
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1720 Session of
2017

INTRODUCED BY CONKLIN, V. BROWN, O'BRIEN AND THOMAS,
AUGUST 16, 2017

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
AUGUST 16, 2017

AN ACT

1 Amending Title 72 (Taxation and Fiscal Affairs) of the
2 Pennsylvania Consolidated Statutes, providing for natural gas
3 severance tax; and repealing provisions relating to the
4 expiration of the unconventional gas well fee.

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

7 Section 1. Title 72 is amended by adding a chapter to read:

8 CHAPTER 16

9 NATURAL GAS SEVERANCE TAX

10 Sec.

11 1601. Scope of chapter.

12 1602. Definitions.

13 1603. Imposition of tax.

14 1603.1. Rate adjustment index.

15 1604. Registration.

16 1605. Meters.

17 1606. Assessments.

18 1607. Time for assessment.

- 1 1608. Extension of assessment period.
2 1609. Reassessments.
3 1610. Interest.
4 1611. Criminal acts.
5 1612. Abatement of additions or penalties.
6 1613. Bulk and auction sales.
7 1614. Collection upon failure to request reassessment, review
8 or appeal.
9 1615. Tax liens.
10 1616. Tax suit reciprocity.
11 1617. Service.
12 1618. Refunds.
13 1619. Refund petition.
14 1620. Rules and regulations.
15 1621. Recordkeeping.
16 1622. Examinations.
17 1623. Unauthorized disclosure.
18 1624. Cooperation with other governments.
19 1625. Bonds.
20 1626. Deposit of proceeds.
21 1627. Penalties.
22 § 1601. Scope of chapter.

23 This chapter relates to the implementation of a natural gas
24 severance tax.

25 § 1602. Definitions.

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

29 "Association." A partnership, limited partnership or any
30 other form of unincorporated enterprise owned or conducted by

1 two or more persons.

2 "Average annual price of natural gas." The arithmetic mean
3 of the New York Mercantile Exchange (NYMEX) Henry Hub settled
4 price on the last trading day of each month of a calendar year
5 as reported by the Wall Street Journal for the 12-month period
6 ending March 31.

7 "Base rate." The rate under section 1603 (relating to
8 imposition of tax).

9 "Coal bed methane." Gas that can be produced from coal beds,
10 coal seams, mined-out areas or gob wells.

11 "Corporation." A corporation, joint-stock association,
12 limited liability company, business trust or any other
13 incorporated enterprise organized under the laws of the United
14 States, this Commonwealth or any other state, territory or
15 foreign country or dependency.

16 "Department." The Department of Revenue of the Commonwealth.

17 "Municipality." A city, borough, incorporated town or
18 township.

19 "Natural gas." As defined in 58 Pa.C.S. § 2301 (relating to
20 definitions).

21 "Nonproducing site." A point of severance that is not
22 capable of producing natural gas in paying quantities.

23 "Paying quantities." Profit to the producer, however small,
24 over the producer's current operating expenses.

25 "Person." Any natural person, corporation, fiduciary,
26 association or other entity. The term includes the Commonwealth
27 and any political subdivision, instrumentality and authority of
28 the Commonwealth.

29 "Producer." As defined in 58 Pa.C.S. § 2301.

30 "Producing site." A point of severance capable of producing

1 natural gas in paying quantities.

2 "Reporting period." Every three successive calendar months
3 beginning January 1, 2018.

4 "Secretary." The Secretary of Revenue of the Commonwealth.

5 "Sever." Extract or otherwise remove natural gas from the
6 soil or water of this Commonwealth.

7 "Stripper well." A producing site or a nonproducing site
8 that is not capable of producing and does not produce more than
9 90,000 cubic feet of natural gas per day.

10 "Taxpayer." A person subject to the tax imposed by this
11 chapter.

12 "Unconventional gas well." As defined in 58 Pa.C.S. § 2301.
13 The term does not include a vertical gas well.

14 "Unit." One thousand cubic feet of natural gas measured at
15 the wellhead at a temperature of 60 degrees Fahrenheit and an
16 absolute pressure of 14.73 pounds per square inch in accordance
17 with American Gas Association Standards and according to Boyle's
18 Law for the measurement of gas under varying pressures with
19 deviations as follows:

20 (1) The average absolute atmospheric pressure shall be
21 assumed to be 14.4 pounds per square inch, regardless of
22 elevation or location of point of delivery above sea level or
23 variations in atmospheric pressure.

