

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1489 Session of 2009

INTRODUCED BY GEORGE, LEVDANSKY, BELFANTI, BRENNAN, CARROLL, FREEMAN, GOODMAN, GRUCELA, HORNAMAN, JOSEPHS, MAHONEY, McILVAINE SMITH, MUNDY, MYERS, SIPTROTH, K. SMITH, STABACK, STURLA, J. TAYLOR, YOUNGBLOOD AND CURRY, MAY 13, 2009

AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 23, 2009

AN ACT

1 Amending Title 72 (Taxation and Fiscal Affairs) of the
2 Pennsylvania Consolidated Statutes, imposing a tax on the
3 extraction of natural gas; providing for natural resource GAS
4 severance tax-license REGISTRATION CERTIFICATE, for duties of
5 the Department of Revenue, for tax assessments and tax liens;
6 imposing penalties; providing for service of process, for
7 rulemaking, for cooperation with other governments and for
8 bonds; and making an appropriation.



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

11 Section 1. Title 72 of the Pennsylvania Consolidated
12 Statutes is amended by adding a chapter to read:

CHAPTER 15

SEVERANCE TAX

15 Sec.

16 1501. Short title of chapter.

17 1502. Definitions.

18 1503. Imposition of tax.

19 1504. Return and payment.

1 1505. Natural resource GAS severance tax registration. ←
2 1505.1 Meters.
3 1506. Assessments.
4 1507. Time for assessment.
5 1508. Extension of limitation period.
6 1509. Reassessments.
7 1510. Interest.
8 1511. Penalties.
9 1512. Criminal acts.
10 1513. Abatement of additions or penalties.
11 1514. Bulk and auction sales.
12 1515. Collection upon failure to request reassessment, review
13 or appeal.
14 1516. Tax liens.
15 1517. Tax suit reciprocity.
16 1518. Service.
17 1519. Refunds.
18 1520. Refund petition.
19 1521. Rules and regulations.
20 1522. Recordkeeping.
21 1523. Examinations.
22 1524. Unauthorized disclosure.
23 1525. Cooperation with other governments.
24 1526. Bonds.
25 1527. NATURAL GAS SEVERANCE TAX FUND. ←
26 1528. ADMINISTRATION OF FUND.
27 ~~1527~~ 1529. Appropriation. ←
28 § 1501. Short title of chapter.
29 This chapter shall be known and may be cited as the Natural
30 Resource GAS Severance Tax Act. ←

1 § 1502. Definitions.

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

5 "ACCREDITED LABORATORY." A FACILITY ENGAGED IN THE TESTING ←
6 AND CALIBRATION OF SCIENTIFIC MEASUREMENT DEVICES AND CERTIFIED
7 BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AS HAVING MET THE
8 DEPARTMENT'S STANDARDS FOR ACCREDITATION.

9 "Association." A partnership, limited partnership or any
10 other form of unincorporated enterprise owned or conducted by
11 two or more persons.

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

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

18 "FUND." THE NATURAL GAS SEVERANCE TAX FUND ESTABLISHED UNDER ←
19 SECTION 1527.

20 "Gross value." The volume-weighted average market price for
21 all arms-length transactions that a producer receives at the
22 sales meter for natural gas during a reporting period.

23 "Meter." A device to measure the passage of volumes of gases
24 or liquids past a certain point.

25 "MUNICIPALITY." A CITY, BOROUGH, INCORPORATED TOWN OR A ←
26 TOWNSHIP.

27 "Natural gas." A fossil fuel consisting of a mixture of
28 hydrocarbon gases, primarily methane, possibly including ethane,
29 propane, butane, pentane, carbon dioxide, oxygen, nitrogen and
30 hydrogen sulfide and other gas species. The term includes

1 natural gas from oil fields known as associated gas or casing
2 head gas, natural gas fields known as nonassociated gas, coal
3 beds, shale beds and other formations.

4 ~~"Non producing~~ "NONPRODUCING site." A point of severance ←
5 that is not capable of producing a natural gas in paying ←
6 quantities.

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

9 ~~"Person." Every natural person, including a corporation,~~ ←
10 ~~limited liability company, business trust, trust, guardian or~~
11 ~~other fiduciary, association, government entity or corporation.~~

12 "PERSON." A NATURAL PERSON OR A CORPORATION, FIDUCIARY, ←
13 ASSOCIATION OR OTHER ENTITY, INCLUDING THE COMMONWEALTH, ITS
14 POLITICAL SUBDIVISIONS, INSTRUMENTALITIES AND AUTHORITIES. WHEN
15 THE TERM IS USED IN A CLAUSE PRESCRIBING AND IMPOSING A PENALTY
16 OR IMPOSING A FINE OR IMPRISONMENT, OR BOTH, THE TERM SHALL
17 INCLUDE THE MEMBERS, AS APPLIED TO AN ASSOCIATION, AND THE
18 OFFICERS, AS APPLIED TO A CORPORATION.

19 "Producer." A person who engages or continues within this
20 Commonwealth in the business of severing natural gas for sale,
21 profit or commercial use. The term does not include a person who
22 severs natural gas from a storage field.

23 "Producing site." A point of severance capable of producing
24 natural gas in paying quantities.

25 "Reporting period." A calendar month in which natural gas is
26 severed.

27 "Sales meter." A meter at the point where natural gas is
28 sold or transported to a purchaser or market.

29 "Sever," "severing" or "severance." The extraction or other
30 removal of a natural resource NATURAL GAS from the soil or water ←

1 of this Commonwealth.

2 "STORAGE FIELD." A NATURAL FORMATION OR OTHER SITE THAT IS
3 USED TO STORE NATURAL GAS THAT DID NOT ORIGINATE FROM AND HAS
4 BEEN INJECTED INTO THE FORMATION OR SITE.

