

**SENATE APPROPRIATIONS COMMITTEE
FISCAL NOTE**

BILL NO. Senate Bill 1238

PRINTER'S NO. 1891

AMOUNT

No Fiscal Impact

FUND

General Fund

DATE INTRODUCED

January 24, 2014

PRIME SPONSOR

Senator Yaw

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 1238 enacts the Oil and Gas Lease Surrender Act by requiring a gas company (lessee) to record a surrender document in the county Recorder of Deeds office where the oil and gas well is located within 30 days of expiration, termination or forfeiture of the oil and gas lease. The surrender document will release the lessee's interests in the oil and gas.

The bill defines a "lessee" as a person who has obtained the right to explore, drill, stimulate, produce, market and sell the oil, gas and natural gas liquids, or portion of the oil, gas and natural gas liquids, by means of a properly executed lease.

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

The bill stipulates that the oil and gas leases shall be surrendered by recording the surrender document with the recording officer of the applicable county. It requires a surrender document to be accompanied by information sufficient to validate the original oil and gas lease recording information in the public record, which must include the following:

- 1. A copy of the recorded memorandum or lease or, if not available, the original oil and gas lease; and
- 2. A fee established by the recording officer.

The bill requires the recording officer to give notice of recording validation procedures with a notice entitled, "Notice by (recording officer) to Adopt Recording Information Validation Procedure under the Oil and Gas Lease Surrender Act. The recording officer must also state any additional fees to be charged and advertised in the county recorder's yearly fee schedule or fee bill, whichever is applicable.

The bill requires the recording officer to index all surrender documents against the name of the lessee or last assignee and to indicate the recording of each surrender document in the oil and gas lease record.

SENATE APPROPRIATIONS COMMITTEE

FISCAL NOTE

The bill specifically states that the recording officer or any political subdivision is not liable for a mistake, error, or inaccuracy found in the surrender document.

The bill requires every lessee to, within 30 days of expiration, termination or forfeiture of the oil and gas lease, present for recording, a duly executed surrender document. It further provides that the surrender document discharges, defeats or releases a lessee's interests in the lease upon recording.

The bill specifically provides for the form and content of the surrender document.

The bill states that after the 30-day period has expired, the lessor may send a notice to the lessee to present the surrender document to the recording officer to avoid damages, and specifies how such notice shall be delivered to the lessor.

The bill specifies the form and content of the notice to surrender, entitled "Notice to Record Oil and Gas Lease Surrender Document to Avoid Penalty."

The bill provides for a penalty for the lessee's failure to record the surrender document if such is not done within 60 days of the lessee's receipt of the first written request (in the above stated format) by the lessor. The lessor may initiate an appropriate court action to compel the surrender of the lease, unless a satisfactory reason was provided by the lessee as to why the oil and gas lease should not be surrendered. If the lessor attains a successful action to compel the surrender of the lease, the lessee shall reimburse the lessor for costs of the action, including the lessor's reasonable attorney fees. The bill states that this action shall be the exclusive remedy for damages for failure of a lessee to issue and present a surrender document for recording. The delivery of a second or subsequent written request by the lessor for a surrender document shall not give rise to an additional cause of action.

The bill specifies that its provisions do not affect nor impair any other act or any rule of civil procedure which provides for the surrender or discharge of an oil and gas lease by order or decree of any court upon payment of an applicable fee.

Section 8 of this bill addresses prior surrender documents by stating that written surrender or intended surrender given prior to the effective date of this section shall be deemed good, valid and effective in law.

Section 9 states that unless otherwise specified by contract, this act shall apply to every oil and gas lease on real property in the Commonwealth which has not been surrendered prior to the effective date of this section and regardless of whether the oil and gas lease was executed before the effective date of this section.

The act shall take effect in 60 days.

SENATE APPROPRIATIONS COMMITTEE

FISCAL NOTE

FISCAL IMPACT:

No fiscal impact to the Commonwealth will result from the passage of this bill. Recording fees for the surrender document must be paid by the lessee. Costs associated with the successful action in court by the lessor to compel the lessee to record the requested surrender document, shall be reimbursed by the lessee to the lessor.