24 (2) The temperature of the gas passing the meters shall
25 be determined by the continuous use of a recording
26 thermometer installed to properly record the temperature of
27 gas flowing through the meters. The arithmetic average of the
28 temperature recorded each 24-hour day shall be used in
29 computing gas volumes. If a recording thermometer is not
30 installed, or is installed and not operating properly, an

1 average flowing temperature of 60 degrees Fahrenheit shall be
2 used in computing gas volume.

3 (3) The specific gravity of the gas shall be determined
4 annually by tests made by the use of an Edwards or Acme
5 gravity balance, or at intervals as found necessary in
6 practice. Specific gravity determinations shall be used in
7 computing gas volumes.

8 (4) The deviation of the natural gas from Boyle's Law
9 shall be determined by annual tests or at other shorter
10 intervals as found necessary in practice. The apparatus and
11 method used in making the test shall be in accordance with
12 recommendations of the National Bureau of Standards or Report
13 No. 3 of the Gas Measurement Committee of the American Gas
14 Association. The results of the tests shall be used in
15 computing the volume of gas delivered under this chapter.
16 "Vertical gas well." As defined in 58 Pa.C.S. § 2301.
17 "Wellhead meter." A meter that measures the volume of
18 natural gas severed from an unconventional gas well.

19 § 1603. Imposition of tax.

20 (a) Establishment.--Beginning July 1, 2018, there shall be
21 levied a natural gas severance tax payable on every producer.
22 The tax shall not be imposed on units severed from a stripper
23 well unless:

24 (1) The stripper well is one of multiple producing sites
25 or nonproducing sites, the combined volumes of gas produced
26 by all of which sites are measured by a single wellhead meter
27 as provided in section 1605 (relating to meters).

28 (2) The combined volumes of gas produced by all the
29 producing sites or nonproducing sites described in paragraph
30 (1) is more than 90,000 cubic feet of natural gas per day.

1 (a.1) Exemptions.--The fee shall not be imposed on the
2 following:

3 (1) Units severed by a producer and sold and delivered
4 to a manufacturer of tangible personal property for the
5 manufacturer's use within this Commonwealth if the units have
6 been severed from one or more producing sites or nonproducing
7 sites on property owned by the manufacturer.

8 (2) Units provided free of charge to the owner of the
9 surface under which the gas is severed if the surface owner
10 is the end user of the gas.

11 (b) Base rate.--The base rate shall be 10¢ per unit severed
12 at the wellhead.

13 (c) Return and payment.--Every producer subject to the
14 provisions of this chapter shall file a return with the
15 department, on a form prescribed by the department, which shall
16 include the following:

17 (1) The number of natural gas units severed by the
18 producer for the reporting period and the gross value of the
19 units.

20 (2) The amount of tax due under subsection (b).

21 (3) Other information reasonably required by the
22 department.

23 (d) Filing.--The return required by subsection (c) shall be
24 filed with the department within 15 days following the end of a
25 reporting period. The tax is due on the day the return is
26 required to be filed under this subsection and shall become
27 delinquent if not remitted to the department by the required
28 date.

29 § 1603.1. Rate adjustment index.

30 (a) Annual adjustment.--The base rate shall be adjusted

1 annually by the amount of the rate adjustment index as
2 calculated under subsection (c), provided that the adjusted rate
3 shall never be less than the base rate. The adjusted rate shall
4 be effective for the next fiscal year.

5 (b) Determination of adjustment.--On or before April 30 of
6 each year following the effective date of this section, the
7 department shall calculate and determine the amount of the rate
8 adjustment index.

9 (c) Calculation of adjustment.--The rate adjustment index
10 shall be determined as follows:

11 (1) If 8% of the average annual price of natural gas is
12 less than the base rate, the rate adjustment index shall be
13 zero and the adjusted rate shall be the base rate.

14 (2) If 8% of the average annual price of natural gas is
15 greater than the base rate, the rate adjustment index shall
16 be 60% of the difference between 8% of the average annual
17 price of natural gas and the base rate. The adjusted rate
18 shall be the resulting rate adjustment index plus the base
19 rate rounded to the nearest whole cent.

20 (d) Publication of adjustment.--The department shall forward
21 the amount of the rate adjustment index and the adjusted rate,
22 as determined under subsection (c), to the Legislative Reference
23 Bureau for publication in the Pennsylvania Bulletin by May 1 of
24 each year and shall simultaneously provide the information to
25 producers by written notice. Failure to publish or provide to
26 producers the amount of the rate adjustment index and the
27 adjusted rate shall not affect the applicability of the adjusted
28 rate under subsection (b).