5 "STRIPPER WELL." A PRODUCING SITE OR A NONPRODUCING SITE
6 THAT IS NOT CAPABLE OF PRODUCING AND DOES NOT PRODUCE MORE THAN
7 60,000 CUBIC FEET OF NATURAL GAS PER DAY.

8 "Tax." The tax imposed under this chapter.

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

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

17 (1) The average absolute atmospheric pressure shall be
18 assumed to be 14.4 pounds to the square inch, regardless of
19 elevation or location of point of delivery above sea level or
20 variations in atmospheric pressure from time to time.

21 (2) The temperature of the gas passing the meters shall
22 be determined by the continuous use of a recording
23 thermometer installed to properly record the temperature of
24 gas flowing through the meters. The arithmetic average of the
25 temperature recorded each 24-hour day shall be used in
26 computing gas volumes. If a recording thermometer is not
27 installed, or if installed and not operating properly, an
28 average flowing temperature of 60 degrees Fahrenheit shall be
29 used in computing gas volume.

30 (3) The specific gravity of the gas shall be determined

1 annually by tests made by the use of an Edwards or Acme
2 gravity balance, or at intervals as found necessary in
3 practice. Specific gravity determinations shall be used in
4 computing gas volumes.

5 (4) The deviation of the natural gas from Boyle's Law
6 shall be determined by annual tests or at other shorter
7 intervals as found necessary in practice. The apparatus and
8 method used in making the test shall be in accordance with
9 recommendations of the National Bureau of Standards or Report
10 No. 3 of the Gas Measurement Committee of the American Gas
11 Association, or amendments thereto. The results of the tests
12 shall be used in computing the volume of gas delivered under
13 this chapter.

14 "Wellhead meter." A meter placed at a producing or
15 nonproducing site to measure the volume of natural gas severed
16 FOR WHICH A WELLHEAD METER CERTIFICATION HAS BEEN ISSUED. ←

17 "WELLHEAD METER CERTIFICATION." A REPORT ISSUED BY AN ←
18 ACCREDITED LABORATORY CERTIFYING THE ACCURACY OF A WELLHEAD
19 METER.

20 § 1503. Imposition of tax.

21 (a) Establishment.--There is levied a ~~privilege~~ NATURAL GAS ←
22 SEVERANCE tax on every producer ~~who severs natural gas.~~ ←

23 (b) Rate.--The tax imposed in subsection (a) shall be 5% of
24 the gross value of units severed at the wellhead during a
25 reporting period, plus 4.7 cents per unit severed, BUT SHALL NOT ←
26 BE IMPOSED ON UNITS SEVERED FROM A STRIPPER WELL.

27 § 1504. Return and payment.

28 (a) Requirement.--Every producer is required to file a
29 return with the department, on a form to be prescribed by the
30 department, reporting all severed natural gas ~~resources~~ per ←

1 reporting period and the tax due as imposed under section 1503 ←
2 (relating to imposition of tax).

3 (b) Filing.--The return required by subsection (a) shall be
4 filed with the department within 15 days following the end of
5 the second calendar month after a reporting period.

6 (c) Deadline.--The tax imposed under section 1503 is due on
7 the day THE RETURN IS required to be filed and becomes ←
8 delinquent if not remitted to the department by that date.

9 § 1505. Natural resource GAS severance tax registration. ←

10 (a) Application.--Before a producer severs natural gas in
11 this Commonwealth, the producer shall apply to the department
12 for a NATURAL GAS severance tax registration certificate. ←

13 (a.1) Application fee.--The department may charge an
14 application fee to cover the administrative costs associated
15 with the application and registration process. If the department
16 charges an application fee, the department shall not register a ←
17 producer or issue a REGISTRATION certificate until the producer ←
18 has paid the application fee.

19 (a.2) Declaration.--As part of the application for ←
20 registration, the producer is required to provide THE PRODUCER ←
21 SHALL INCLUDE IN ITS APPLICATION a declaration of all sites in
22 this Commonwealth used BY THE PRODUCER for the severance of ←
23 natural gas. The declaration is to include all producing sites
24 and nonproducing sites AS WELL AS WELLHEAD METER CERTIFICATION ←
25 FOR EACH. The producer is required to update the declaration
26 when the producer adds or removes a producing SITE or ←
27 nonproducing site in this Commonwealth or when there is a change
28 in the status of a producing SITE or nonproducing site OR WHEN ←
29 THE PRODUCER USES A DIFFERENT ACCREDITED LABORATORY TO CERTIFY
30 THE ACCURACY OF THE PRODUCER'S WELLHEAD METERS. The producer

1 shall update the declaration within 30 days after a calendar
2 month in which a change to the declaration occurs.

3 (b) Issuance.--After EXCEPT AS PROVIDED IN SUBSECTION (C), ←
4 AFTER the receipt of an application, the department shall issue
5 the A REGISTRATION certificate applied for under subsection (a), ←
6 provided that said applicant shall have filed all required State
7 tax reports and paid any State taxes not subject to a timely
8 perfected administrative or judicial appeal or subject to a duly
9 authorized deferred payment plan. The REGISTRATION certificate ←
10 shall be nonassignable. All registrants shall be required to
11 renew their registration CERTIFICATES AND WELLHEAD METER ←
12 CERTIFICATIONS on a staggered renewal system established by the
13 department. After the initial staggered period, a certificate ←
14 RENEWAL PERIOD, A REGISTRATION CERTIFICATE OR A WELLHEAD METER ←
15 CERTIFICATION issued shall be valid for a period of five years.

