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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1723 Session of  
2017

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INTRODUCED BY CONKLIN, V. BROWN, DEAN AND THOMAS,  
AUGUST 18, 2017

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
AUGUST 18, 2017

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AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated  
2 Statutes, providing for a natural gas severance fee;  
3 establishing the Natural Gas Severance Fee Account; and  
4 providing for distribution from account.

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

7 Section 1. Part II of Title 58 of the Pennsylvania  
8 Consolidated Statutes is amended by adding a chapter to read:

9 CHAPTER 29

10 NATURAL GAS SEVERANCE FEE

11 Sec.

12 2901. Definitions.

13 2902. Imposition of natural gas severance fee.

14 2903. (Reserved).

15 2904. Return and payment.

16 2905. Natural gas severance fee registration.

17 2906. Meters.

18 2907. Assessments.

- 1 2908. Time for assessment.
- 2 2909. Extension of assessment period.
- 3 2910. Reassessments.
- 4 2911. Interest.
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- 6 2913. Criminal acts.
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- 8 2915. Bulk and auction sales.
- 9 2916. Collection upon failure to request reassessment, review  
10                   or appeal.
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- 15 2921. Refund petition.
- 16 2922. Rules and regulations.
- 17 2923. Recordkeeping.
- 18 2924. Examinations.
- 19 2925. Unauthorized disclosure.
- 20 2926. Cooperation with other governments.
- 21 2927. Bonds.
- 22 2928. Natural Gas Severance Fee Account established.
- 23 2929. Distributions.
- 24 § 2901. Definitions.

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

28 "Account." The Natural Gas Severance Fee Account established  
29 in section 2928 (relating to Natural Gas Severance Fee Account  
30 established).

1 "Accredited laboratory." A facility engaged in the testing  
2 and calibration of scientific measurement devices and certified  
3 by the Department of Environmental Protection as having met its  
4 standards for accreditation.

5 "Association." A partnership, limited partnership or any  
6 other form of unincorporated enterprise owned or conducted by  
7 two or more persons.

8 "Average annual price of natural gas." The arithmetic mean  
9 of the New York Mercantile Exchange (NYMEX) Henry Hub settled  
10 price on the last trading day of each month of a calendar year  
11 as reported by the Wall Street Journal for the 12-month period  
12 ending March 31.

13 "Base fee." The fee under section 2902 (relating to  
14 imposition of natural gas severance fee).

15 "Coal bed methane." Gas that can be produced from coal beds,  
16 coal seams, mined-out areas or gob wells.

17 "Corporation." A corporation, joint stock association,  
18 limited liability company, business trust or any other  
19 incorporated enterprise organized under the laws of the United  
20 States, this Commonwealth or any other state, territory or  
21 foreign country or dependency.

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

23 "Fee." The fee imposed under this chapter.

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

26 "Municipality." A city, borough, incorporated town or  
27 township.

28 "Natural gas." A fossil fuel consisting of a mixture of  
29 hydrocarbon gases, primarily methane, possibly including ethane,  
30 propane, butane, pentane, carbon dioxide, oxygen, nitrogen and

1 hydrogen sulfide and other gas species. The term includes  
2 natural gas from oil fields known as associated gas or casing  
3 head gas, natural gas fields known as nonassociated gas, coal  
4 beds, shale beds and other formations. The term does not include  
5 coal bed methane.

6 "Nonproducing site." A point of severance that is not  
7 capable of producing natural gas in paying quantities.

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

10 "Person." A natural person or a corporation, fiduciary,  
11 association or other entity, including the Commonwealth, its  
12 political subdivisions, instrumentalities and authorities. When  
13 the term is used in a clause prescribing and imposing a penalty  
14 or imposing a fine or imprisonment, or both, the term shall  
15 include the members, as applied to an association, and the  
16 officers, as applied to a corporation.

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

21 "Producing site." A point of severance capable of producing  
22 natural gas in paying quantities.

23 "Reporting period." Every three successive calendar months  
24 beginning January 1, 2018.

25 "Secretary." The Secretary of Revenue of the Commonwealth.

26 "Sever." To extract or otherwise remove natural gas from the  
27 soil or water of this Commonwealth.

28 "Severance." The extraction or other removal of the natural  
29 gas commodity from the soil or water of this Commonwealth to be  
30 sold to consumers outside of this Commonwealth.

1 "Severing." Extracting or otherwise removing the natural gas  
2 commodity from the soil or water of this Commonwealth to be sold  
3 to consumers outside of this Commonwealth.