29 (e) Discontinuance of data.--If publication of the NYMEX
30 Henry Hub average monthly natural gas price data is

1 discontinued, the adjusted rate then in effect shall not be
2 adjusted until a comparable method for determining the rate
3 adjustment index is adopted by the General Assembly.

4 (f) Other adjustments.--If the base data of the NYMEX Henry
5 Hub average monthly natural gas price is substantially revised,
6 the department shall, when determining the amount of the rate
7 adjustment index under subsection (c), make appropriate changes
8 to ensure that the rate adjustment index is reasonably
9 consistent with the result that would have been attained had the
10 substantial revision not been made. If the department is unable
11 to make reasonable changes sufficient to ensure a consistent
12 result, the adjusted rate then in effect shall not be adjusted
13 until a comparable method for determining the rate adjustment
14 index is adopted by the General Assembly.

15 (g) Application of fee determinations.--The provisions of
16 this section shall affect only the determination of the tax
17 imposed under section 1603 (relating to imposition of tax). The
18 provisions of this section are not intended nor shall they be
19 construed to affect any other determination, including, but not
20 limited to, the determination of royalty due under mineral
21 leases. Notwithstanding any other provision of law, the tax
22 imposed under section 1603 shall not reduce any royalty payments
23 due under mineral leases, and the producer shall not recover any
24 portion of the tax paid from the royalty owner through other
25 means of deduction or reallocation, notwithstanding any
26 provision in the lease, contract or agreement.

27 § 1604. Registration.

28 (a) Application.--Before a producer severs natural gas or
29 continues to sever natural gas in this Commonwealth after
30 December 31, 2017, the producer shall apply to the department

1 for a registration certificate. The department may charge an
2 application fee to cover the administrative costs associated
3 with the application and registration process.

4 (b) Issuance.--Except as provided in subsection (c), after
5 the receipt of an application and the required application fee,
6 the department shall issue a registration certificate to the
7 producer. The registration certificate is nonassignable. A
8 registrant is required to renew the registration certificate on
9 a staggered renewal system established by the department. After
10 the initial staggered renewal period, a registration certificate
11 is valid for a period of five years.

12 (c) Refusal, suspension or revocation.--

13 (1) The department may refuse to issue, suspend or
14 revoke a registration certificate if the applicant or
15 registrant has not filed required State tax reports and paid
16 State taxes not subject to a timely perfected administrative
17 or judicial appeal or an authorized deferred payment plan.

18 (2) The department shall notify the applicant or
19 registrant of a refusal, suspension or revocation. The notice
20 shall contain a statement that the refusal, suspension or
21 revocation may be made public. The notice shall be made by
22 first class mail.

23 (3) An applicant or registrant aggrieved by the
24 determination of the department may file an appeal under the
25 provisions for administrative appeals in the act of March 4,
26 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971. In
27 the case of a suspension or revocation which is appealed, the
28 registration certificate shall remain valid pending a final
29 outcome of the appeals process. Notwithstanding any other
30 provision of law, if no appeal is taken or if an appeal is

1 taken and denied at the conclusion of the appeal process, the
2 department may disclose, by publication or otherwise, the
3 identity of a producer and the fact that the producer's
4 registration certificate has been refused, suspended or
5 revoked under this subsection. Disclosure may include the
6 basis for refusal, suspension or revocation.

7 (d) Violation.--

8 (1) A person that severs natural gas in this
9 Commonwealth in violation of subsection (a) commits a summary
10 offense and shall, upon conviction, be sentenced to pay a
11 fine of not less than \$300 nor more than \$1,500, or, in
12 default of the payment, to imprisonment for not less than
13 five days nor more than 30 days.

14 (2) For purposes of this subsection, each day in which
15 natural gas is severed shall constitute a separate violation.

16 (3) The penalties imposed by this subsection shall be in
17 addition to any other penalties imposed by this chapter.

18 (4) The secretary may designate employees of the
19 department to enforce the provisions of this subsection. The
20 employees shall exhibit proof of and be within the scope of
21 the designation when instituting proceedings as provided by
22 the Pennsylvania Rules of Criminal Procedure.

23 (e) Failure to obtain registration certificate.--Failure to
24 obtain or hold a valid registration certificate does not relieve
25 a person from liability for the tax imposed by this chapter.

26 § 1605. Meters.

