

**SENATE APPROPRIATIONS COMMITTEE
FISCAL NOTE**

BILL NO. Senate Bill 1237

PRINTER'S NO. 1808

AMOUNT

No Fiscal Impact

FUND

General Fund

DATE INTRODUCED

January 24, 2014

PRIME SPONSOR

Senator Yaw

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 1237 enacts the Natural Gas Lease Anti-Retaliation Act and prohibits a gas company (lessee) from retaliating against an owner (lessor) by terminating the lease agreement or ceasing development because the lessor questions the accuracy of the royalty payments and reports a violation or suspected violation of a contractual agreement.

The bill defines "good faith action" as a claim, demand or complaint intended to secure rights granted under a lease or to determine whether the terms of a lease are being complied with, including, but not limited to, a request for an accounting of any costs, taxes or fees allowed to be deducted from royalty payments by lessee that is made without malice or ulterior motive and which the lessor or a party acting on the lessor's behalf reasonably believes to be valid and legally correct.

The "lessee" is defined as any person who has obtained the right to explore, drill, stimulate, produce, market and sell oil, gas and natural gas liquids, or any portion thereof, pursuant to a properly executed lease.

The "lessor" is defined as the owner of the oil and gas in place, who controls the oil and gas rights and has executed the lease.

The bill protects lessors by specifically prohibiting a lessee from retaliating against the lessor by ceasing development or production or taking other reprisals against a lessor because the lessor takes a good faith action.

The bill permits a lessor to bring civil action against a lessee for alleged retaliation in a court of competent jurisdiction for appropriate injunctive relief and/or damages within one year after the occurrence of the alleged violation.

The bill requires the lessor to show by a preponderance of the evidence that its action meets the definition of a good faith action and that a retaliatory action was taken by the lessee after it became aware of the good faith action of the lessor.

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The bill provides that it shall be a defense to an action taken by the lessor, for the lessee to prove by a preponderance of evidence that the lessee's action was authorized under the terms of the lease or occurred for legitimate business reasons.

The bill authorizes a court which finds in favor of the lessor, to order the lessee to pay reasonable damages to the lessor and may impose a civil fine of up to \$1,000 per day for each day the provisions of the act have been violated. It authorizes the court which finds that a lessor's action which has been instituted for other than a good faith action, may order the lessor to pay reasonable damages to the lessee.

The act takes effect in 60 days.

FISCAL IMPACT:

No fiscal impact to the Commonwealth will result from passage of this bill. Damage payments may be ordered by the court, to either party, and must be paid by either the lessee or the lessor, dependent on and as a result of the court's ruling.