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Ohio Revised Code

Section 5301.58 Conveyance and ownership of pore space.

Effective: September 23, 2026
Legislation: House Bill 170 - 136th General Assembly

(A) The ownership of all pore space in all strata below the surface lands and waters is vested in the owner of the surface directly above the pore space.

A conveyance of the surface ownership of real property shall be a conveyance of the pore space in all strata below the surface of the real property unless the ownership interest in the pore space previously has been expressly excepted and reserved, conveyed, or otherwise severed from the surface ownership. The ownership of pore space in the strata may be conveyed in the manner provided by law for the transfer of real property interests. No agreement conveying mineral, oil and gas, coal, limestone or similar resource, or other interests underlying the surface shall convey pore space in the strata unless the agreement expressly includes conveyance of the pore space.

(B) No provision of law or rule requiring notice to be given to a surface owner, owner of the mineral or oil and gas interest, or both shall be construed to require notice to individuals holding ownership interests in pore space in the underlying strata unless the applicable law specifies notice to the individuals is required or unless the owner of the pore space also owns an interest in the surface or in the mineral or oil and gas interests.

(C)(1) Nothing in sections 1509.71 to 1509.79 and 5301.58 to 5301.60 of the Revised Code shall be construed to change or alter the common law existing as of the effective date of this section with respect to the rights belonging to, or the dominance of, the mineral estate or oil and gas estate. For the purpose of determining the priority of surface and subsurface uses between a severed mineral or oil and gas estate and pore space, the severed mineral or oil and gas estate is dominant regardless of whether ownership of the pore space is vested in the owner of the surface or is owned separately from the surface.

(2) If pore space is severed from the surface ownership, the pore space estate shall be considered to be dominant over the surface estate unless the conveyance specifically provides otherwise.

(3) Nothing in sections 5301.58 to 5301.60 of the Revised Code shall alter, amend, diminish, or invalidate rights to the pore space that were acquired by deed, contract, or lease prior to the effective date of this section.

(D) An instrument that transfers the rights to pore space shall include a specific description of the location of the pore space being transferred. In the event that the instrument uses only a description of the surface, the transfer shall be considered to include pore space owned by the transferor at all depths underlying the described surface area unless specifically excluded. The owner of the pore space shall have no right to use the surface estate beyond that set out in a properly recorded instrument due solely to its ownership in the pore space.

An instrument that conveys the surface directly above the pore space, but otherwise seeks to except or reserve the rights to the pore space, shall include a specific reference to the pore space in the instrument. In the event of such exception or reserved rights, the reserved rights to the pore space shall include pore space owned by the transferor at all depths underlying the described surface area unless otherwise specifically excluded.