27 A producer shall provide for and maintain a discrete wellhead
28 meter where natural gas is severed. A producer shall ensure that
29 the meters are maintained according to industry standards. Any
30 wellhead meter installed after the effective date of this

1 section shall be a digital meter.

2 § 1606. Assessments.

3 (a) Authorization and requirement.--The department is
4 authorized and shall make inquiries, determinations and
5 assessments of the tax imposed under this chapter, including
6 interest, additions and penalties imposed under this chapter.

7 (b) Notice.--The notice of assessment and demand for payment
8 shall be mailed to the taxpayer. The notice shall set forth the
9 basis of the assessment. The department shall send the notice of
10 assessment to the taxpayer at its registered address via
11 certified mail if the assessment increases the taxpayer's tax
12 liability by \$300. Otherwise, the notice of assessment may be
13 sent via regular mail.

14 § 1607. Time for assessment.

15 (a) Requirement.--An assessment as provided under section
16 1606 (relating to assessments) shall be made within three years
17 after the date when the return provided for by section 1603(c)
18 (relating to imposition of tax) is filed or the end of the year
19 in which the tax liability arises, whichever shall occur last.
20 For the purposes of this subsection and subsection (b), a return
21 filed before the last day prescribed for the filing period shall
22 be considered as filed on the last day.

23 (b) Exception.--If the taxpayer underpays the correct amount
24 of the tax due by 25% or more, the tax may be assessed within
25 six years after the date the return was filed.

26 (c) Intent to evade.--Where no return is filed or where the
27 taxpayer files a false or fraudulent return with intent to evade
28 the tax imposed by this chapter, the assessment may be made at
29 any time.

30 (d) Erroneous credit or refund.--Within three years of the

1 granting of a refund or credit or within the period in which an
2 assessment or reassessment may have been issued by the
3 department for the taxable period for which the refund was
4 granted, whichever period shall occur last, the department may
5 issue an assessment to recover a refund or credit made or
6 allowed erroneously.

7 § 1608. Extension of assessment period.

8 Notwithstanding the provisions of this chapter, the
9 assessment period may be extended in the event a taxpayer has
10 provided written consent before the expiration of the period
11 provided in section 1607 (relating to time for assessment) for a
12 tax assessment. The amount of tax due may be assessed at any
13 time within the extended period. The period may be extended
14 further by subsequent written consents made before the
15 expiration of the extended period.

16 § 1609. Reassessments.

17 A taxpayer against whom an assessment is made may petition
18 the department for a reassessment under Article XXVII of the act
19 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
20 1971.

21 § 1610. Interest.

22 The department shall assess interest on any delinquent tax at
23 the rate prescribed under section 806 of the act of April 9,
24 1929 (P.L.343, No.176), known as The Fiscal Code.

25 § 1611. Criminal acts.

26 (a) Fraudulent return.--Any person with intent to defraud
27 the Commonwealth who willfully makes or causes to be made a
28 return required by this chapter which is false is guilty of a
29 misdemeanor and shall, upon conviction, be sentenced to pay a
30 fine of not more than \$2,000 or to imprisonment for not more

1 than three years, or both.

2 (b) Other crimes.--

3 (1) Except as otherwise provided by subsection (a), a
4 person is guilty of a misdemeanor and shall, upon conviction,
5 be sentenced to pay a fine of not more than \$1,000 and costs
6 of prosecution or to imprisonment for not more than one year,
7 or both, for any of the following:

8 (i) Willfully failing to timely remit the tax to the
9 department.

10 (ii) Willfully failing or neglecting to timely file
11 a return or report required by this chapter.

12 (iii) Refusing to timely pay a tax, penalty or
13 interest imposed or provided for by this chapter.

14 (iv) Willfully failing to preserve its books, papers
15 and records as directed by the department.

16 (v) Refusing to permit the department or its
17 authorized agents to examine its books, records or
18 papers.

19 (vi) Knowingly making any incomplete, false or
20 fraudulent return or report.

21 (vii) Preventing or attempting to prevent the full
22 disclosure of the amount of natural gas severance tax
23 due.

24 (viii) Providing any person with a false statement
25 as to the payment of the tax imposed under this chapter
26 with respect to any pertinent facts.

27 (ix) Making, uttering or issuing a false or
28 fraudulent statement.

29 (2) The penalties imposed by this section shall be in
30 addition to other penalties imposed by this chapter.

1 § 1612. Abatement of additions or penalties.