16 (c) Refusal, suspension or revocation.--The department may
17 refuse to issue, suspend or revoke the A REGISTRATION ←
18 certificate if the applicant or any person holding a certificate ←
19 REGISTRANT has not filed required State tax reports and paid ←
20 State taxes not subject to a timely perfected administrative or
21 judicial appeal or subject to a duly authorized deferred payment
22 plan. The department shall notify the applicant or registrant of
23 any refusal, suspension or revocation. The notice shall contain
24 a statement that the refusal, suspension or revocation may be
25 made public. The notice shall be made by first class mail. An
26 applicant or registrant aggrieved by the determination of the
27 department may file an appeal under the provisions for
28 administrative appeals in the act of March 4, 1971 (P.L.6,
29 No.2), known as the Tax Reform Code of 1971. In the case of a
30 suspension or revocation which is appealed, the registration and ←

1 certificate shall remain valid pending a final outcome of the
2 appeals process. Notwithstanding sections 274, 353(f), 408(b),
3 603, 702, 802, 904 and 1102 of the Tax Reform Code of 1971 or
4 any other provision of law, if no appeal is taken or if an
5 appeal is taken and denied at the conclusion of the appeal
6 process the department may disclose, by publication or
7 otherwise, the identity of a ~~person~~ PRODUCER and the fact that ←
8 the ~~person's~~ PRODUCER'S registration and certificate has been ←
9 refused, suspended or revoked under this subsection. Disclosure
10 may include the basis for refusal, suspension or revocation.

11 (d) Violation.--A person severing natural gas in this
12 Commonwealth without holding a valid registration and ←
13 certificate under subsection (b) shall be guilty of a summary
14 offense and shall, upon conviction, be sentenced to pay a fine
15 of not less than \$300 nor more than \$1,500. In the event the
16 person convicted defaults, he shall be sentenced to imprisonment
17 for not less than five days nor more than 30 days. The penalties
18 imposed by this subsection shall be in addition to any other
19 penalties imposed by this chapter. For purposes of this
20 subsection, the severing of a natural gas during any calendar ←
21 day shall constitute a separate violation. The Secretary of
22 Revenue may designate employees of the department to enforce the
23 provisions of this subsection. The employees shall exhibit proof
24 of and be within the scope of the designation when instituting
25 proceedings as provided by the Pennsylvania Rules of Criminal
26 Procedure.

27 (e) Failure to obtain ~~license~~ REGISTRATION CERTIFICATE.-- ←
28 Failure to obtain a OR HOLD A VALID registration and certificate ←
29 does not relieve a person from liability for the tax imposed by
30 this chapter.

1 § 1505.1. Meters.

2 A producer shall provide for and maintain a discrete wellhead
3 METER and A DISCRETE sales meters METER. A producer shall ensure ←
4 that the meters are maintained according to industry standards.
5 ANY WELLHEAD METER INSTALLED AFTER THE EFFECTIVE DATE OF THIS ←
6 SECTION SHALL BE A DIGITAL METER.

7 § 1506. Assessments.

8 (a) Authorization and requirement.--The department is
9 authorized and shall make the inquiries, determinations and
10 assessments of the NATURAL GAS SEVERANCE tax, including ←
11 interest, additions and penalties imposed under this chapter.

12 (b) Notice.--The notice of assessment and demand for payment
13 shall be mailed to the taxpayer. The notice shall set forth the
14 basis of the assessment. The department shall issue a notice of ←
15 the assessment to the producer. The notice shall set forth the
16 department's basis for the assessment. The department shall send
17 the notice of assessment to the producer at his TAXPAYER AT ITS ←
18 registered address via certified mail if the assessment
19 increases the producer's TAXPAYER'S tax liability by \$300. ←
20 Otherwise, the notice of assessment may be sent via regular
21 mail.

22 § 1507. Time for assessment.

23 (a) Requirement.--An assessment as provided under section
24 1506 (relating to assessments) shall be made within three years
25 after the date when the return provided for by section 1504
26 (relating to return and payment) is filed or the end of the year
27 in which the tax liability arises, whichever shall occur last.
28 For the purposes of this subsection and subsection (b), a return
29 filed before the last day prescribed for the filing period shall
30 be considered as filed on the last day.

1 ~~(b) Exception. The assessment may be made at any time~~ ←
2 ~~within six years after the return is filed if the total tax that~~
3 ~~is properly included on the return is in excess of 25% of the~~
4 ~~total tax reported on the return.~~

5 (B) EXCEPTION.--IF THE TAXPAYER UNDERPAYS THE CORRECT AMOUNT ←
6 OF THE TAX DUE BY 25% OR MORE, THE TAX MAY BE ASSESSED WITHIN
7 SIX YEARS AFTER THE DATE THE RETURN WAS FILED.

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

12 (d) Erroneous credit or refund.--Within three years of the
13 granting of a refund or credit or within the period in which an
14 assessment or reassessment may have been filed ISSUED by the ←
15 department for the taxable period for which the refund was
16 granted, whichever period shall last occur, the department may
17 file ISSUE an assessment to recover a refund or credit made or ←
18 allowed erroneously.

19 § 1508. Extension of limitation period.

20 Notwithstanding the provisions of this chapter, the
21 assessment period may be extended where IN THE EVENT a taxpayer ←
22 has provided written consent before the expiration of the period
23 provided in section 1507 (relating to time for assessment) for a
24 tax assessment. The amount of tax due may be assessed at any
25 time within the extended period. The period extended may be ←
26 extended further by subsequent written consents made before the
27 expiration of the extended period.

28 § 1509. Reassessments.

29 A ~~producer~~ TAXPAYER against whom an assessment is made may ←
30 petition the department for a reassessment under Article XXVII

1 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax
2 Reform Code of 1971.

