

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 460 Session of 2011

INTRODUCED BY YAW, BAKER, D. WHITE, RAFFERTY, WAUGH, COSTA, FONTANA, WOZNIAK, KASUNIC AND BROWNE, FEBRUARY 11, 2011

SENATOR M. WHITE, ENVIRONMENTAL RESOURCES AND ENERGY, AS AMENDED, MAY 3, 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," adding definitions; providing
4 for payment information to interest owners for accumulation
5 of proceeds from production, ~~for nonpayment of royalties and~~
6 ~~for effects of nonpayment;~~ and making editorial changes.



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

9 Section 1. Section 1 of the act of July 20, 1979 (P.L.183,
10 No.60), entitled "An act regulating the terms and conditions of
11 certain leases regarding natural gas and oil," is repealed:

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.]

18 Section 2. The act is amended by adding sections to read:

19 Section 1.1. Short title.

1 This act shall be known and may be cited as the Oil and Gas
2 Lease Act.

3 Section 1.2. Definitions.

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

7 "Check stub." The financial record attached to a check.

8 "Division order." ~~A contract of sale to the purchaser of oil~~ ←
9 ~~or gas directing the purchaser to make payment for the value of~~
10 ~~the products taken in the proportions set out in the contract~~
11 ~~and which contract is prepared by the purchaser on the basis of~~
12 ~~the ownership shown in the title opinion prepared after~~
13 ~~examination of the abstracts and which is executed by the~~
14 ~~operator, the royalty owner and the other persons having an~~
15 ~~interest in the production.~~ AN AGREEMENT SIGNED BY AN INTEREST ←
16 OWNER DIRECTING THE DISTRIBUTION OF PROCEEDS FROM THE SALE OF
17 OIL, GAS, CASING HEAD GAS OR OTHER RELATED HYDROCARBONS. THE
18 ORDER SHALL DIRECT AND AUTHORIZE THE PAYOR TO MAKE PAYMENT FOR
19 THE PRODUCTS TAKEN IN ACCORDANCE WITH THE DIVISION ORDER.

20 "Interest owner." A person ~~owning a royalty interest or a~~ ←
21 ~~working interest in an oil or gas well or unit~~ WHO IS LEGALLY ←
22 ENTITLED TO PAYMENT FROM THE PROCEEDS DERIVED FROM THE SALE OF
23 OIL OR GAS FROM AN OIL OR GAS WELL LOCATED IN THIS COMMONWEALTH.

24 "Mcf." A unit of measurement expressed by 1,000 cubic feet.

25 Section 1.3. Royalty guaranteed.

26 A lease or other such agreement conveying the right to remove
27 or recover oil, natural gas or gas of any other designation from
28 the lessor to the lessee shall not be valid if the lease does
29 not guarantee the lessor at least one-eighth royalty of all oil,
30 natural gas or gas of other designations removed or recovered

1 from the subject real property.

2 Section 3. ~~Sections 2 and 3 of the act are~~ SECTION 2 OF THE ←
3 ACT IS amended to read:

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

12 Section 2. Escalation required for alteration to original
13 state.

14 An oil, natural gas or other designation gas well or oil,
15 natural gas or other designation gas lease which does not
16 provide INCLUDE a one-eighth metered royalty shall be subject to ←
17 such an escalation EQUAL TO ONE-EIGHTH METERED ROYALTY when its ←
18 original state is altered by new drilling, deeper drilling,
19 redrilling, artificial well stimulation, hydraulic fracturing or
20 any other procedure for increased TO INCREASE production. A ←
21 lease shall not be affected when the well is altered through
22 routine maintenance or cleaning.

23 [~~Section 3. Whenever such an increased production procedure~~ ←
24 ~~has been completed prior to the effective date of this act,~~
25 ~~metering and the above royalty shall commence within 90 days~~
26 ~~after the effective date of this act.]~~

27 Section 3. Commencement of guaranteed royalty.

28 Whenever such an increased production procedure has been
29 completed prior to the effective date of this act, metering and
30 the above royalty shall commence within 90 days after the

1 ~~effective date of this act.~~

2 Section 4. The act is amended by adding sections to read:

3 SECTION 3.1. COMMENCEMENT OF GUARANTEED ROYALTY. ←

4 WHENEVER A PROCEDURE TO INCREASE PRODUCTION HAS BEEN
5 COMPLETED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, METERING
6 AND THE ROYALTY REQUIRED UNDER SECTION 1.3 OR 2 SHALL COMMENCE
7 WITHIN 90 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.