4 "Storage field." A natural formation or other site that is  
5 used to store natural gas that did not originate from and has  
6 been injected into the formation or site.

7 "Stripper well." A producing site or a nonproducing site  
8 that is not capable of producing and does not produce more than  
9 90,000 cubic feet of natural gas per day.

10 "Taxpayer." A person subject to the fee imposed by this  
11 chapter.

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

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

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

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

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

15       "Wellhead meter." A meter placed at a producing or  
16 nonproducing site to measure the volume of natural gas severed  
17 for which a wellhead meter certification has been issued.

18       "Wellhead meter certification." A report issued by an  
19 accredited laboratory certifying the accuracy of a wellhead  
20 meter.

21 § 2902. Imposition of natural gas severance fee.

22       (a) Establishment.--Beginning January 1, 2018, there shall  
23 be levied a natural gas severance fee on every producer. The fee  
24 shall not be imposed on units severed from a stripper well  
25 unless:

26           (1) The stripper well is one of multiple producing sites  
27 or nonproducing sites, the combined volumes of gas produced  
28 by all of which sites are measured by a single wellhead meter  
29 as provided in section 2906 (relating to meters).

30           (2) The combined volumes of gas produced by all the

1 producing sites or nonproducing sites described in paragraph  
2 (1) is more than 90,000 cubic feet of natural gas per day.

3 (a.1) Exemptions.--The fee shall not be imposed on the  
4 following:

5 (1) Units severed by a producer and sold and delivered  
6 to a manufacturer of tangible personal property, as defined  
7 in section 201(m) of the act of March 4, 1971 (P.L.6, No.2),  
8 known as the Tax Reform Code of 1971, for the manufacturer's  
9 use within this Commonwealth if the units have been severed  
10 from one or more producing sites or nonproducing sites on  
11 property owned by the manufacturer.

12 (2) Units provided free of charge to the owner of the  
13 surface under which the gas is severed if the surface owner  
14 is the end user of the gas.

15 (b) Base fee.--The base fee shall be 5¢ per unit severed at  
16 the wellhead.

17 (c) Effect on royalty payments and recovery of  
18 fee.--Notwithstanding any other provision of law, the fee  
19 imposed under this section shall not reduce any royalty payments  
20 due under mineral leases, and the producer shall not recover any  
21 portion of the fee paid from the royalty owner through other  
22 means of deduction or reallocation, notwithstanding any  
23 provision in the lease, contract or agreement.

24 § 2903. (Reserved).

25 § 2904. Return and payment.

26 (a) Return.--A producer shall submit a return and payment of  
27 the fee to the department on a form prescribed by the department  
28 for each reporting period. The return shall include the  
29 following:

30 (1) The units of production severed by the producer

1 during the reporting period.

2 (2) The number of producing sites of a producer in each  
3 county and municipality.

4 (3) The amount due for the reporting period.

5 (b) Filing.--The return required under subsection (a) shall  
6 be filed with the department within 25 days following the end of  
7 a reporting period.

8 (c) Deadline.--The fee imposed under section 2902 (relating  
9 to imposition of natural gas severance fee) is due on the day  
10 the return is required to be filed and becomes delinquent if not  
11 remitted to the department by that date.

12 (d) Deposit.--Except as provided in subsection (e), all fees  
13 collected under this chapter shall be deposited into the  
14 account.

15 (e) Appropriation.--The amount of the proceeds from the fee  
16 imposed by this chapter as shall be necessary for the payment of  
17 refunds, enforcement or administration under this chapter, is  
18 hereby appropriated to the department for those purposes.

19 § 2905. Natural gas severance fee registration.

20 (a) Application.--Before a producer severs natural gas in  
21 this Commonwealth, the producer shall apply to the department  
22 for a natural gas severance fee registration certificate.

23 (a.1) Application fee.--The department may charge an  
24 application fee to cover the administrative costs associated  
25 with the application and registration process. If the department  
26 charges an application fee, the department shall not issue a  
27 registration certificate until the producer has paid the  
28 application fee.

29 (a.2) Declaration.--The producer shall include in its  
30 application a declaration of all producing sites and



1 nonproducing sites used by the producer for the severance of  
2 natural gas. The declaration shall include copies of wellhead  
3 meter certifications for each site. The producer shall update  
4 the declaration when the producer adds or removes a producing  
5 site or nonproducing site in this Commonwealth or when there is  
6 a change in the status of a producing site or nonproducing site  
7 or when the producer uses a different accredited laboratory to  
8 issue a wellhead meter certification. The producer shall update  
9 the declaration within 30 days after a calendar month in which a  
10 change to the declaration occurs.