3 § 1510. Interest.

4 The department shall assess interest on any delinquent tax at
5 the rate prescribed under section 806 of the act of April 9,
6 1929 (P.L.343, No. 176), known as The Fiscal Code.

7 § 1511. Penalties.

8 The department shall enforce the following penalties:

9 (1) A penalty against a VALID producer without a natural ←
10 gas severance tax registration and certificate. The penalty ←
11 shall be \$1 for every unit severed without a VALID ←
12 registration and certificate. The department may assess this ←
13 penalty separately from or in conjunction with any assessment
14 of THE NATURAL GAS SEVERANCE tax. ←

15 (2) A penalty against a producer for failure to TIMELY ←
16 file a return as required under section 1504 (relating to
17 return and payment). The penalty shall be 5% of the tax
18 liability to be reported on the return for each day beyond
19 the due date that the return is not filed.

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

24 (4) A penalty against a producer for failure to timely
25 pay the tax as required by section 1504(c). The penalty shall
26 be 5% of the amount of tax due for each day beyond the
27 payment date that the tax is not paid.

28 § 1512. Criminal acts.

29 (a) Fraudulent return.--Any person with intent to defraud
30 the Commonwealth, who willfully makes or causes to be made a

1 return required by this chapter which is false, is guilty of a
2 misdemeanor and shall, upon conviction, be sentenced to pay a
3 fine of not more than \$2,000 or to imprisonment for not more
4 than three years, or both.

5 (b) Other crimes.--

6 (1) Except as otherwise provided by subsection (a), a
7 ~~producer~~ PERSON is guilty of a misdemeanor and shall, upon ←
8 conviction, be sentenced to pay a fine of not more than
9 \$1,000 and costs of prosecution or to imprisonment for not
10 more than one year, or both, for any of the following:

11 (i) Willfully failing to timely remit the tax to the
12 department.

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

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

17 (iv) Willfully failing to preserve ~~his~~ ITS books, ←
18 papers and records as directed by the department.

19 (v) Refusing to permit the department or its
20 authorized agents to examine its books, records or
21 papers.

22 (vi) Knowingly make any incomplete, false or
23 fraudulent return or report.

24 (vii) Preventing or attempting to prevent the full
25 disclosure of the amount of NATURAL GAS SEVERANCE tax ←
26 due.

27 (viii) Providing any person with a false statement
28 as to the payment of NATURAL GAS SEVERANCE tax with ←
29 respect to any pertinent facts.

30 (ix) Making, uttering or issuing a false or

1 fraudulent statement.

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

4 § 1513. Abatement of additions or penalties.

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

11 § 1514. Bulk and auction sales.

12 A person that sells or causes to be sold at auction, or that
13 sells or transfers in bulk, 51% or more of a stock of goods,
14 wares or merchandise of any kind, fixtures, machinery,
15 equipment, buildings or real estate ~~or is~~ involved in a business ←
16 for which the person ~~is licensed or required to be licensed~~ ←
17 HOLDS A REGISTRATION CERTIFICATE OR IS REQUIRED TO OBTAIN A ←
18 REGISTRATION CERTIFICATE under the provisions of this chapter
19 shall be subject to the provisions of section 1403 of the act of
20 April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

21 § 1515. Collection upon failure to request reassessment, review
22 or appeal.

23 (a) Power of department.--The department may collect a THE ←
24 NATURAL GAS SEVERANCE tax:

25 (1) If an assessment of THE tax is not paid within 30 ←
26 days after notice to the taxpayer when no petition for
27 reassessment has been filed.

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

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

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

3 (ii) the expiration of the board's time for acting
4 upon the petition.

5 (4) In all cases of judicial sales, receiverships,
6 assignments or bankruptcies.

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

16 § 1516. Tax liens.

17 (a) Lien imposed.--If any ~~person liable to pay a tax~~ ←
18 TAXPAYER neglects or refuses to pay the ~~tax~~ NATURAL GAS ←
19 SEVERANCE TAX FOR WHICH THE TAXPAYER IS LIABLE UNDER THIS
20 CHAPTER after demand, the amount, including interest, addition
21 or penalty, together with additional costs that may accrue,
22 shall be a lien in favor of the Commonwealth upon the real and
23 personal property of the ~~person~~ TAXPAYER but only after the same ←
24 has been entered and docketed of record by the prothonotary of
25 the county where the property is situated. The department may,
26 at any time, transmit to the prothonotaries of the respective
27 counties certified copies of all liens ~~for taxes imposed by this~~ ←
28 ~~act and penalties and interest~~ SECTION. It shall be the duty of ←
29 the prothonotary receiving the lien to enter and docket the same
30 of record to the office of the prothonotary. The lien shall be

1 indexed as judgments are now indexed. No prothonotary shall
2 require as a condition precedent to the entry of the lien the
3 payment of costs incidental to its entry.

4 (b) Priority of lien and effect on judicial sale.--Except
5 for the costs of the sale and the writ upon which the sale was
6 made and real estate taxes and municipal claims against the
7 property, ~~the~~ A lien imposed under this section shall have ←
8 priority from the date of its recording and shall be fully paid
9 and satisfied out of the proceeds of any judicial sale of
10 property subject to THE LIEN, before any other obligation, ←
11 judgment, claim, lien or estate to which the property may
12 subsequently become subject, but shall be subordinate to
13 mortgages and other liens existing and duly recorded or entered
14 of record prior to the recording of the ~~tax~~ lien. ←

