

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1410 Session of 2011

INTRODUCED BY GEORGE, CALTAGIRONE, CARROLL, D. COSTA, FABRIZIO, FREEMAN, GOODMAN, HESS, HORNAMAN, JOSEPHS, KIRKLAND, KORTZ, KULA, MAHONEY, MARSHALL, MUNDY, MURPHY, READSHAW, STURLA AND WAGNER, APRIL 28, 2011

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, APRIL 28, 2011

AN ACT

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

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

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

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

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

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

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

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

1 members of a corporate affiliated group or where one party owns
2 a 10% or greater interest in the other.

3 (c) Royalties are due and payable by the lessee on 100% of
4 each lease's gross production of oil and gas unless the lease
5 explicitly states otherwise. Royalties due must be paid within
6 90 days after the end of the month for gas sales. A 10% monthly
7 interest shall accrue on the unpaid balance. If royalties are
8 not paid within the required period, the lease may become null
9 and void at the discretion of the lessor.

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

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