2 Upon the filing of a petition for reassessment or a petition
3 for refund by a taxpayer as provided under this chapter,
4 additions or penalties imposed upon the taxpayer by this chapter
5 may be waived or abated, in whole or in part, where the
6 petitioner establishes that he acted in good faith, without
7 negligence and with no intent to defraud.

8 § 1613. Bulk and auction sales.

9 A person that sells or causes to be sold at auction, or that
10 sells or transfers in bulk, 51% or more of a stock of goods,
11 wares or merchandise of any kind, fixtures, machinery,
12 equipment, buildings or real estate involved in a business for
13 which the person holds a registration certificate or is required
14 to obtain a registration certificate under the provisions of
15 this chapter shall be subject to the provisions of section 1403
16 of the act of April 9, 1929 (P.L.343, No.176), known as The
17 Fiscal Code.

18 § 1614. Collection upon failure to request reassessment, review
19 or appeal.

20 (a) Power of department.--The department may collect the tax
21 imposed under this chapter:

22 (1) If an assessment of the tax is not paid within 30
23 days after notice to the taxpayer when no petition for
24 reassessment has been filed.

25 (2) Within 60 days of the reassessment, if no petition
26 for review has been filed.

27 (3) If no appeal has been made, within 30 days of:

28 (i) the Board of Finance and Revenue's decision of a
29 petition for review; or

30 (ii) the expiration of the board's time for acting

1 upon the petition.

2 (4) In all cases of judicial sales, receiverships,
3 assignments or bankruptcies.

4 (b) Prohibition.--In a case for the collection of taxes
5 under subsection (a), the taxpayer against whom they were
6 assessed shall not be permitted to set up a ground of defense
7 that might have been determined by the department, the Board of
8 Finance and Revenue or the courts, provided that the defense of
9 failure of the department to mail notice of assessment or
10 reassessment to the taxpayer and the defense of payment of
11 assessment or reassessment may be raised in proceedings for
12 collection by a motion to stay the proceedings.

13 § 1615. Tax liens.

14 (a) Lien imposed.--If a taxpayer neglects or refuses to pay
15 the tax imposed under this chapter for which the taxpayer is
16 liable under this chapter after demand, the amount, including
17 interest, addition or penalty, together with additional costs
18 that may accrue, shall be a lien in favor of the Commonwealth
19 upon the real and personal property of the taxpayer, but only
20 after the same has been entered and docketed on the record by
21 the prothonotary of the county where the property is situated.
22 The department may, at any time, transmit to the prothonotaries
23 of the respective counties certified copies of all liens imposed
24 by this section. It shall be the duty of the prothonotary
25 receiving the lien to enter and docket the same of record to the
26 office of the prothonotary. The lien shall be indexed as
27 judgments are now indexed. No prothonotary shall require as a
28 condition precedent to the entry of the lien the payment of
29 costs incidental to its entry.

30 (b) Priority of lien and effect on judicial sale.--Except

1 for the costs of the sale and the writ upon which the sale was
2 made and real estate taxes and municipal claims against the
3 property, a lien imposed under this section shall have priority
4 from the date of its recording and shall be fully paid and
5 satisfied out of the proceeds of any judicial sale of property
6 subject to the lien, before any other obligation, judgment,
7 claim, lien or estate to which the property may subsequently
8 become subject, but shall be subordinate to mortgages and other
9 liens existing and duly recorded or entered on the record prior
10 to the recording of the lien.

11 (c) No discharge by sale on junior lien.--In the case of a
12 judicial sale of property subject to a lien imposed under this
13 section, upon a lien or claim over which the lien imposed under
14 this section has priority, the sale shall discharge the lien
15 imposed under this section to the extent only that the proceeds
16 are applied to its payment, and the lien shall continue in full
17 force and effect as to the balance remaining unpaid. There shall
18 be no inquisition or condemnation upon any judicial sale of real
19 estate made by the Commonwealth under the provisions of this
20 chapter. The lien shall continue as provided in the act of April
21 9, 1929 (P.L.343, No.176), known as The Fiscal Code, and a writ
22 of execution may directly issue upon the lien without the
23 issuance and prosecution to judgment of a writ of scire facias,
24 provided that not less than 10 days before issuance of any
25 execution on the lien, notice of the filing and the effect of
26 the lien shall be sent by registered mail to the taxpayer at its
27 last known post office address, further provided that the lien
28 shall have no effect upon any stock of goods, wares or
29 merchandise regularly sold or leased in the ordinary course of
30 business by the taxpayer against whom the lien has been entered,

1 unless and until a writ of execution has been issued and a levy
2 made upon the stock of goods, wares and merchandise.