15 (c) No discharge by sale on junior lien.--In the case of a
16 judicial sale of property subject to a lien imposed under this
17 section, upon a lien or claim over which the lien imposed under
18 this section has priority, the sale shall discharge the lien
19 imposed under this section to the extent only that the proceeds
20 are applied to its payment, and the lien shall continue in full
21 force and effect as to the balance remaining unpaid. There shall
22 be no inquisition or condemnation upon any judicial sale of real
23 estate made by the Commonwealth under the provisions of this
24 chapter. The lien of the taxes, interest and penalties shall ←
25 continue as provided in the act of April 9, 1929 (P.L.343,
26 No.176), known as The Fiscal Code, and a writ of execution may
27 directly issue upon the lien without the issuance and
28 prosecution to judgment of a writ of scire facias, provided that
29 not less than ten days before issuance of any execution on the
30 lien, notice of the filing and the effect of the lien shall be

1 sent by registered mail to the taxpayer at ~~his~~ ITS last known ←
2 post office address, provided further that the lien shall have
3 no effect upon any stock of goods, wares or merchandise
4 regularly sold or leased in the ordinary course of business by
5 the ~~person~~ TAXPAYER against whom the lien has been entered, ←
6 unless and until a writ of execution has been issued and a levy
7 made upon said stock of goods, wares and merchandise.

8 (d) Duty of prothonotary.--Any willful failure of any
9 prothonotary to carry out any duty imposed upon him by this
10 section shall be a misdemeanor. Upon conviction, he shall be
11 sentenced to pay a fine of not more than \$1,000 and costs of
12 prosecution or to imprisonment for not more than one year, or
13 both.

14 (e) Priority.--Except as provided in this chapter, the
15 distribution, voluntary or compulsory, in receivership,
16 bankruptcy or otherwise of the property or estate of any person,
17 all taxes imposed by this chapter which are due and unpaid and
18 are not collectible under the provisions of section 225 of the
19 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
20 of 1971, shall be paid from the first money available for
21 distribution in priority to all other claims and liens, except
22 as the laws of the United States may give priority to a claim to
23 the Federal Government. A person charged with the administration
24 or distribution of the property or estate who violates the
25 provisions of this section shall be personally liable for the
26 taxes imposed by this chapter which are accrued and unpaid and
27 chargeable against the person whose property or estate is being
28 administered or distributed.

29 (f) Other remedies.--Subject to the limitations contained in
30 this chapter as to the assessment of taxes, nothing contained in

1 this section shall be construed to restrict, prohibit or limit
2 the use by the department in collecting taxes due and payable of
3 another remedy or procedure available at law or equity for the
4 collection of debts.

5 § 1517. Tax suit reciprocity.

6 The courts of this Commonwealth shall recognize and enforce
7 liabilities for natural gas severance taxes lawfully imposed by
8 any other state, provided that the other state recognizes and
9 enforces the tax set forth in this chapter.

10 § 1518. Service.

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

28 § 1519. Refunds.

29 Under Article XXVII of the act of March 4, 1971 (P.L.6,
30 No.2), known as the Tax Reform Code of 1971, the department

1 shall refund all taxes, interest and penalties paid to the
2 Commonwealth under the provisions of this chapter to which the
3 Commonwealth is not rightfully entitled. The refunds shall be
4 made to the person or the person's heirs, successors, assigns or
5 other personal representatives who paid the tax, provided that
6 no refund shall be made under this section regarding a payment
7 made by reason of an assessment where a taxpayer has filed a
8 petition for reassessment under section 2702 of the Tax Reform
9 Code of 1971 to the extent the petition is adverse to the
10 taxpayer by a decision which is no longer subject to further
11 review or appeal. Nothing in this chapter shall prohibit a
12 taxpayer who has filed a timely petition for reassessment from
13 amending it to a petition for refund where the petitioner paid
14 the tax assessed.

15 § 1520. Refund petition.

16 (a) General rule.--Except as provided for in subsection (b),
17 the refund or credit of tax, interest or penalty provided for by
18 section 1519 (relating to refunds) shall be made only where the
19 person who has paid the tax files a petition for refund with the
20 department under Article XXVII of the act of March 4, 1971
21 (P.L.6, No.2), known as the Tax Reform Code of 1971, within the
22 time limits of section 3003.1 of the Tax Reform Code of 1971.

23 (b) ~~Severance tax license.~~— NATURAL GAS SEVERANCE TAX.--A ←
24 refund or credit of tax, interest or penalty paid as a result of
25 an assessment made by the department under section 1505
26 (relating to natural ~~resource~~ GAS severance tax registration), ←
27 shall be made only where the person who has paid the tax files
28 with the department a petition for a refund with the department
29 under Article XXVII within the time limits of section 3003.1 of
30 the Tax Reform Code of 1971. The filing of a petition for

1 refund, under the provisions of this subsection, shall not
2 affect the abatement of interest, additions or penalties to
3 which the person may be entitled by reason of his payment of the
4 assessment.

5 § 1521. Rules and regulations.

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

16 § 1522. Recordkeeping.

17 (a) General rule.--Every person liable for any tax imposed
18 by this chapter, or for the collection OF SUCH TAX, shall keep ←
19 records, including those enumerated in subsection (b), render
20 statements, make returns and comply with the rules and
21 regulations as the department may prescribe regarding matters
22 pertinent to the person's business. Whenever it is necessary,
23 the department may require a person, by notice served upon the
24 person or by regulations, to make returns, render statements or
25 keep records as the department deems sufficient to show whether
26 or not a person is liable to pay tax under this chapter.

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

28 (1) Wellhead METER and sales meter charts for each ←
29 reporting period and the meter calibration and maintenance
30 records. If turbine meters are in use, the maintenance

1 records will be made available to the department upon
2 request.

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

6 (3) Records, statements and other instruments as the
7 department may prescribe by regulation.

