PRINTER'S NO. 3107

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2214 Session of 2010

INTRODUCED BY GEORGE, BELFANTI, BRADFORD, CALTAGIRONE, CARROLL, COHEN, CONKLIN, DeWEESE, FAIRCHILD, GOODMAN, GRUCELA, HALUSKA, HESS, HORNAMAN, LEVDANSKY, MAHONEY, METZGAR, MOUL, MUNDY, MURT, SEIP, SIPTROTH, K. SMITH, SOLOBAY, STURLA, THOMAS AND YOUNGBLOOD, JANUARY 20, 2010

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, JANUARY 20, 2010

AN ACT

Amending the act of July 20, 1979 (P.L.183, No.60), entitled "An act regulating the terms and conditions of certain leases regarding natural gas and oil," further providing for guarantee of minimum royalties and for escalation of royalties.

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

Section 1. Sections 1 and 2 of the act of July 20, 1979 (P.L.183, No.60), entitled "An act regulating the terms and conditions of certain leases regarding natural gas and oil," are amended to read:

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

other agreement conveying the right to remove or recover oil, natural gas or gas of any other designation from lessor to lessee shall not be valid if the lease or other agreement does not guarantee the lessor at least a 15% royalty of all oil, natural gas or gas of other designations removed or recovered from the subject of real property. The lessee shall compute and pay oil and gas royalties due under each lease on the gross proceeds received by the seller based on the fair market value at the point of sale, including amounts collected to reimburse the seller for severance taxes and production-related costs. The lessee shall not deduct from royalties any severance taxes or applicable fees charged by any Commonwealth agency or department, or any post-production costs. Post-production costs are:

(1) All losses of produced volumes, whether by use as fuel, line loss, flaring, venting or otherwise.

(2) All costs actually incurred by the lessee from and after the wellhead to the point of sale, including, without limitation, all gathering, dehydration, compression, treatment, processing, marketing and transportation costs incurred in connection with the sale of such production.

(b) For the purpose of computing and paying royalties, the fair market value shall be presumed to be the gross proceeds received pursuant to a bona fide contract entered into by nonaffiliated parties of adverse economic interests. If a contract is not negotiated at arm's length or was between affiliated parties, the presumption that market value is equal to gross proceeds shall not apply and the lessee shall have the burden to establish that royalties paid are based on market value. Parties are affiliated under this subsection if they are

related by blood, marriage or common business enterprise, are members of a corporate affiliated group or where one party owns a 10% or greater interest in the other.

(c) Royalties are due and payable by the lessee on 100% of each lease's gross production of oil and gas unless the lease explicitly states otherwise. Royalties due must be paid within 90 days after the end of the month for gas sales. A 10% monthly interest shall accrue on the unpaid balance. If royalties are not paid within the required period, the lease may become null and void at the discretion of the lessor.

Section 2. An oil, natural gas or other designation gas well or oil, natural gas or other designation gas lease [which does not provide a one-eighth metered royalty shall be subject to such an escalation] may be amended or modified when its original state is altered by new drilling, deeper drilling, redrilling, artificial well stimulation, hydraulic fracturing or any other procedure for increased production. A lease shall not be affected when the well is altered through routine maintenance or cleaning.

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