

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 460 Session of 2011

INTRODUCED BY YAW, BAKER, D. WHITE, RAFFERTY, WAUGH, COSTA,  
FONTANA, WOZNIAK AND KASUNIC, FEBRUARY 11, 2011

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, FEBRUARY 11,  
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," adding definitions; providing  
4 for payment information to interest owners for accumulation  
5 of proceeds from production, for nonpayment of royalties and  
6 for effects of nonpayment; and making editorial changes.

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

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11 certain leases regarding natural gas and oil," is repealed:

12 [Section 1. A lease or other such agreement conveying the  
13 right to remove or recover oil, natural gas or gas of any other  
14 designation from lessor to lessee shall not be valid if such  
15 lease does not guarantee the lessor at least one-eighth royalty  
16 of all oil, natural gas or gas of other designations removed or  
17 recovered from the subject real property.]

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

19 Section 1.1. Short title.

This act shall be known and may be cited as the Oil and Gas Lease Act.

Section 1.2. Definitions.

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

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

"Division order." A contract of sale to the purchaser of oil or gas directing the purchaser to make payment for the value of the products taken in the proportions set out in the contract and which contract is prepared by the purchaser on the basis of the ownership shown in the title opinion prepared after examination of the abstracts and which is executed by the operator, the royalty owner and the other persons having an interest in the production.

"Interest owner." A person owning a royalty interest or a working interest in an oil or gas well or unit.

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

Section 1.3. Royalty guaranteed.

A lease or other such agreement conveying the right to remove or recover oil, natural gas or gas of any other designation from the lessor to the lessee shall not be valid if the lease does not guarantee the lessor at least one-eighth royalty of all oil, natural gas or gas of other designations removed or recovered from the subject real property.

Section 3. Sections 2 and 3 of the act are amended to read:

[Section 2. An oil, natural gas or other designation gas well or oil, natural gas or other designation gas lease which does not provide a one-eighth metered royalty shall be subject to such an escalation when its original state is altered by new

drilling, deeper drilling, redrilling, artificial well stimulation, hydraulic fracturing or any other procedure for increased production. A lease shall not be affected when the well is altered through routine maintenance or cleaning.]

Section 2. Escalation required for alteration to original state.

An oil, natural gas or other designation gas well or oil, natural gas or other designation gas lease which does not provide a one-eighth metered royalty shall be subject to such an escalation when its original state is altered by new drilling, deeper drilling, redrilling, artificial well stimulation, hydraulic fracturing or any other procedure for increased production. A lease shall not be affected when the well is altered through routine maintenance or cleaning.

[Section 3. Whenever such an increased production procedure has been completed prior to the effective date of this act, metering and the above royalty shall commence within 90 days after the effective date of this act.]

Section 3. Commencement of guaranteed royalty.

Whenever such an increased production procedure has been completed prior to the effective date of this act, metering and the above royalty shall commence within 90 days after the effective date of this act.

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

Section 3.1. Payment information to interest owners.

Whenever payment is made for oil or gas production to an interest owner, whether pursuant to a division order, lease, servitude or other agreement, all of the following information shall be included on the check stub or on an attachment to the form of payment, unless the information is otherwise provided on

1 a regular basis:

2 (1) Lease identification number, if any, or reference to  
3 appropriate agreement with identification of the well or unit  
4 from which production is attributed.

5 (2) Month and year of sales or purchase included in the  
6 payment.

7 (3) Total barrels of crude oil or number of Mcf of gas  
8 purchased.

9 (4) Owner's final realizable price per barrel or Mcf.

10 (5) Total amount of severance and other production  
11 taxes, with the exception of windfall profit tax.

12 (6) Net value of total sales from the property after  
13 taxes are deducted.

14 (7) Interest owner's interest, expressed as a decimal  
15 fraction, in production from paragraph (1).

16 (8) Interest owner's share of the total value of sales  
17 prior to any tax deduction.

18 (9) Interest owner's share of the sales value less the  
19 interest owner's share of the production and severance taxes,  
20 as applicable.

21 Section 3.2. Accumulation of proceeds from production.

22 (a) General rule.--Unless otherwise requested, proceeds from  
23 production of oil and gas may be accumulated and remitted to the  
24 persons entitled thereto annually for the 12 months'  
25 accumulation of proceeds totaling less than \$100.

26 (b) Smaller amounts.--

27 (1) Proceeds totaling \$100 or less, but \$25 or more  
28 shall be remitted monthly, if requested in writing by the  
29 person entitled to the proceeds.