3 (d) Penalty.--A prothonotary who intentionally violates this
4 section commits a misdemeanor of the third degree and shall,
5 upon conviction, be sentenced to pay a fine of not more than
6 \$1,000 and costs of prosecution or to imprisonment for not more
7 than one year, or both.

8 (e) Priority.--

9 (1) Except as provided in this chapter, if there is
10 distribution, voluntary or compulsory, in receivership,
11 bankruptcy or otherwise of the property or estate of any
12 person, all taxes imposed by this chapter which are due and
13 unpaid and are not collectible under the provisions of
14 section 225 of the act of March 4, 1971 (P.L.6, No.2), known
15 as the Tax Reform Code of 1971, shall be paid from the first
16 money available for distribution in priority to all other
17 claims and liens, except as the laws of the United States may
18 give priority to a claim to the Federal Government.

19 (2) A person charged with the administration or
20 distribution of the property or estate who violates the
21 provisions of this section shall be personally liable for the
22 taxes imposed by this chapter which are accrued and unpaid
23 and chargeable against the person whose property or estate is
24 being administered or distributed.

25 (f) Other remedies.--Subject to the limitations contained in
26 this chapter as to the assessment of taxes, nothing contained in
27 this section shall be construed to restrict, prohibit or limit
28 the use by the department in collecting taxes due and payable of
29 another remedy or procedure available at law or equity for the
30 collection of debts.

1 § 1616. Tax suit reciprocity.

2 The courts of the Commonwealth shall recognize and enforce
3 liabilities for natural gas severance or extraction taxes
4 lawfully imposed by any other state, provided that the other
5 state recognizes and enforces the tax imposed under this
6 chapter.

7 § 1617. Service.

8 A producer is deemed to have appointed the Secretary of the
9 Commonwealth its agent for the acceptance of service of process
10 or notice in a proceeding for the enforcement of the civil
11 provisions of this chapter and service made upon the Secretary
12 of the Commonwealth as agent shall be of the same legal force
13 and validity as if the service had been personally made upon the
14 producer. Where service cannot be made upon the producer in the
15 manner provided by other laws of this Commonwealth relating to
16 service of process, service may be made upon the Secretary of
17 the Commonwealth. In that case, a copy of the process or notice
18 shall be personally served upon any agent or representative of
19 the producer who may be found within this Commonwealth, or,
20 where no agent or representative may be found, a copy of the
21 process or notice shall be sent via registered mail to the
22 producer at the last known address of its principal place of
23 business, home office or residence.

24 § 1618. Refunds.

25 Under Article XXVII of the act of March 4, 1971 (P.L.6,
26 No.2), known as the Tax Reform Code of 1971, the department
27 shall refund all taxes, interest and penalties paid to the
28 Commonwealth under the provisions of this chapter to which the
29 Commonwealth is not rightfully entitled. The refunds shall be
30 made to the person or the person's heirs, successors, assigns or

1 other personal representatives who paid the tax, provided that
2 no refund shall be made under this section regarding a payment
3 made by reason of an assessment where a taxpayer has filed a
4 petition for reassessment under section 2702 of the Tax Reform
5 Code of 1971 to the extent the petition is adverse to the
6 taxpayer by a decision which is no longer subject to further
7 review or appeal. Nothing in this chapter shall prohibit a
8 taxpayer who has filed a timely petition for reassessment from
9 amending it to a petition for refund where the petitioner paid
10 the tax assessed.

11 § 1619. Refund petition.

12 (a) General rule.--Except as provided for in subsection (b),
13 the refund or credit of tax, interest or penalty provided for by
14 section 1618 (relating to refunds) shall be made only where the
15 person who has paid the tax files a petition for refund with the
16 department under Article XXVII of the act of March 4, 1971
17 (P.L.6, No.2), known as the Tax Reform Code of 1971, within the
18 time limits of section 3003.1 of the Tax Reform Code of 1971.

19 (b) Natural gas severance tax.--A refund or credit of tax,
20 interest or penalty paid as a result of an assessment made by
21 the department under section 1606 (relating to assessments)
22 shall be made only where the person who has paid the tax files
23 with the department a petition for refund with the department
24 under Article XXVII of the Tax Reform Code of 1971 within the
25 time limits of section 3003.1 of the Tax Reform Code of 1971.
26 The filing of a petition for refund under the provisions of this
27 subsection shall not affect the abatement of interest, additions
28 or penalties to which the person may be entitled by reason of
29 the person's payment of the assessment.