11 (b) Issuance.--Except as provided under subsection (c),  
12 after the receipt of an application, the department shall issue  
13 a registration certificate under subsection (a). The  
14 registration certificate shall be nonassignable. All registrants  
15 shall be required to renew their registration certificates and  
16 wellhead meter certifications on a staggered renewal system  
17 established by the department. After the initial staggered  
18 renewal period, a registration certificate or a wellhead meter  
19 certification issued shall be valid for a period of five years.

20 (c) Refusal, suspension or revocation.--The department may  
21 refuse to issue, suspend or revoke a registration certificate if  
22 the applicant or registrant has not filed required State tax  
23 reports and paid State taxes not subject to a timely perfected  
24 administrative or judicial appeal or subject to a duly  
25 authorized deferred payment plan. The department shall notify  
26 the applicant or registrant of any refusal, suspension or  
27 revocation. The notice shall contain a statement that the  
28 refusal, suspension or revocation may be made public. The notice  
29 shall be made by first class mail. An applicant or registrant  
30 aggrieved by the determination of the department may file an

1 appeal under the provisions for administrative appeals in the  
2 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code  
3 of 1971. In the case of a suspension or revocation which is  
4 appealed, the registration certificate shall remain valid  
5 pending a final outcome of the appeals process. Notwithstanding  
6 sections 274, 353(f), 408(b), 603, 702, 802, 904 and 1102 of the  
7 Tax Reform Code of 1971 or any other provision of law, if no  
8 appeal is taken or if an appeal is taken and denied at the  
9 conclusion of the appeal process, the department may disclose,  
10 by publication or otherwise, the identity of a producer and the  
11 fact that the producer's registration certificate has been  
12 refused, suspended or revoked under this subsection. Disclosure  
13 may include the basis for refusal, suspension or revocation.

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

29 (e) Failure to obtain registration certificate.--Failure to  
30 obtain or hold a valid registration certificate does not relieve

1 a person from liability for the tax imposed by this chapter.

2 § 2906. Meters.

3 (a) General rule.--Except as provided in subsection (b), a  
4 producer shall provide for and maintain a discrete wellhead  
5 meter where natural gas is severed. A producer shall ensure that  
6 the meters are maintained according to industry standards. A  
7 wellhead meter installed after the effective date of this  
8 section shall be a digital meter.

9 (b) Exception.--If a producer has multiple producing sites  
10 or nonproducing sites, the combined volumes of gas produced by  
11 all of which sites are measured by a single wellhead meter, the  
12 producer shall not be required to provide for a discrete  
13 wellhead meter at any of those producing sites or nonproducing  
14 sites that is also a stripper well.

15 § 2907. Assessments.

16 (a) Authorization and requirement.--The department is  
17 authorized and shall make the inquiries, determinations and  
18 assessments of the fee imposed under this chapter, including  
19 interest, additions and penalties imposed under this chapter.

20 (b) Notice.--The notice of assessment and demand for payment  
21 shall be mailed to the taxpayer. The notice shall provide the  
22 basis of the assessment. The department shall send the notice of  
23 assessment to the taxpayer at its registered address via  
24 certified mail if the assessment increases the taxpayer's tax  
25 liability by \$300. Otherwise, the notice of assessment may be  
26 sent via regular mail.

27 § 2908. Time for assessment.

28 (a) Requirement.--An assessment as provided under section  
29 2907 (relating to assessments) shall be made within three years  
30 after the date when the return provided for by section 2904

1 (relating to return and payment) is filed or the end of the year  
2 in which the tax liability arises, whichever shall occur last.  
3 For the purposes of this subsection and subsection (b), a return  
4 filed before the last day prescribed for the filing period shall  
5 be considered as filed on the last day.

6 (b) Exception.--If the taxpayer underpays the correct amount  
7 of the fee due by 25% or more, the fee may be assessed within  
8 six years after the date the return was filed.

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

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

20 § 2909. Extension of assessment period.

21 Notwithstanding the provisions of this chapter, the  
22 assessment period may be extended in the event a taxpayer has  
23 provided written consent before the expiration of the period  
24 provided in section 2908 (relating to time for assessment) for a  
25 fee assessment. The amount of fee due may be assessed at any  
26 time within the extended period. The period may be extended  
27 further by subsequent written consents made before the  
28 expiration of the extended period.

