
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1684 Session of
2013

INTRODUCED BY EVERETT, BAKER, MAJOR, PICKETT, METZGAR, GERGELY,
MILLARD, JAMES, COHEN, MARSHALL, GINGRICH, GODSHALL, SWANGER,
CLYMER, C. HARRIS, HESS, GIBBONS, HEFFLEY, WATSON,
M. K. KELLER, F. KELLER, SAYLOR, REESE AND SNYDER,
SEPTEMBER 16, 2013

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
SEPTEMBER 16, 2013

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," prohibiting certain
4 deductions from royalties.

5 The General Assembly finds and declares as follows:

6 (1) The act of July 20, 1979 (P.L.183, No.60), known as
7 the Oil and Gas Lease Act, provides royalty owners with a
8 guaranteed minimum 1/8 royalty for oil, natural gas or gas of
9 any other designation removed or recovered.

10 (2) The act protects royalty owners from unfair or
11 deceptive leases or other contractual arrangements as a
12 legitimate exercise of the Commonwealth's police power.

13 (3) Despite this guarantee of a minimum return, lessees
14 have engaged in efforts to reduce the guaranteed minimum
15 royalty by transferring a share of postproduction, market-
16 enhancement and similar costs to royalty owners.

17 (4) In 2010, the Pennsylvania Supreme Court's decision

1 in Kilmer v. Elexco Land Services, Inc., 990 A.2d 1147, 1157
2 (Pa. Cmwlth. 2010), noted that the "General Assembly is the
3 branch of government best suited to weigh the public policies
4 underlying the determination of the proper point of royalty
5 valuation."

6 (5) It is within the legitimate police power of the
7 Commonwealth to clarify that any deduction for
8 postproduction, market-enhancement or similar costs should
9 never result in royalty owners receiving less than the
10 guaranteed minimum 1/8 royalty provided by the Oil and Gas
11 Lease Act.

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

14 Section 1. The act of July 20, 1979 (P.L.183, No.60), known
15 as the Oil and Gas Lease Act, is amended by adding a section to
16 read:

17 Section 1.4. Deductions from royalties.

18 (a) General rule.--A lease or other such agreement,
19 conveying the right to remove or recover oil, natural gas or gas
20 of any other designation, shall not allow for any severance or
21 other production taxes or costs associated with producing,
22 gathering, storing, separating, treating, dehydrating,
23 compressing, processing, transporting, marketing or other
24 marketing enhancements to be deducted from any royalty payable
25 to a lessor if such deductions result in a royalty of less than
26 one-eighth calculated under the first marketable product
27 doctrine.

28 (b) Construction.--Nothing in this act shall be construed to
29 preclude enforcement of lease terms which result in a royalty of
30 greater than one-eighth calculated under the first marketable

1 product doctrine.

2 Section 2. The addition of section 1.4 of the act shall
3 apply to all leases and other agreements that are entered into
4 on or after September 20, 1979, and are subject to section 2 or
5 3 of the act.

6 Section 3. This act shall take effect immediately.