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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1650 Session of  
2013

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INTRODUCED BY WHITE, FRANKEL, MILLARD, FREEMAN AND BOBACK,  
SEPTEMBER 16, 2013

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
SEPTEMBER 16, 2013

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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," further providing for  
4 guaranteed royalties.

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

7 Section 1. Sections 1.2 and 1.3 of the act of July 20, 1979  
8 (P.L.183, No.60), known as the Oil and Gas Lease Act, added July  
9 9, 2013 (P.L.473, No.66), are amended to read:

10 Section 1.2. Definitions.

11 The following words and phrases when used in this act shall  
12 have the meanings given to them in this section unless the  
13 context clearly indicates otherwise:

14 "Affiliated parties." Parties that are:

15 (1) related by blood or marriage;

16 (2) engaged in a common business enterprise;

17 (3) members of a corporate affiliated group; or

18 (4) in a relationship in which one party owns at least a

1       10% interest in the other party.

2       "Check stub." The financial record attached to a check.

3       "Division order." An agreement signed by an interest owner  
4 directing the distribution of proceeds from the sale of oil,  
5 gas, casing head gas or other related hydrocarbons. The order  
6 shall direct and authorize the payor to make payment for the  
7 products taken in accordance with the division order.

8       "Interest owner." A person who is legally entitled to  
9 payment from the proceeds derived from the sale of oil or gas  
10 from an oil or gas well located in this Commonwealth.

11       "Mcf." A unit of measurement expressed by 1,000 cubic feet.  
12 Section 1.3. Royalty guaranteed.

13       (a) Requirement.--A lease or other such agreement conveying  
14 the right to remove or recover oil, natural gas or gas of any  
15 other designation from the lessor to the lessee shall not be  
16 valid if the lease does not guarantee the lessor at least one-  
17 eighth royalty of all oil, natural gas or gas of other  
18 designations removed or recovered from the subject real  
19 property.

20       (b) Computation and payment.--

21               (1) The lessee shall compute and pay oil and gas  
22 royalties due under each lease on the gross proceeds received  
23 by the seller based on the fair market value at the point of  
24 sale. The following apply:

25                       (i) Except as set forth in subparagraph (ii), fair  
26 market value shall be presumed to be the gross proceeds  
27 received pursuant to a good faith contract entered into  
28 by nonaffiliated parties of adverse economic interests.

29                       (ii) If a contract is not negotiated at arm's length  
30 or is between affiliated parties, the presumption under

1 subparagraph (i) shall not apply; and the lessee shall  
2 have the burden to establish that royalties paid are  
3 based on market value.

4 (2) The lessee shall not deduct from royalties any of  
5 the following:

6 (i) A severance tax.

7 (ii) An impact fee under 58 Pa.C.S. Ch. 23 (relating  
8 to unconventional gas well fee).

9 (iii) A fee charged by a Commonwealth agency.

10 (iv) A postproduction cost. This subparagraph  
11 includes:

12 (A) A loss of produced volume, whether by use as  
13 fuel, line loss, flaring, venting or otherwise.

14 (B) A cost actually incurred by the lessee from  
15 the wellhead to the point of sale. This clause  
16 includes gathering, dehydration, compression,  
17 treatment, processing, marketing and transportation  
18 costs incurred in connection with the sale of such  
19 production.

20 Section 2. The addition of section 1.3(b) of the act:

21 (1) Shall not apply to a lease agreement entered into  
22 prior to the effective date of this section.

23 (2) Shall apply to a new or modified lease entered into  
24 on or after the effective date of this section.

25 Section 3. This act shall take effect in 60 days.