30 (2) Amounts less than \$10 shall be remitted annually if

1 requested in writing by the person entitled to the proceeds.

2 (c) Notice required.--Before proceeds may be accumulated,  
3 the payor shall provide notice to the person entitled to the  
4 proceeds that there is an option to be paid monthly when the  
5 accumulated proceeds exceed \$10. The notice to the person shall  
6 also provide directions for requesting monthly payment and shall  
7 constitute notice to all heirs, successors, representatives and  
8 assigns of the person.

9 (d) Owner to be paid.--Notwithstanding any other provision  
10 of this section to the contrary, all accumulated proceeds shall  
11 be paid to the owner thereof when production ceases or upon  
12 relinquishment or transfer of the payment responsibility.

13 Section 3.3. Nonpayment of royalties and notice prerequisite to  
14 judicial demand.

15 If a mineral lessor seeks relief for the failure of the  
16 lessee to make timely or proper payment of royalties, the  
17 mineral lessor must give the lessee written notice of the  
18 failure as a prerequisite to a judicial demand for damages or  
19 dissolution of the lease.

20 Section 3.4. Required response of lessee to notice.

21 The lessee shall have 30 days after receipt of the required  
22 notice within which to pay the royalties due or to respond by  
23 stating in writing a reasonable cause for nonpayment. The  
24 payment or nonpayment of the royalties or stating or failing to  
25 state a reasonable cause for nonpayment within this period shall  
26 be subject to the remedies of dissolution and damages provided  
27 in this act.

28 Section 3.5. Division orders, precedence of lease and penalties  
29 for failure to pay royalties due.

30 (a) General rule.--A division order may not alter or amend

1 the terms of the oil and gas lease. A division order that varies  
2 the terms of the oil and gas lease is invalid to the extent of  
3 the variance, and the terms of the oil and gas lease take  
4 precedence.

5 (b) Effect.--The execution of a division order is not a  
6 condition precedent to receiving payment from a lessee. The  
7 lessee may not withhold royalty payments because the lessor has  
8 not executed a division order.

9 (c) Penalty.--

10 (1) If the lessee fails to pay royalties solely because  
11 the lessor has not executed a division order, the court shall  
12 award as damages double the amount of royalties due, legal  
13 interest on that sum from the date due and reasonable  
14 attorney fees.

15 (2) If the lessor fails to supply the name, address and  
16 tax identification number upon written request of the lessee,  
17 the lessee's failure to pay royalties shall be deemed  
18 reasonable.

19 Section 3.6. Effect of payment in response to notice.

20 (a) General rule.--If the lessee pays the royalties due in  
21 response to the required notice, the remedy of dissolution shall  
22 be unavailable unless it is found that the original failure to  
23 pay was fraudulent.

24 (b) Amount of recovery.--

25 (1) The court may award as damages double the amount of  
26 royalties due, interest on that sum from the date due and  
27 reasonable attorney fees, provided the original failure to  
28 pay royalties was either fraudulent or willful and without  
29 reasonable grounds.

30 (2) In all other cases, including, but not limited to,

mere oversight or neglect, damages shall be limited to  
interest on the royalties computed from the date due and a  
reasonable attorney fee if such interest is not paid within  
30 days of written demand therefor.

Section 3.7. Effect of nonpayment in response to notice or  
failure to state cause.

If the lessee fails to pay royalties due or fails to inform  
the lessor of a reasonable cause for failure to pay in response  
to the required notice, the court may:

(1) award as damages double the amount of royalties due,  
interest on that sum from the date due and reasonable  
attorney fees regardless of the cause for the original  
failure to pay royalties; and

(2) dissolve the lease.

Section 3.8. Dissolution not a favored remedy.

In a case where notice of failure to pay royalties is  
required, dissolution should be granted only if the conduct of  
the lessee, either in failing to pay originally or in failing to  
pay in response to the required notice, is such that the remedy  
of damages is inadequate to do justice.

Section 3.9. Dissolution may be partial or entire.

A mineral lease may be dissolved partially or in its  
entirety. A decree of partial dissolution may be made applicable  
to a specified portion of land, to a particular stratum or  
strata or to a particular mineral or minerals.

Section 5. Section 4 of the act is amended to read:

[Section 4. This act shall take effect in 60 days.]

Section 4. Effective date.

This act shall take effect in 60 days.

Section 6. This act shall take effect in 60 days.