29 § 2910. Reassessments.

30 A taxpayer against whom an assessment is made may petition

1 the department for a reassessment under Article XXVII of the act  
2 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of  
3 1971.

4 § 2911. Interest.

5 The department shall assess interest on any delinquent fee at  
6 the rate prescribed under section 806 of the act of April 9,  
7 1929 (P.L.343, No.176), known as The Fiscal Code.

8 § 2912. Penalties.

9 The department shall enforce the following penalties:

10 (1) A penalty against a producer without a natural gas  
11 severance fee registration certificate. The penalty shall be  
12 \$1 for every unit severed without a valid registration  
13 certificate. The department may assess this penalty  
14 separately from or in conjunction with any assessment of the  
15 natural gas severance fee.

16 (2) A penalty against a producer for failure to timely  
17 file a return as required under section 2904 (relating to  
18 return and payment). The penalty shall be 5% of the fee  
19 liability to be reported on the return for each day beyond  
20 the due date that the return is not filed.

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

25 (4) A penalty against a producer for failure to pay the  
26 fee by the deadline under section 2904(c). The penalty shall  
27 be 5% of the amount of fee due for each day beyond the  
28 payment date that the fee is not paid.

29 § 2913. Criminal acts.

30 (a) Fraudulent return.--Any person with intent to defraud

1 the Commonwealth, who willfully makes or causes to be made a  
2 return required by this chapter which is false, commits a  
3 misdemeanor and shall, upon conviction, be sentenced to pay a  
4 fine of not more than \$2,000 or to imprisonment for not more  
5 than three years, or both.

6 (b) Other crimes.--

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

12 (i) Willfully failing to timely remit the fee to the  
13 department.

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

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

18 (iv) Willfully failing to preserve its books, papers  
19 and records as directed by the department.

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

23 (vi) Knowingly making any incomplete, false or  
24 fraudulent return or report.

25 (vii) Preventing or attempting to prevent the full  
26 disclosure of the amount of natural gas severance fee  
27 due.

28 (viii) Providing any person with a false statement  
29 as to the payment of the fee imposed under this chapter  
30 with respect to any pertinent facts.

1           (ix) Making, uttering or issuing a false or  
2           fraudulent statement.

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

5   § 2914. Abatement of additions or penalties.

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

12   § 2915. Bulk and auction sales.

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

22   § 2916. Collection upon failure to request reassessment, review  
23           or appeal.

24           (a) Power of department.--The department may collect the fee  
25           imposed under this chapter:

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

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

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

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

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

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

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

17           § 2917. Tax liens.

18           (a) Lien imposed.--If a taxpayer neglects or refuses to pay  
19           the fee imposed under this chapter for which the taxpayer is  
20           liable under this chapter after demand, the amount, including  
21           interest, addition or penalty, together with additional costs  
22           that may accrue, shall be a lien in favor of the Commonwealth  
23           upon the real and personal property of the taxpayer but only  
24           after the same has been entered and docketed of record by the  
25           prothonotary of the county where the property is situated. The  
26           department may, at any time, transmit to the prothonotaries of  
27           the respective counties certified copies of all liens imposed by  
28           this section. It shall be the duty of the prothonotary receiving  
29           the lien to enter and docket the same of record to the office of  
30           the prothonotary. The lien shall be indexed as judgments are now



1 indexed. No prothonotary shall require as a condition precedent  
2 to the entry of the lien the payment of costs incidental to its  
3 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, a lien imposed under this section shall have priority  
8 from the date of its recording and shall be fully paid and  
9 satisfied out of the proceeds of any judicial sale of property  
10 subject to the lien, before any other obligation, judgment,  
11 claim, lien or estate to which the property may subsequently  
12 become subject, but shall be subordinate to mortgages and other  
13 liens existing and duly recorded or entered of record prior to  
14 the recording of the 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 shall continue as provided in the act of April  
25 9, 1929 (P.L.343, No.176), known as The Fiscal Code, and a writ  
26 of execution may directly issue upon the lien without the  
27 issuance and prosecution to judgment of a writ of scire facias,  
28 provided that not less than 10 days before issuance of any  
29 execution on the lien, notice of the filing and the effect of  
30 the lien shall be sent by registered mail to the taxpayer at its

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

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

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

28 (f) Other remedies.--Subject to the limitations contained in  
29 this chapter as to the assessment of fees, nothing contained in  
30 this section shall be construed to restrict, prohibit or limit

1 the use by the department in collecting fees due and payable of  
2 another remedy or procedure available at law or equity for the  
3 collection of debts.

