

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2461 Session of 2022

INTRODUCED BY OWLETT, CAUSER, PICKETT, RYAN, HENNESSEY, O'NEAL, ROTHMAN, BERNSTINE, SMITH, KAUFFMAN, OBERLANDER, JAMES, M. MACKENZIE, COX, HAMM, COOK, SAYLOR, STRUZZI, GROVE, MOUL, HERSHEY, ROWE AND DAVANZO, MARCH 25, 2022

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MARCH 30, 2022

AN ACT

1 Providing for the leasing of subsurface rights on State forest
2 and park property for oil and natural gas development; MAKING <--
3 AN APPROPRIATION; and abrogating an executive order and other
4 orders and administrative policies.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Subsurface
9 Oil and Gas Lease Act.

10 Section 2. Definitions.

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

14 "Company." An entity doing business within this Commonwealth
15 and subject to tax under Article III, IV or VI of the act of
16 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
17 1971.

1 "Department." The Department of Conservation and Natural  
2 Resources of the Commonwealth.

3 "Secretary." The Secretary of Conservation and Natural  
4 Resources of the Commonwealth.

5 "UPFRONT PAYMENTS." ALL PAYMENTS RECEIVED BY THE <--  
6 COMMONWEALTH WHICH ARE PAID AT THE TIME THAT A LEASE IS ENTERED  
7 INTO UNDER THIS ACT.

8 Section 3. Subsurface drilling under Commonwealth lands.

9 (a) Program established.--The department shall establish a  
10 program to review submissions or nominations by companies for  
11 the leasing of subsurface rights under State forest and park  
12 property by companies for oil and gas development from  
13 subsurface drilling originating from well sites outside the  
14 State forest or park property.

15 (b) Lease approval.--The secretary shall have the authority  
16 to approve or disapprove any submission or nomination for a  
17 lease under this act. The department shall provide in writing to  
18 a company which has sent a submission or nomination to the  
19 department notice of the department's decision to ~~grant~~ APPROVE <--  
20 or not ~~grant~~ APPROVE a lease within 60 days of receipt from the <--  
21 company. If the department is disapproving ~~the grant of a lease,~~ <--  
22 the department shall list all reasons why the department has  
23 made the decision in the notification.

24 (c) Resubmission upon disapproval.--A company receiving  
25 notice of disapproval may resend a submission or nomination to  
26 the department with or without changes and may include a  
27 response addressing the department's reasons within 60 calendar  
28 days of receipt of the department's disapproval. The department  
29 shall provide in writing to a company which has sent a  
30 resubmission to the department notice of the department's

1 decision to ~~grant or not grant a lease~~ APPROVE OR NOT APPROVE A <--  
2 SUBMISSION OR NOMINATION within 60 days of receipt from the  
3 company. If the department is disapproving ~~the grant of a lease,~~ <--  
4 the department shall list all reasons why the department has  
5 made the decision in the notification.

6 (d) Reasons for disapproval.--The department may disapprove  
7 a submission or nomination for the following reasons:

8 (1) The company has environmental compliance violations  
9 within this Commonwealth which have not been satisfactorily  
10 addressed and which have caused a significant negative  
11 environmental impact.

12 (2) Development of the tract would lead to the need for  
13 related infrastructure development elsewhere on State forest  
14 land which would, in the department's determination, lead to  
15 significant negative environmental impacts.

16 (e) Appeal.--A company receiving notice of a disapproval of  
17 a resubmission under subsection (c) may appeal the disapproval  
18 to Commonwealth Court. Commonwealth Court shall consider the  
19 factors in subsection (d) when considering an appeal.

20 (f) Implementation and posting.--Within 90 days of the  
21 effective date of this section, the department shall implement  
22 the program under subsection (a) and post information relating  
23 to the program and instructions regarding the manner in which  
24 submissions or nominations should be sent for review on its  
25 publicly accessible Internet website.

26 (g) Submissions and nominations.--Companies may begin  
27 sending submissions or nominations for review under this act to  
28 the department 90 days after the effective date of this section.