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

16 (c) Keeping of separate records.--A ~~person doing business as~~ ←
17 ~~a producer, who at the same time~~ PRODUCER WHO is engaged in ←
18 another business or businesses which do not involve the severing
19 of natural gas taxable under this chapter, shall keep separate
20 books and records of the businesses so as to show the taxable
21 severing of natural gas under this chapter separately from other
22 business activities not taxable hereunder. If any person fails
23 to keep separate books and records, the person shall be liable
24 for a penalty equaling 100% of tax due under this chapter for
25 the period where separate records were not maintained.

26 § 1523. Examinations.

27 The department or any of its authorized agents are authorized
28 to examine the books, papers and records of any taxpayer in
29 order to verify the accuracy and completeness of any return made
30 or, if no return was made, to ascertain and assess the tax

1 imposed by this chapter. The department may require the
2 preservation of all books, papers and records for any period
3 deemed proper by it but not to exceed three years from the end
4 of the calendar year to which the records relate. Every taxpayer
5 is required to give to the department or its agent the means,
6 facilities and opportunity for examinations and investigation
7 under this section. The department is further authorized to
8 examine any person, under oath, concerning the taxable severing
9 of natural gas by any taxpayer or concerning any other matter
10 relating to the enforcement or administration of this chapter,
11 and to this end may compel the production of books, papers and
12 records and the attendance of all persons whether as parties or
13 witnesses whom it believes to have knowledge of relevant
14 matters. The procedure for the hearings or examinations shall be
15 the same as that provided by the act of April 9, 1929 (P.L.343,
16 No. 176), known as The Fiscal Code.

17 § 1524. Unauthorized disclosure.

18 Any information gained by the department as a result of any
19 return, examination, investigation, hearing or verification
20 required or authorized by this chapter shall be confidential
21 except for official purposes and except in accordance with
22 proper judicial order or as otherwise provided by law, and any
23 person unlawfully divulging the information shall be guilty of a
24 misdemeanor and shall, upon conviction, be sentenced to pay a
25 fine of not more than \$1000 and costs of prosecution or to
26 imprisonment for not more than one year, or both.

27 § 1525. Cooperation with other governments.

28 Notwithstanding the provisions of section 1517 (relating to
29 tax suit reciprocity), the department may permit the
30 Commissioner of the Internal Revenue Service of the United

1 States, the proper officer of any state or the authorized
2 representative of either officer OF THEM to inspect the tax ←
3 returns of any taxpayer, or may furnish to the COMMISSIONER OR ←
4 officer or to his EITHER OF THEIR authorized representative an ←
5 abstract of the return of any taxpayer, or supply him with
6 information concerning any item contained in any return or
7 disclosed by the report of any examination or investigation of
8 the return of any taxpayer. This permission shall be granted
9 only if the ~~statutes~~ LAWS of the United States or another state ←
10 grant substantially similar privileges to the proper officer of
11 the Commonwealth charged with the administration of this
12 chapter.

13 § 1526. Bonds.

14 (a) Taxpayer to file bond.--The department may require a
15 nonresident natural person or any foreign corporation,
16 association, fiduciary, ~~partnership~~ or other entity, not ←
17 authorized to do business within this Commonwealth or not having
18 an established place of business in this Commonwealth and
19 subject to the tax imposed by section 1503 (relating to
20 imposition of tax), to file a bond issued by a surety company
21 authorized to do business in this Commonwealth and approved by
22 the Insurance Commissioner as to solvency and responsibility, in
23 amounts as it may fix, to secure the payment of any tax or
24 penalties due or which may become due from a ~~natural person or~~ ←
25 NONRESIDENT NATURAL PERSON, corporation, ASSOCIATION, FIDUCIARY ←
26 OR OTHER ENTITY whenever it deems it necessary to protect the
27 revenues obtained under this chapter. ~~In order to protect the~~ ←
28 revenues obtained under this chapter, the department shall
29 require a nonresident natural person or a foreign corporation,
30 association, fiduciary, partnership or entity who is not

1 ~~authorized to do business or does not have an established place~~
2 ~~of business in this Commonwealth and is subject to the tax~~
3 ~~imposed by section 1503, to file a bond issued by a surety~~
4 ~~company authorized to do business in this Commonwealth and~~
5 ~~approved by the Insurance Commissioner as to solvency and~~
6 ~~responsibility, in amounts as it may fix, to secure the payments~~
7 ~~of any tax or penalties due or which may become due from a~~
8 ~~natural person, corporation or other entity. The department may~~
9 ~~also require a bond of a person petitioning the department for~~
10 ~~reassessment in the case of any assessment over \$500 or where,~~
11 ~~in its opinion, the ultimate collection is in jeopardy. For a~~
12 ~~period of three years, the department may require a bond of any~~
13 ~~person who has, on three or more occasions within a 12-month~~
14 ~~period, either filed a return or made payment to the department~~
15 ~~more than 30 days late. In the event the department determines a~~
16 ~~taxpayer is required to file a bond, it shall give notice to the~~
17 ~~taxpayer specifying the amount of the bond required. The~~
18 ~~taxpayer shall file the bond within five days after notice is~~
19 ~~given by the department unless, within five days, the taxpayer~~
20 ~~shall request in writing a hearing before the Secretary of~~
21 ~~Revenue or his representative. At the hearing, the necessity,~~
22 ~~propriety and amount of the bond shall be determined by the~~
23 ~~secretary or the secretary's representative. The determination~~
24 ~~shall be final and the taxpayer shall comply with it within 15~~
25 ~~days after notice is mailed to the taxpayer.~~

26 (b) Securities in lieu of bond.--In lieu of the bond
27 required by this section securities approved by the department
28 or cash in a prescribed amount may be deposited. The securities
29 or cash shall be kept in the custody of the department. The
30 department may apply the securities or cash to a tax THE TAX



1 IMPOSED BY THIS CHAPTER and interest or penalties due without
2 notice to the depositor. The securities may be sold by the
3 department to pay a THE tax and/or interest or penalties due at ←
4 public or private sale upon five days' written notice to the
5 depositor.