8 ~~Section 3.1~~ 3.2. Payment information to interest owners. ←

9 Whenever payment is made for oil or gas production to an
10 interest owner, whether pursuant to a division order, lease,
11 servitude or other agreement, all of the following information
12 shall be included on the check stub or on an attachment to the
13 form of payment, unless the information is otherwise provided on
14 a regular basis:

15 (1) Lease identification number, if any, or reference to ←
16 appropriate agreement with identification of the well or unit
17 from which production is attributed. A NAME, NUMBER OR ←
18 COMBINATION OF NAME AND NUMBER THAT IDENTIFIES THE LEASE,
19 PROPERTY, UNIT OR WELL OR WELLS FOR WHICH PAYMENT IS BEING
20 MADE; AND THE COUNTY IN WHICH THE LEASE, PROPERTY OR WELL IS
21 LOCATED.

22 (2) Month and year of sales or purchase included in the ←
23 payment GAS PRODUCTION. ←

24 (3) Total barrels of crude oil or number of Mcf of gas
25 purchased OR VOLUME OF NATURAL GAS LIQUIDS SOLD. ←

26 (4) Owner's final realizable price per barrel or Mcf- ←
27 PRICE RECEIVED PER BARREL, MCF OR GALLON. ←

28 (5) Total amount of severance and other production taxes
29 AND OTHER DEDUCTIONS PERMITTED UNDER THE LEASE, with the ←
30 exception of windfall profit tax.

1 (6) Net value of total sales from the property after ←
2 taxes are deducted LESS TAXES AND DEDUCTIONS FROM PARAGRAPH ←
3 (5).

4 (7) Interest owner's interest, expressed as a decimal OR ←
5 fraction, in production from paragraph (1).

6 (8) Interest owner's share of the total value of sales
7 prior to any tax deduction DEDUCTION OF TAXES AND DEDUCTIONS ←
8 FROM PARAGRAPH (5).

9 (9) Interest owner's share of the sales value less the
10 interest owner's share of the production and severance taxes, ←
11 as applicable. TAXES AND DEDUCTIONS FROM PARAGRAPH (5). ←

12 (10) CONTACT INFORMATION, INCLUDING AN ADDRESS AND
13 TELEPHONE NUMBER.

14 Section 3.2 3.3. Accumulation of proceeds from production. ←

15 (a) General rule.--Unless otherwise requested, proceeds ←
16 PROCEEDS from production of oil and gas may be accumulated and ←
17 remitted to the persons entitled thereto annually for the 12
18 months' accumulation of proceeds totaling less than \$100.

19 (b) Smaller amounts. ←

20 (1) Proceeds totaling \$100 or less, but \$25 or more
21 shall be remitted monthly, if requested in writing by the
22 person entitled to the proceeds.

23 (2) Amounts less than \$10 shall be remitted annually if
24 requested in writing by the person entitled to the proceeds.

25 (c) Notice required. Before proceeds may be accumulated,
26 the payor shall provide notice to the person entitled to the
27 proceeds that there is an option to be paid monthly when the
28 accumulated proceeds exceed \$10. The notice to the person shall
29 also provide directions for requesting monthly payment and shall
30 constitute notice to all heirs, successors, representatives and

1 ~~assigns of the person.~~

2 ~~(d) (B) Owner to be paid.--Notwithstanding any other~~ ←
3 ~~provision of this section to the contrary, all accumulated~~
4 ~~proceeds shall be paid to the owner thereof when production~~
5 ~~ceases or upon relinquishment or transfer of the payment~~
6 ~~responsibility.~~

7 ~~Section 3.3. Nonpayment of royalties and notice prerequisite to~~ ←
8 ~~judicial demand.~~

9 ~~If a mineral lessor seeks relief for the failure of the~~
10 ~~lessee to make timely or proper payment of royalties, the~~
11 ~~mineral lessor must give the lessee written notice of the~~
12 ~~failure as a prerequisite to a judicial demand for damages or~~
13 ~~dissolution of the lease.~~