29 ~~Section 4. Funds.~~ <--

30 ~~All revenue generated from leases and royalties under this~~

1 ~~act shall be deposited into the Oil and Gas Lease Fund.~~

2 (H) COMPETITIVE BIDDING PROCESS.--IF THE DEPARTMENT APPROVES <--  
3 A SUBMISSION OR NOMINATION UNDER THIS ACT, THE DEPARTMENT SHALL  
4 HOLD A COMPETITIVE BIDDING PROCESS FOR THE RIGHTS IN QUESTION  
5 UNDER THE ALREADY APPROVED SUBMISSION OR NOMINATION. THE  
6 FOLLOWING SHALL APPLY:

7 (1) THE DEPARTMENT SHALL NOTIFY THE COMPANY THAT  
8 SUBMITTED THE APPROVED SUBMISSION OR NOMINATION OF THE TIME  
9 AND MANNER BY WHICH THE BIDDING PROCESS WILL TAKE PLACE AND  
10 THE BIDDING PROCESS SHALL BE OPEN TO ANY COMPANY.

11 (2) WHEN THE DEPARTMENT APPROVES A SUBMISSION OR  
12 NOMINATION UNDER THIS ACT, THE DEPARTMENT SHALL POST  
13 INFORMATION REGARDING THE TIME AND MANNER BY WHICH THE  
14 BIDDING PROCESS WILL TAKE PLACE, ALONG WITH A DESCRIPTION OF  
15 THE RIGHTS WHICH WILL BE BID.

16 (3) THE DEPARTMENT SHALL COMPLETE THE BIDDING PROCESS  
17 AND SELECT THE WINNING BIDDER WITHIN 45 DAYS OF APPROVING A  
18 SUBMISSION OR NOMINATION UNDER THIS ACT.

19 (4) THE WINNING BIDDER SHALL BE AWARDED A LEASE FOR THE  
20 RIGHTS IN QUESTION PREVIOUSLY APPROVED BY THE DEPARTMENT.

21 SECTION 4. USE OF FUND AND GRANT PROGRAM.

22 (A) INITIAL DEPOSITS.--ALL REVENUE GENERATED FROM LEASES  
23 UNDER THIS ACT SHALL BE DEPOSITED INTO THE OIL AND GAS LEASE  
24 FUND.

25 (B) APPROPRIATION.--MONEY DEPOSITED INTO THE OIL AND GAS  
26 LEASE FUND UNDER SUBSECTION (A) WHICH IS ATTRIBUTABLE TO UPFRONT  
27 PAYMENTS MADE IN CONSIDERATION FOR A LEASE UNDER THIS ACT IS  
28 HEREBY APPROPRIATED ON A CONTINUING BASIS TO THE DEPARTMENT FOR  
29 THE GRANT PROGRAM UNDER SUBSECTION (C). THE APPROPRIATION UNDER  
30 THIS SUBSECTION SHALL NOT LAPSE.

1 (C) GRANT PROGRAM.--

2 (1) THE DEPARTMENT SHALL ESTABLISH A GRANT PROGRAM UNDER  
3 THIS ACT TO FUND STREAM MAINTENANCE AND CLEARING PROJECTS.  
4 THE DEPARTMENT SHALL PRIORITIZE AWARDING THE MONEY UNDER THE  
5 GRANT PROGRAM TO ALL OF THE FOLLOWING:

6 (I) PROJECTS DESIGNED TO MITIGATE THE RISK OF  
7 FLOODING.

8 (II) PROJECTS THAT HAVE THE POTENTIAL TO PRESERVE  
9 FARMLAND OR RESIDENTIAL PROPERTY FROM FLOODING.

10 (III) PROJECTS FROM AREAS OF THIS COMMONWEALTH THAT  
11 HAVE BEEN UNDER FEDERAL OR STATE DISASTER EMERGENCY  
12 RELATED TO FLOODING WITHIN THE LAST FIVE YEARS.

13 (2) THE DEPARTMENT SHALL AWARD THE MONEY UNDER THE GRANT  
14 PROGRAM TO PROJECTS IN DIFFERENT AREAS OF THIS COMMONWEALTH.  
15 A PROPOSED PROJECT WITHIN A SINGLE COUNTY OR MUNICIPALITY  
16 SHALL NOT RECEIVE MORE THAN 10% OF THE MONEY UNDER THE GRANT  
17 PROGRAM DISTRIBUTED BY THE DEPARTMENT IN A GIVEN YEAR.

18 Section 5. Construction.

19 Nothing in this act shall be construed to prohibit oil and  
20 gas drilling on State forest and park property in accordance  
21 with the laws of this Commonwealth.

22 Section 6. Abrogation of executive order and other orders and  
23 administrative policies.

24 This act shall abrogate Executive Order 2015-03 and any other  
25 order or administrative policy in conflict with this act.

26 Section 7. Effective date.

27 This act shall take effect immediately.