30 § 1620. Rules and regulations.

1 The department is charged with the enforcement of the
2 provisions of this chapter and is authorized and empowered to
3 prescribe, adopt, promulgate and enforce rules and regulations
4 not inconsistent with the provisions of this chapter relating to
5 any matter or thing pertaining to the administration and
6 enforcement of the provisions of this chapter and the collection
7 of taxes, penalties and interest imposed by this chapter. The
8 department may prescribe the extent, if any, to which any of the
9 rules and regulations shall be applied without retroactive
10 effect.

11 § 1621. Recordkeeping.

12 (a) General rule.--Every person liable for any tax imposed
13 by this chapter, or for the collection of the tax, shall keep
14 records, render statements, make returns and comply with the
15 rules and regulations as the department may prescribe regarding
16 matters pertinent to the person's business. Whenever it is
17 necessary, the department may require a person, by notice served
18 upon the person or by regulations, to make returns, render
19 statements or keep records as the department deems sufficient to
20 show whether or not a person is liable to pay tax under this
21 chapter.

22 (a.1) Records.--Records to be maintained are:

23 (1) Wellhead meter charts for each reporting period and
24 the meter calibration and maintenance records. If turbine
25 meters are in use, the maintenance records will be made
26 available to the department upon request.

27 (2) Records, statements and other instruments furnished
28 to a producer by a person to whom the producer delivers for
29 sale, transport or delivery of natural gas.

30 (3) Records, statements and other instruments as the

1 department may prescribe by regulation.

2 (b) Records of nonresidents.--A nonresident who does
3 business in this Commonwealth as a producer shall keep adequate
4 records of the business and of the tax due as a result. The
5 records shall be retained within this Commonwealth unless
6 retention outside this Commonwealth is authorized by the
7 department. The department may require a taxpayer who desires to
8 retain records outside this Commonwealth to assume reasonable
9 out-of-State audit expenses.

10 (c) Keeping of separate records.--A producer who is engaged
11 in any other business or businesses which do not involve the
12 severing of natural gas taxable under this chapter shall keep
13 separate books and records of the businesses so as to show the
14 taxable severing of natural gas under this chapter separately
15 from other business activities not taxable under this chapter.
16 If any person fails to keep separate books and records, the
17 person shall be liable for a penalty equaling 100% of tax due
18 under this chapter for the period where separate records were
19 not maintained.

20 § 1622. Examinations.

21 The department or any of its authorized agents are authorized
22 to examine the books, papers and records of any taxpayer in
23 order to verify the accuracy and completeness of any return made
24 or, if no return was made, to ascertain and assess the tax
25 imposed by this chapter. The department may require the
26 preservation of all books, papers and records for any period
27 deemed proper by it but not to exceed three years from the end
28 of the calendar year to which the records relate. Every taxpayer
29 is required to give to the department or its agent the means,
30 facilities and opportunity for examinations and investigations

1 under this section. The department is further authorized to
2 examine any person, under oath, concerning the taxable severing
3 of natural gas by any taxpayer or concerning any other matter
4 relating to the enforcement or administration of this chapter,
5 and to this end may compel the production of books, papers and
6 records and the attendance of all persons whether as parties or
7 witnesses whom it believes to have knowledge of relevant
8 matters. The procedure for the hearings or examinations shall be
9 the same as that provided by the act of April 9, 1929 (P.L.343,
10 No.176), known as The Fiscal Code.

11 § 1623. Unauthorized disclosure.

12 Any information gained by the department as a result of any
13 return, examination, investigation, hearing or verification
14 required or authorized by this chapter shall be confidential
15 except for official purposes and except in accordance with
16 proper judicial order or as otherwise provided by law, and any
17 person unlawfully divulging the information shall be guilty of a
18 misdemeanor and shall, upon conviction, be sentenced to pay a
19 fine of not more than \$1,000 and costs of prosecution or to
20 imprisonment for not more than one year, or both.

21 § 1624. Cooperation with other governments.

22 Notwithstanding the provisions of section 1616 (relating to
23 tax suit reciprocity), the department may permit the
24 Commissioner of the Internal Revenue Service of the United
25 States, the proper officer of any state or the authorized
26 representative of either of them to inspect the tax returns of
27 any taxpayer, or may furnish to the commissioner or officer or
28 to either of their authorized representatives an abstract of the
29 return of any taxpayer, or supply him with information
30 concerning any item contained in any return or disclosed by the

1 report of any examination or investigation of the return of any
2 taxpayer. This permission shall be granted only if the laws of
3 the United States or another state grant substantially similar
4 privileges to the proper officer of the Commonwealth charged
5 with the administration of this chapter.