14 ~~Section 3.4. Required response of lessee to notice.~~

15 ~~The lessee shall have 30 days after receipt of the required~~
16 ~~notice within which to pay the royalties due or to respond by~~
17 ~~stating in writing a reasonable cause for nonpayment. The~~
18 ~~payment or nonpayment of the royalties or stating or failing to~~
19 ~~state a reasonable cause for nonpayment within this period shall~~
20 ~~be subject to the remedies of dissolution and damages provided~~
21 ~~in this act.~~

22 ~~Section 3.5. Division orders, precedence of lease and penalties~~
23 ~~for failure to pay royalties due.~~

24 ~~(a) General rule. A division order may not alter or amend~~
25 ~~the terms of the oil and gas lease. A division order that varies~~
26 ~~the terms of the oil and gas lease is invalid to the extent of~~
27 ~~the variance, and the terms of the oil and gas lease take~~
28 ~~precedence.~~

29 ~~(b) Effect. The execution of a division order is not a~~
30 ~~condition precedent to receiving payment from a lessee. The~~

1 ~~lessee may not withhold royalty payments because the lessor has~~
2 ~~not executed a division order.~~

3 ~~(c) Penalty.—~~

4 ~~(1) If the lessee fails to pay royalties solely because~~
5 ~~the lessor has not executed a division order, the court shall~~
6 ~~award as damages double the amount of royalties due, legal~~
7 ~~interest on that sum from the date due and reasonable~~
8 ~~attorney fees.~~

9 ~~(2) If the lessor fails to supply the name, address and~~
10 ~~tax identification number upon written request of the lessee,~~
11 ~~the lessee's failure to pay royalties shall be deemed~~
12 ~~reasonable.~~

13 ~~Section 3.6. Effect of payment in response to notice.~~

14 ~~(a) General rule. If the lessee pays the royalties due in~~
15 ~~response to the required notice, the remedy of dissolution shall~~
16 ~~be unavailable unless it is found that the original failure to~~
17 ~~pay was fraudulent.~~

18 ~~(b) Amount of recovery.—~~

19 ~~(1) The court may award as damages double the amount of~~
20 ~~royalties due, interest on that sum from the date due and~~
21 ~~reasonable attorney fees, provided the original failure to~~
22 ~~pay royalties was either fraudulent or willful and without~~
23 ~~reasonable grounds.~~

24 ~~(2) In all other cases, including, but not limited to,~~
25 ~~mere oversight or neglect, damages shall be limited to~~
26 ~~interest on the royalties computed from the date due and a~~
27 ~~reasonable attorney fee if such interest is not paid within~~
28 ~~30 days of written demand therefor.~~

29 ~~Section 3.7. Effect of nonpayment in response to notice or~~
30 ~~failure to state cause.~~

1 ~~If the lessee fails to pay royalties due or fails to inform~~
2 ~~the lessor of a reasonable cause for failure to pay in response~~
3 ~~to the required notice, the court may:~~

4 ~~(1) award as damages double the amount of royalties due,~~
5 ~~interest on that sum from the date due and reasonable~~
6 ~~attorney fees regardless of the cause for the original~~
7 ~~failure to pay royalties; and~~

8 ~~(2) dissolve the lease.~~

9 ~~Section 3.8. Dissolution not a favored remedy.~~

10 ~~In a case where notice of failure to pay royalties is~~
11 ~~required, dissolution should be granted only if the conduct of~~
12 ~~the lessee, either in failing to pay originally or in failing to~~
13 ~~pay in response to the required notice, is such that the remedy~~
14 ~~of damages is inadequate to do justice.~~

15 ~~Section 3.9. Dissolution may be partial or entire.~~

16 ~~A mineral lease may be dissolved partially or in its~~
17 ~~entirety. A decree of partial dissolution may be made applicable~~
18 ~~to a specified portion of land, to a particular stratum or~~
19 ~~strata or to a particular mineral or minerals.~~

20 Section 5. Section 4 of the act is amended to read:

21 [Section 4. This act shall take effect in 60 days.]

22 Section 4. Effective date.

23 This act shall take effect in 60 days.

24 Section 6. This act shall take effect in 60 days.