4 § 2918. Tax suit reciprocity.

5 The courts of this Commonwealth shall recognize and enforce  
6 liabilities for natural gas severance or extraction fees  
7 lawfully imposed by any other state, provided that the other  
8 state recognizes and enforces the fee imposed under this  
9 chapter.

10 § 2919. 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 producer. Where service cannot be made upon the producer in the  
18 manner provided by other laws of this Commonwealth relating to  
19 service of process, service may be made upon the Secretary of  
20 the Commonwealth. In that case, a copy of the process or notice  
21 shall be personally served upon any agent or representative of  
22 the producer who may be found within this Commonwealth, or,  
23 where no agent or representative may be found, a copy of the  
24 process or notice shall be sent via registered mail to the  
25 producer at the last known address of its principal place of  
26 business, home office or residence.

27 § 2920. Refunds.

28 Under Article XXVII of the act of March 4, 1971 (P.L.6,  
29 No.2), known as the Tax Reform Code of 1971, the department  
30 shall refund all fees, interest and penalties paid to the

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

14 § 2921. Refund petition.

15 (a) General rule.--Except as provided for in subsection (b),  
16 the refund or credit of tax, interest or penalty provided for by  
17 section 2920 (relating to refunds) shall be made only where the  
18 person who has paid the tax files a petition for refund with the  
19 department under Article XXVII of the act of March 4, 1971  
20 (P.L.6, No.2), known as the Tax Reform Code of 1971, within the  
21 time limits of section 3003.1 of the Tax Reform Code of 1971.

22 (b) Natural gas severance fee.--A refund or credit of fees,  
23 interest or penalty paid as a result of an assessment made by  
24 the department under section 2905 (relating to natural gas  
25 severance fee registration) shall be made only where the person  
26 who has paid the fee files with the department a petition for a  
27 refund with the department under Article XXVII of the Tax Reform  
28 Code of 1971 within the time limits of section 3003.1 of the Tax  
29 Reform Code of 1971. The filing of a petition for refund, under  
30 the provisions of this subsection, shall not affect the

1 abatement of interest, additions or penalties to which the  
2 person may be entitled by reason of his payment of the  
3 assessment.

4 § 2922. Rules and regulations.

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

15 § 2923. Recordkeeping.

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

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

27 (1) Wellhead meter charts for each reporting period and  
28 the meter calibration and maintenance records. If turbine  
29 meters are in use, the maintenance records will be made  
30 available to the department upon request.

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

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

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

14           (c) Keeping of separate records.--A producer who is engaged  
15           in another business or businesses which do not involve the  
16           severing of natural gas under this chapter shall keep separate  
17           books and records of the businesses so as to show the severing  
18           of natural gas under this chapter separately from other business  
19           activities not subject to this chapter. If a person fails to  
20           keep separate books and records, the person shall be liable for  
21           a penalty equaling 100% of fees due under this chapter for the  
22           period where separate records were not maintained.

23           § 2924. Examinations.

24           The department or any of its authorized agents are authorized  
25           to examine the books, papers and records of a taxpayer in order  
26           to verify the accuracy and completeness of a return made or, if  
27           no return was made, to ascertain and assess the fee imposed by  
28           this chapter. The department may require the preservation of all  
29           books, papers and records for any period deemed proper by it but  
30           not to exceed three years from the end of the calendar year to

1 which the records relate. Every taxpayer is required to give to  
2 the department or its agent the means, facilities and  
3 opportunity for examinations and investigations under this  
4 section. The department is further authorized to examine any  
5 person, under oath, concerning the taxable severing of natural  
6 gas by any taxpayer or concerning any other matter relating to  
7 the enforcement or administration of this chapter and, to this  
8 end, may compel the production of books, papers and records and  
9 the attendance of all persons whether as parties or witnesses  
10 whom it believes to have knowledge of relevant matters. The  
11 procedure for the hearings or examinations shall be the same as  
12 that provided by the act of April 9, 1929 (P.L.343, No.176),  
13 known as The Fiscal Code.

14 § 2925. Unauthorized disclosure.

