

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2494 Session of  
2006

INTRODUCED BY TANGRETTI, CALTAGIRONE, GRUCELA, HALUSKA,  
HENNESSEY, KOTIK, LEVDANSKY, McGEEHAN, PISTELLA, SCAVELLO,  
SIPTROTH, STAIRS, THOMAS, WALKO, WOJNAROSKI, YOUNGBLOOD AND  
DeWEESE, APRIL 26, 2006

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
APRIL 26, 2006

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 leases  
4 to remove or recover oil, natural gas or gas of any other  
5 designation from lessors to lessees.

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

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

18 (b) (1) Where a surface owner is not entitled to royalties

under subsection (a) for the removal or recovery of methane gas or any other gas found in any coal formation, the following procedures shall apply:

(i) Before entering upon the land, the oil and gas operator shall give notice in compliance with regulations promulgated by the bureau, which notice shall sufficiently disclose the plan of work to enable the surface owner to evaluate the effect of gas operations on the surface owner's use of the land and an offer to discuss and negotiate in good faith the proposed plan of work and compensation for damages prior to commencement of operations.

(ii) Entry upon the land for commencement of operations shall be conditional upon the operator providing the required notice, attempting good faith negotiations, and providing a written statement to the department that notice has been provided and good faith negotiations have concluded or are continuing. In lieu of such notice, the surface owner may sign a waiver for the operator's entry and commencement of operations. This waiver shall confirm that negotiations regarding compensation for surface use have concluded or are continuing in a satisfactory manner.

(iii) The operator shall provide the bureau with a signed statement from the surface owner that an executed surface use agreement has been obtained, providing the surface owner with compensation for damages for loss of agricultural production and income, if any, lost land value and lost value of improvements caused by drilling operations. The amount of damages may be determined by any formula agreeable between the surface owner and operator and consideration may be given to the period of time during which the loss occurs. The agreement shall also

provide for protection, contamination, loss or diminution of water resources, for well location restrictions, well site restoration and for the casing, plugging or capping of wells pursuant to the act of December 19, 1984 (P.L.1140, No.223), known as the Oil and Gas Act. The agreement shall not be deemed confidential, and a copy thereof may be requested by the bureau for review and compliance purposes, but such agreement shall not be required as a condition of approval to conduct drilling operations.

(iv) The compensation provided under this subsection may only cover land, water resources or other oil or gas wells in which the surface owner has an interest, which are directly affected by drilling operations and production and is intended to compensate the surface owner for damage and disruption. No person may reserve or assign the compensation apart from the surface estate except to a tenant of the surface estate.

(v) An operator who fails to timely pay compensation under any damage agreement negotiated with a surface owner is liable to the surface owner for twice the amount of any unpaid installment or payment if the installment or payment is not paid within 60 days of receipt of notice of failure to pay from the surface owner.

(vi) If an operator is unable to comply with this section because of the surface owner's refusal to allow entry or negotiate a compensation agreement within 60 days of the notice provided under subparagraph (i), the operator may execute a sufficient surety bond or other guaranty, as determined by the bureau, to secure payment of damages to the surface owner, and the bureau shall issue an order to the surface owner to allow the operator to proceed with activities related to predrilling

1 and drilling operations. The bureau shall promulgate regulations  
2 regarding the calculation of amounts of bonds or guaranties and  
3 the conditions for the release thereof after compensation for  
4 damages has occurred. Any aggrieved party may appeal the final  
5 decision of the bureau to the Environmental Hearing Board  
6 pursuant to section 4 of the act of July 13, 1988 (P.L.530,  
7 No.94), known as the Environmental Hearing Board Act.

8 (vii) Nothing in this subsection precludes any person from  
9 seeking other remedies allowed by the Oil and Gas Act or other  
10 law, deed or contract, nor does this act diminish rights  
11 previously granted by law, deed or contract. This act does not  
12 vest the surface owner with title to oil and gas interests that  
13 have been severed from the surface estate.

14 (viii) A surface owner entitled to bring an action for  
15 damages under this act shall bring such action within two years  
16 after the damage has been discovered, or should have been  
17 discovered through due diligence by the surface owner.

18 (2) As used in this subsection, the term "bureau" means the  
19 Bureau of Oil and Gas Management.

20 Section 2. Any written surface use agreement in effect prior  
21 to the effective date of this section shall not be subject to  
22 the provisions of this act.

23 Section 3. This act shall take effect in 90 days.