
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 557 Session of
2017

INTRODUCED BY EVERETT, BAKER, PICKETT, BOBACK, FRITZ, STAATS,
DRISCOLL, HANNA, STURLA, MILLARD, MURT, McNEILL, BARRAR,
CALTAGIRONE, M. QUINN, O'NEILL, VITALI, A. HARRIS, McCARTER,
FREEMAN, MULLERY, D. COSTA, WHEELAND, WATSON, METZGAR AND
HARPER, FEBRUARY 17, 2017

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
FEBRUARY 17, 2017

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 definitions; and providing for minimum royalty for
5 unconventional oil or gas well production and for remedy for
6 failure to pay the minimum royalty on unconventional oil or
7 gas wells.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 1.2 of the act of July 20, 1979 (P.L.183,
11 No.60), known as the Oil and Gas Lease Act, is amended to read:

12 Section 1.2. Definitions.

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

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

17 "Division order." An agreement signed by an interest owner
18 directing the distribution of proceeds from the sale of oil,

1 gas, casing head gas or other related hydrocarbons. The order
2 shall direct and authorize the payor to make payment for the
3 products taken in accordance with the division order.

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

7 "Lessee." An operator.

8 "Lessor." An interest owner.

9 "Mcf." A unit of measurement expressed by 1,000 cubic feet.

10 "Royalty." A lessor's ownership interest in the proceeds
11 generated by the sale of the lessor's production of oil or gas
12 or their constituents in an arms-length transaction the value of
13 which interest, unless expressly specified otherwise in the
14 parties oil or gas lease, is designated and fixed at the actual
15 point-of-sale, but from which interest is excluded the costs of
16 development, drilling and production.

17 "Royalty payment." A payment made by a lessee to a lessor in
18 accordance with a lease or other agreement that conveys the
19 right to remove or recover oil, natural gas or gas of any other
20 designation, including natural gas liquids.

21 "Unconventional formation." A geological shale formation
22 existing below the base of the Elk Sandstone or its geologic
23 equivalent stratigraphic interval where oil, gas, natural gas or
24 gas of other designations, including natural gas liquids,
25 generally cannot be produced at economic flow rates or in
26 economic volumes except by perforated vertical or horizontal
27 well bores stimulated by hydraulic fracture treatments or by
28 using multilateral well bores or other techniques to expose more
29 of the formation to the well bore.

30 "Unconventional oil or gas well." A bore hole drilled or

1 being drilled for the purpose of or to be used for the
2 production of oil, natural gas or gas of other designations,
3 including natural gas liquids, from an unconventional formation.

4 Section 2. The act is amended by adding sections to read:

5 Section 1.4. Minimum royalty for unconventional oil or gas well
6 production.

7 (a) Amount.--

8 (1) The minimum royalty paid to a lessor for
9 unconventional oil or gas well production may not be less
10 than one-eighth of the gross proceeds received by the lessee
11 for the production.

12 (2) No deduction or allocation of costs, expenses or
13 other adjustments may result in a royalty less than the one-
14 eighth as provided in this section.

15 (b) Applicability.--The requirement to pay a minimum royalty
16 as provided in subsection (a) shall only apply to hydrocarbon
17 production from unconventional oil or gas wells generated and
18 produced after the effective date of this section.

19 Section 4. Remedy for failure to pay the minimum royalty on
20 unconventional oil or gas wells.

21 (a) Civil action and venue.--A lessor who is party to a
22 lease for an unconventional oil or gas well may file an action
23 for failure to pay the minimum royalty under this act in the
24 court of common pleas of the county where the unconventional oil
25 or gas well is located or the county in this Commonwealth in
26 which the lessor resides.

27 (b) Burden of proof.--

28 (1) Demonstration by a lessor who is party to a lease
29 for an unconventional oil or gas well that the lessee has
30 made a royalty payment which is less than the value of one-

1 eighth royalty of all oil, natural gas or gas of any other
2 designation, including natural gas liquids, removed or
3 recovered from the subject real property or lands pooled with
4 the subject real property sold at an arms-length transaction
5 shall create a presumption that a violation of this act has
6 occurred.

7 (2) The presumption in paragraph (1) may be rebutted if
8 the lessee presents clear and convincing evidence that the
9 minimum royalty was paid.

10 (c) Effect of notice and failure to cure.--In an action in
11 which a court finds that the lessee who is party to a lease for
12 an unconventional oil or gas well has violated the terms of this
13 act by making a royalty payment which is less than the amount
14 required by this act, the lessor shall be entitled to the
15 remedies specified in subsections (d) and (e) if, before filing
16 suit, the lessor gave to the lessee 30 days' written notice by
17 certified mail of the deficiency and the lessee failed to cure
18 the deficiency.

19 (d) Additional remedies.--In addition to actual damages and
20 any other remedy deemed appropriate by the court, the court
21 shall award reasonable attorney fees and costs in bringing the
22 action, including expert witness fees, to the lessor.

23 (e) Treble damages.--In cases where the court finds that the
24 lessee acted willfully in failing to pay the minimum royalty or
25 where a lessee has been previously found to have failed to pay
26 the minimum royalty, the court may award treble damages.

27 (f) Other remedies not precluded.--The remedies provided in
28 this section are not exclusive of, do not require exhaustion of
29 and shall be in addition to any other remedies provided by the
30 lease, by law or in equity.

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