15 Any information gained by the department as a result of any  
16 return, examination, investigation, hearing or verification  
17 required or authorized by this chapter shall be confidential  
18 except for official purposes and except in accordance with  
19 proper judicial order or as otherwise provided by law, and any  
20 person unlawfully divulging the information commits a  
21 misdemeanor and shall, upon conviction, be sentenced to pay a  
22 fine of not more than \$1,000 and costs of prosecution or to  
23 imprisonment for not more than one year, or both.

24 § 2926. Cooperation with other governments.

25 Notwithstanding the provisions of section 2918 (relating to  
26 tax suit reciprocity), the department may permit the  
27 Commissioner of the Internal Revenue Service of the United  
28 States, the proper officer of any state or the authorized  
29 representative of either of them to inspect the returns of any  
30 taxpayer, or may furnish to the commissioner or officer or to

1 either of their authorized representatives an abstract of the  
2 return of any taxpayer, or supply him with information  
3 concerning any item contained in any return or disclosed by the  
4 report of any examination or investigation of the return of any  
5 taxpayer. This permission shall be granted only if the laws of  
6 the United States or another state grant substantially similar  
7 privileges to the proper officer of the Commonwealth charged  
8 with the administration of this chapter.

9 § 2927. Bonds.

10 (a) Taxpayer to file bond.--The department may require a  
11 nonresident natural person or any foreign corporation,  
12 association, fiduciary or other entity, not authorized to do  
13 business within this Commonwealth or not having an established  
14 place of business in this Commonwealth and subject to the tax  
15 imposed under section 2902 (relating to imposition of natural  
16 gas severance fee), to file a bond issued by a surety company  
17 authorized to do business in this Commonwealth and approved by  
18 the Insurance Commissioner as to solvency and responsibility, in  
19 amounts as it may fix, to secure the payment of any tax or  
20 penalties due or which may become due from a nonresident natural  
21 person, corporation, association, fiduciary or other entity  
22 whenever it deems it necessary to protect the revenues obtained  
23 under this chapter. The department may also require a bond of a  
24 person petitioning the department for reassessment in the case  
25 of any assessment over \$500 or where, in its opinion, the  
26 ultimate collection is in jeopardy. For a period of three years,  
27 the department may require a bond of any person who has, on  
28 three or more occasions within a 12-month period, either filed a  
29 return or made payment to the department more than 30 days late.  
30 In the event the department determines a taxpayer is required to



1 file a bond, it shall give notice to the taxpayer specifying the  
2 amount of the bond required. The taxpayer shall file the bond  
3 within five days after notice is given by the department unless,  
4 within five days, the taxpayer shall request in writing a  
5 hearing before the secretary or the secretary's representative.  
6 At the hearing, the necessity, propriety and amount of the bond  
7 shall be determined by the secretary or the secretary's  
8 representative. The determination shall be final and the  
9 taxpayer shall comply with it within 15 days after notice is  
10 mailed to the taxpayer.

11 (b) Securities in lieu of bond.--In lieu of the bond  
12 required by this section, securities approved by the department  
13 or cash in a prescribed amount may be deposited. The securities  
14 or cash shall be kept in the custody of the department. The  
15 department may apply the securities or cash to the fee imposed  
16 by this chapter and interest or penalties due without notice to  
17 the depositor. The securities may be sold by the department to  
18 pay the fee or interest or penalties due at public or private  
19 sale upon five days' written notice to the depositor.

20 (c) Failure to file bond.--The department may file a lien  
21 under section 2917 (relating to tax liens) against a taxpayer  
22 who fails to file a bond when required to do so under this  
23 section. All funds received upon execution of the judgment on  
24 the lien shall be refunded to the taxpayer with 3% interest,  
25 should a final determination be made that it does not owe any  
26 payment to the department.

27 § 2928. Natural Gas Severance Fee Account established.

28 (a) Establishment.--The Natural Gas Severance Fee Account is  
29 established as a restricted account within the General Fund.

30 (b) Use.--The money in the account shall be distributed to

1 the Department of Environmental Protection for the Natural Gas  
2 Energy Development Program under Chapter 27 (relating to Natural  
3 Gas Energy Development Program).

4 (c) Nonlapse.--The money in the fund is continuously  
5 appropriated into the fund. This appropriation shall not lapse  
6 at the end of any fiscal year.

7 § 2929. Distributions.

8 Thirty business days following the end of each reporting  
9 period, the State Treasurer shall make the distributions of the  
10 money in the account as specified under this chapter.

11 Section 2. This act shall take effect immediately.