
DISCUSSION
PURPOSES**

A BILL

for

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

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

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

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10 **34-1-152. Ownership of voids underlying surfaces.**

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12 (a) The ownership of all voids in all strata below
13 the surface lands and waters of this state is declared to

1 be vested in the several owners of the surface above the
2 strata.

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

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

1 ***** STAFF COMMENTS *****
2 **This last subsection is included since numerous**
3 **provisions require notice to surface owners, or**
4 **notice to mineral interest owners, or sometimes**
5 **both for various issues. Generally speaking it**
6 **seems notice to a person owning the "void"**
7 **wouldn't be needed, but in some instances, this**
8 **might not be so; e.g., mine permits require**
9 **notice to both interest owners and surface**
10 **owners. The owner of the void might well have**
11 **his interest affected by a mine permit being**
12 **granted.**
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14 ***** STAFF COMMENTS *****
15 **The following amendment is to the property**
16 **disclosure provision enacted last session. It**
17 **follows the recognition of the surface owner**
18 **being the owner of void space below the surface.**
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21 **Section 2.** W.S. 334-11-15(a)(ii) is amended to
22 read:

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24 **34-1-151. Property disclosure statement.**
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26 (a) Except as provided in subsection (b) of this
27 section, every seller of vacant land shall provide to any
28 prospective buyer a property disclosure statement that
29 includes, but is not limited to, the following information:

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31 (ii) If fee ownership of the underlying mineral
32 estate or to voids in the underlying strata has in any way
33 been severed in the chain of title from the surface estate;

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***** STAFF COMMENTS *****

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The following provisions were initially included as the statutes were reviewed for related provisions that might need to be amended. As of this draft, they do not need to be, but that might change with different policy decisions. They've been retained for now for the committee's consideration.

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30-1-108. Locators' rights of possession and enjoyment; "mineral boundaries" defined.

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30-1-119. Protection of surface proprietors.

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Where a mining right exists in any case and is separate from the ownership or right of occupancy to the surface, such owner or rightful occupant of the said surface may demand satisfactory security from the miner or miners, and if such security is refused, such owner or occupant of the surface may enjoin the miner or miners from

1 working such mine until such security is given. The order
2 for such injunction shall fix the amount of the bond
3 therefor.

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5 **34-1-202. Creation; conveyance; acceptance and**
6 **duration.**

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

16 ***** STAFF COMMENTS *****

17 **The subsection above is within the conservation**
18 **easement provisions. As written it does not**
19 **appear to apply to the severance of the right to**
20 **the "void" (i.e., it does not appear that right**
21 **is a mineral right) - the question then is**
22 **whether the same statement should be made**
23 **regarding development of a CO2 sequestration**
24 **right when it conflicts with a surface**
25 **conservation easement.**

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27 **Section 3.** It is the intent of the legislature
28 to clarify the ownership of voids underlying the
29 surface of the lands and waters of this state. All
30 conveyances of interests in real property on and after
31 the effective date of this act shall be subject to the
32 provisions of this act. All conveyances of real
33 property made prior to the effective date of this act
34 shall be construed in accordance with the provisions
35 of this act unless a person claiming an ownership
36 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.

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

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(END)