6 § 1625. Bonds.

7 (a) Taxpayer to file bond.--The department may require a
8 nonresident natural person or any foreign corporation,
9 association, fiduciary or other entity, not authorized to do
10 business within this Commonwealth or not having an established
11 place of business in this Commonwealth and subject to the tax
12 imposed by section 1603 (relating to imposition of tax), to file
13 a bond issued by a surety company authorized to do business in
14 this Commonwealth and approved by the Insurance Commissioner as
15 to solvency and responsibility, in amounts as it may fix, to
16 secure the payment of any tax or penalties due or which may
17 become due from a nonresident natural person, corporation,
18 association, fiduciary or other entity whenever it deems it
19 necessary to protect the revenues obtained under this chapter.
20 The department may also require a bond of a person petitioning
21 the department for reassessment in the case of any assessment
22 over \$500 or where, in its opinion, the ultimate collection is
23 in jeopardy. For a period of three years, the department may
24 require a bond of any person who has, on three or more occasions
25 within a 12-month period, either filed a return or made payment
26 to the department more than 30 days late. In the event the
27 department determines a taxpayer is required to file a bond, it
28 shall give notice to the taxpayer specifying the amount of the
29 bond required. The taxpayer shall file the bond within five days
30 after notice is given by the department unless, within five

1 days, the taxpayer shall request in writing a hearing before the
2 secretary or the secretary's representative. At the hearing, the
3 necessity, propriety and amount of the bond shall be determined
4 by the secretary or the secretary's representative. The
5 determination shall be final and the taxpayer shall comply with
6 it within 15 days after notice is mailed to the taxpayer.

7 (b) Securities in lieu of bond.--In lieu of the bond
8 required by this section, securities approved by the department
9 or cash in a prescribed amount may be deposited. The securities
10 or cash shall be kept in the custody of the department. The
11 department may apply the securities or cash to the tax imposed
12 by this chapter and interest or penalties due without notice to
13 the depositor. The securities may be sold by the department to
14 pay the tax, interest or penalties due at public or private sale
15 upon five days' written notice to the depositor.

16 (c) Failure to file bond.--The department may file a lien
17 under section 1615 (relating to tax liens) against any taxpayer
18 who fails to file a bond when required to do so under this
19 section. All funds received upon execution of the judgment on
20 the lien shall be refunded to the taxpayer with 3% interest,
21 should a final determination be made that the taxpayer does not
22 owe any payment to the department.

23 § 1626. Deposit of proceeds.

24 The proceeds of the tax imposed under section 1603 (relating
25 to imposition of tax) and penalties and interest imposed under
26 this chapter, shall be deposited into the General Fund and shall
27 be allowed annually as follows:

28 (1) After the payment of refunds of the tax and the
29 expense of administering and enforcing the tax, the first
30 \$300,000,000 of revenue shall be allocated to the Low-Income

1 Home Energy Assistance Program.

2 (2) Any remaining revenue shall be allocated to property
3 tax or rent rebate under Chapter 13 of the act of June 27,
4 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer
5 Relief Act.

6 § 1627. Penalties.

7 The department shall enforce the following penalties:

8 (1) A penalty against a producer without a registration
9 certificate required under section 1604 (relating to
10 registration). The penalty shall be \$1 for every unit severed
11 without a valid registration certificate. The department may
12 assess this penalty separately from or in conjunction with
13 any assessment of the natural gas severance tax.

14 (2) A penalty against a producer for failure to timely
15 file a return as required under section 1603(c) (relating to
16 imposition of tax). The penalty shall be 5% of the tax
17 liability to be reported on the return for each day beyond
18 the due date that the return is not filed.

19 (3) In addition to the penalty under paragraph (2), a
20 penalty against the producer for a willful failure to timely
21 file a return. The penalty shall be 200% of the tax liability
22 required to be reported on the return.

23 (4) A penalty against a producer for failure to timely
24 pay the tax as required by section 1603(d). The penalty shall
25 be 5% of the amount of tax due for each day beyond the
26 payment date that the tax is not paid.

27 Section 2. Repeals are as follows:

28 (1) The General Assembly declares that the repeal under
29 paragraph (2) is necessary to effectuate the addition of 72
30 Pa.C.S. Ch. 16.

1 (2) The provisions of 58 Pa.C.S. § 2318 are repealed.

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