6 (c) Failure to file bond.--The department may file a lien
7 under section 1516 (relating to tax liens) against any taxpayer
8 who fails to file a bond when required to do so under this
9 section. All funds received upon execution of the judgment on
10 the lien shall be refunded to the taxpayer with 3% interest,
11 should a final determination be made that he IT does not owe any ←
12 payment to the department.

13 § 1527. NATURAL GAS SEVERANCE TAX FUND. ←

14 (A) ESTABLISHMENT.--THE NATURAL GAS SEVERANCE TAX FUND IS
15 ESTABLISHED AS A SEPARATE FUND IN THE STATE TREASURY.

16 (B) DEPOSIT.--THE PROCEEDS OF THE NATURAL GAS SEVERANCE TAX,
17 PENALTIES AND INTEREST IMPOSED BY THIS CHAPTER, LESS THE AMOUNTS
18 APPROPRIATED UNDER SECTION 1529 (RELATING TO APPROPRIATION),
19 SHALL BE DEPOSITED INTO THE FUND.

20 (C) RESTRICTION.--THE MONEY IN THE FUND SHALL ONLY BE USED
21 IN ACCORDANCE WITH SECTION 1528 (RELATING TO ADMINISTRATION OF
22 FUND).

23 § 1528. ADMINISTRATION OF FUND.

24 (A) TRANSFERS.--THE STATE TREASURER SHALL MAKE THE FOLLOWING
25 TRANSFERS FROM THE FUND ON A QUARTERLY BASIS COMMENCING ON THE
26 FIRST BUSINESS DAY OF JANUARY 2010:

27 (1) SIXTY PERCENT TO THE GENERAL FUND.

28 (2) THREE PERCENT TO THE DEPARTMENT OF PUBLIC WELFARE TO
29 PROVIDE CASH AND CRISIS GRANTS TO LOW-INCOME HOUSEHOLDS UNDER
30 THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM.

1 (3) FIFTEEN PERCENT TO THE ENVIRONMENTAL STEWARDSHIP
2 FUND.

3 (4) FOUR PERCENT TO THE HAZARDOUS SITES CLEANUP FUND.

4 (5) FIVE PERCENT TO THE LIQUID FUELS TAX FUND FOR THE
5 RECONSTRUCTION, MAINTENANCE AND REPAIR OF STATE ROADWAYS AND
6 BRIDGES. THE FUNDS UNDER THIS PARAGRAPH SHALL BE:

7 (I) ALLOCATED IN ADDITION TO AND NOT IN LIEU OF ANY
8 FUNDS NORMALLY AND CUSTOMARILY ALLOCATED TO THE
9 RECONSTRUCTION, MAINTENANCE AND REPAIR OF ROADWAYS AND
10 BRIDGES BY THE DEPARTMENT OF TRANSPORTATION; AND

11 (II) DISTRIBUTED EQUALLY AMONG ALL THE 67 COUNTIES
12 OF THIS COMMONWEALTH.

13 (B) DISTRIBUTIONS.--

14 (1) THE STATE TREASURER SHALL DISTRIBUTE FROM THE FUND,
15 ON A QUARTERLY BASIS COMMENCING ON THE FIRST BUSINESS DAY OF
16 JANUARY 2010, 4.5% TO MUNICIPALITIES WHERE NATURAL GAS HAS
17 BEEN SEVERED AND TAXED UNDER THIS CHAPTER IN THE PREVIOUS
18 QUARTER. THE AMOUNT DISTRIBUTED SHALL BE DETERMINED ON A PRO
19 RATA BASIS AS FOLLOWS: THE TOTAL AMOUNT TO BE DISTRIBUTED
20 UNDER THIS PARAGRAPH IS DIVIDED BY THE TOTAL NUMBER OF
21 TAXABLE GAS UNITS SEVERED IN THE COMMONWEALTH DURING THE
22 PRECEDING QUARTER; THIS QUOTIENT IS THEN MULTIPLIED BY THE
23 TOTAL NUMBER OF TAXABLE GAS UNITS SEVERED IN THE MUNICIPALITY
24 DURING THE PRECEDING QUARTER. THE RESULT EQUALS THE AMOUNT OF
25 MONEY TO BE DISTRIBUTED TO THE MUNICIPALITY, WHICH SHALL BE
26 USED SOLELY FOR ANY OF THE FOLLOWING:

27 (I) RECONSTRUCTION, MAINTENANCE AND REPAIR OF
28 MUNICIPAL ROADWAYS AND BRIDGES WHICH THE MUNICIPALITY HAS
29 DETERMINED HAVE BEEN OR ARE BEING USED EXTENSIVELY TO
30 TRANSPORT NATURAL GAS OR EQUIPMENT RELATED TO THE

1 PRODUCTION THEREOF.

2 (II) PARKS AND RECREATION.

3 (III) INDUSTRIAL AND COMMERCIAL DEVELOPMENT.

4 (IV) PRESERVATION AND IMPROVEMENT OF MUNICIPAL WATER
5 SUPPLIES.

6 (V) MAINTENANCE AND CAPITAL IMPROVEMENTS TO THE
7 MUNICIPAL WASTE AND SEWAGE SYSTEMS.

8 (VI) PRESERVATION AND RECLAMATION OF THE SURFACE
9 WATERS OF THE MUNICIPALITY.

