

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1251 Session of 2011

INTRODUCED BY KASUNIC, COSTA, FONTANA, HUGHES, RAFFERTY,
SOLOBAY, WASHINGTON AND YUDICHAK, SEPTEMBER 20, 2011

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, SEPTEMBER 20,
2011

AN ACT

1 Amending the act of July 20, 1979 (P.L.183, No.60), entitled "An
2 act regulating the terms and conditions of certain leases
3 regarding natural gas and oil," providing for computation of
4 oil and gas royalties; and further providing for well
5 designations.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Sections 1 and 2 of the act of July 20, 1979
9 (P.L.183, No.60), entitled "An act regulating the terms and
10 conditions of certain leases regarding natural gas and oil," are
11 amended to read:

12 Section 1. (a) A lease or other such agreement conveying
13 the right to remove or recover oil, natural gas or gas of any
14 other designation from lessor to lessee shall not be valid if
15 such lease does not guarantee the lessor at least one-eighth
16 royalty of all oil, natural gas or gas of other designations
17 removed or recovered from the subject real property. The lessee
18 shall compute and pay oil and gas royalties due under each lease
19 on the gross proceeds received by the seller based on the fair

1 market value at the point of sale, including amounts collected
2 to reimburse the seller for severance taxes and production-
3 related costs. The lessee shall not deduct from royalties
4 severance taxes or applicable fees charged by a Commonwealth
5 agency or department or post-production costs. Post-production
6 costs are:

7 (1) Losses of produced volumes, whether by use as fuel,
8 line loss, flaring, venting or otherwise.

9 (2) Costs incurred by the lessee from and after the
10 wellhead to the point of sale, including, without limitation,
11 gathering, dehydration, compression, treatment, processing,
12 marketing and transportation costs incurred in connection
13 with the sale of the production.

14 (b) For the purpose of computing and paying royalties, the
15 fair market value shall be presumed to be the gross proceeds
16 received under a bona fide contract entered into by
17 nonaffiliated parties of adverse economic interests. If a
18 contract is not negotiated at arm's length or was between
19 affiliated parties, the presumption that market value is equal
20 to gross proceeds shall not apply and the lessee shall have the
21 burden to establish that royalties paid are based on market
22 value. Parties are affiliated under this subsection if they are
23 related by blood, marriage or common business enterprise, are
24 members of a corporate-affiliated group or where one party owns
25 a 10% or greater interest in the other.

26 (c) Royalties are due and payable by the lessee on 100% of
27 each lease's gross production of oil and gas unless the lease
28 explicitly states otherwise. Royalties due shall be paid within
29 90 days after the end of the month for gas sales. A 10% monthly
30 interest shall accrue on the unpaid balance. If royalties are

1 not paid within the required period, the lease may become null
2 and void at the discretion of the lessor.

3 Section 2. An oil, natural gas or other designation gas well
4 or oil, natural gas or other designation gas lease [which does
5 not provide a one-eighth metered royalty shall be subject to
6 such an escalation] may be amended or modified when its original
7 state is altered by new drilling, deeper drilling, redrilling,
8 artificial well stimulation, hydraulic fracturing or any other
9 procedure for increased production. A lease shall not be
10 affected when the well is altered through routine maintenance or
11 cleaning.

12 Section 2. This act shall take effect in 60 days.