10 (VII) OTHER LAWFUL PURPOSES REASONABLY RELATED TO
11 THE CONSEQUENCES OF SEVERING NATURAL GAS IN THE
12 MUNICIPALITY.

13 (2) THE STATE TREASURER SHALL DISTRIBUTE FROM THE FUND,
14 ON A QUARTERLY BASIS COMMENCING ON THE FIRST BUSINESS DAY OF
15 JANUARY 2010, 4.5% TO COUNTIES WHERE NATURAL GAS HAS BEEN
16 SEVERED AND TAXED UNDER THIS CHAPTER IN THE PREVIOUS QUARTER.
17 THE AMOUNT DISTRIBUTED TO A COUNTY SHALL BE DETERMINED ON A
18 PRO RATA BASIS AS FOLLOWS: THE TOTAL AMOUNT TO BE DISTRIBUTED
19 UNDER THIS PARAGRAPH IS DIVIDED BY THE TOTAL NUMBER OF
20 TAXABLE GAS UNITS SEVERED IN THE COMMONWEALTH DURING THE
21 PRECEDING QUARTER; THIS QUOTIENT IS THEN MULTIPLIED BY THE
22 TOTAL NUMBER OF TAXABLE GAS UNITS SEVERED IN THE COUNTY
23 DURING THE PRECEDING QUARTER. THE RESULT EQUALS THE AMOUNT OF
24 MONEY TO BE DISTRIBUTED TO THE COUNTY, WHICH SHALL BE
25 ADMINISTERED BY A BOARD COMPRISED OF THE CHAIRPERSON OF THE
26 BOARD OF COUNTY COMMISSIONERS, A REPRESENTATIVE FROM THE
27 NATURAL GAS PRODUCING MUNICIPALITIES WITHIN THE COUNTY AND A
28 COUNTY COMMISSIONER SELECTED BY THE REPRESENTATIVE OF THE
29 NATURAL GAS PRODUCING MUNICIPALITIES. THE BOARD SHALL GIVE
30 PRIORITY TO THE RECONSTRUCTION, REPAIR AND MAINTENANCE OF

1 COUNTY ROADWAYS AND BRIDGES DETERMINED BY THE BOARD TO HAVE
2 BEEN AND ARE USED TO TRANSPORT NATURAL GAS OR EQUIPMENT
3 RELATED TO THE PRODUCTION THEREOF AND MAY ALLOCATE THE
4 REMAINDER TO THE COUNTY OR ITS MUNICIPALITIES FOR ANY OF THE
5 PURPOSES ENUMERATED IN SUBSECTION (B) (1). A SIMPLE MAJORITY
6 VOTE OF ALL THE MEMBERS OF THE BOARD SHALL BE REQUIRED FOR
7 ANY ACTION UNDER THIS PARAGRAPH.

8 (3) THE STATE TREASURER SHALL DISTRIBUTE FROM THE FUND,
9 ON A QUARTERLY BASIS COMMENCING ON THE FIRST DAY OF JANUARY
10 2010, 2% TO THE PENNSYLVANIA GAME COMMISSION, WHICH SHALL BE
11 USED FOR THE COMMISSION'S OPERATIONAL, ADMINISTRATIVE AND
12 ENFORCEMENT COSTS.

13 (4) THE STATE TREASURER SHALL DISTRIBUTE FROM THE FUND,
14 ON A QUARTERLY BASIS COMMENCING ON THE FIRST DAY OF JANUARY
15 2010, 2% TO THE PENNSYLVANIA FISH AND BOAT COMMISSION, WHICH
16 SHALL BE USED FOR THE COMMISSION'S OPERATIONAL,
17 ADMINISTRATIVE AND ENFORCEMENT COSTS.

18 (C) ANNUAL REPORTS.--COUNTIES AND MUNICIPALITIES RECEIVING
19 MONEY FROM THE FUND UNDER THIS SECTION SHALL SUBMIT TO THE
20 DEPARTMENT OF TRANSPORTATION, ON A FORM TO BE PROVIDED BY THE
21 DEPARTMENT OF TRANSPORTATION ON ITS INTERNET WEBSITE, WITHIN 30
22 DAYS FOLLOWING THE END OF EACH FISCAL YEAR A REPORT THAT
23 ACCOUNTS FOR THE USE OF THE MONEY DISTRIBUTED TO THEM UNDER
24 SECTION 1528 IN THE FISCAL YEAR PRECEDING THE DATE OF THE
25 REPORT. THE DEPARTMENT OF TRANSPORTATION SHALL SUBMIT TO THE
26 GOVERNOR, TO THE CHAIR AND MINORITY CHAIR OF THE TRANSPORTATION
27 COMMITTEE OF THE SENATE AND THE CHAIR AND MINORITY CHAIR OF THE
28 TRANSPORTATION COMMITTEE OF THE HOUSE OF REPRESENTATIVES WITHIN
29 45 DAYS FOLLOWING THE END OF EACH FISCAL YEAR A REPORT THAT
30 ACCOUNTS FOR THE USE OF THE MONEY DISTRIBUTED TO THE DEPARTMENT

1 OF TRANSPORTATION UNDER SECTION 1528 IN THE FISCAL YEAR
2 PRECEDING THE DATE OF THE REPORT AND THAT INCLUDES COPIES OF THE
3 REPORTS SUBMITTED TO THE DEPARTMENT OF TRANSPORTATION BY THE
4 COUNTIES AND MUNICIPALITIES RECEIVING MONEY FROM THE FUND.
5 § ~~1527~~ 1529. Appropriation.



6 The amount of the proceeds from the tax imposed by this
7 chapter as shall be necessary for the payment of refunds,
8 enforcement or administration under this chapter, is hereby
9 appropriated for such purposes.

10 Section 2. This act shall take effect October 1, 2009.