

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4270

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[Introduced January 24, 2018; referred to the
Committee on Energy then the Judiciary.]

1 A BILL to amend the Code of West Virginia, 1931, as amended; by adding thereto a new chapter,
 2 designated §37B-1-1, §37B-1-2, §37B-1-3, and §37B-1-4, all relating generally to real
 3 property; providing for timely payment of moneys owed from oil and natural gas
 4 production; establishing interest penalties for certain late payments; requiring specified
 5 information to be remitted with payments; requiring quarterly reporting of production data
 6 to Department of Environmental Protection for horizontal wells; and providing for rule-
 7 making authority.

Be it enacted by the Legislature of West Virginia:

CHAPTER 37B. MINERAL DEVELOPMENT.

ARTICLE 1. INFORMATION REPORTING AND PAYMENTS TO OWNERS.

§37B-1-1. Oil and natural gas production information reporting.

1 (a) An operator or producer or their agents, contractors or assigns shall provide the
 2 following information with each payment to all interest owners receiving payments resulting from
 3 the development and production of oil, natural gas, or their constituents by horizontal wells
 4 governed by §22-6A of this code, being the Natural Gas Horizontal Well Control Act:

5 (1) A name, number, or combination of name and number and the state issued American
 6 Petroleum Institute number that identifies each lease, property, unit, pad, and well, for which
 7 payment is being made and the county in which the lease, property, and well is located;

8 (2) Month and year of production;

9 (3) Total barrels of oil; number of MCF, MMBTU or DTH of natural gas; and volume of
 10 natural gas liquids produced from each well and sold;

11 (4) Price received per unit of oil, natural gas, and natural gas liquids produced;

12 (5) Gross value of total proceeds from the sale of oil, natural gas, and natural gas liquids
 13 from each well less taxes and deductions set forth in subdivision (6) of this subsection;

14 (6) Itemized amounts for all deductions which affect payment and are allowed by law.

15 including without limitation, those deductions provided for under the terms of the governing lease;

16 (7) Interest owner's interest in production from each well expressed as a decimal or
17 fraction and reported pursuant to subdivision (1) of this subsection;

18 (8) Interest owner's ratable share of the total value of the proceeds of the sale of oil,
19 natural gas, and natural gas liquids prior to the deduction of taxes, if applicable, and other
20 deductions set forth in subdivision (6) of this subsection;

21 (9) Interest owner's ratable share of the proceeds from the sale of oil, natural gas, and
22 natural gas liquids less the interest owner's ratable share of taxes, if applicable, and other
23 deductions set forth in subdivision (6) of this subsection; and

24 (10) Contact information of the producer of the oil, natural gas, or natural gas liquids,
25 including a mailing address and telephone number.

26 (b) An interest owner who does not receive the information required to be provided under
27 this section in a timely manner may send a written request for such information by certified
28 mail. Not later than the sixtieth day after the date the operator or producer receives the written
29 request for information under this section, the operator or producer shall provide the requested
30 information to the interest owner. If the interest owner makes a written request for information
31 under this section and the operator or producer does not provide the information within the sixty-
32 day period, the interest owner may bring a civil action against the operator or producer to enforce
33 the provisions of this section, and a prevailing interest owner shall be entitled to recover
34 reasonable attorneys' fees and court costs incurred in such civil action.

§37B-1-2. Accumulation and payment of proceeds from production.

1 Notwithstanding any of the other provisions of this article, proceeds from production of oil,
2 natural gas, and natural gas liquids may be accumulated by the owners, cotenants, lessees,
3 operators, or their agents, contractors or assigns, until such time as proceeds attributable to any
4 interest owner exceeds \$100 before making a remittance: *Provided, That, regardless of the*
5 amount of money accumulated, the owners, cotenants, lessees, operators, or their agents,

6 contractors or assigns shall remit proceeds attributable to the interest owners not less than once
7 annually: *Provided further*, That all accumulated proceeds shall be paid to the interest owners
8 entitled thereto immediately, or as soon as practicable, upon cessation of production of oil, natural
9 gas, or natural gas liquids or upon relinquishment or transfer of the payment responsibility to
10 another party.

§37B-1-3. Payments to be made timely; interest penalties.

1 All regular production payments due and owing to an interest owner shall be tendered in
2 a timely manner, which shall not exceed one hundred twenty days from the date that a sale of oil,
3 natural gas, or natural gas liquids is realized, unless such failure to remit is due to lack of record
4 title in the interest owner, a legal dispute concerning the interest, a missing or unlocatable owner
5 of the interest, or due to conditions otherwise specified in this article. Failure to remit timely
6 payment shall result in a mandatory additional payment of an interest penalty to be set at the
7 prime rate plus an additional two percent until such payment is made to be compounded
8 quarterly. The prime rate shall be the rate published on the day of the sale of oil, natural gas, and
9 natural gas liquids in the *Wall Street Journal* reflecting the base rate on corporate loans posted
10 by at least seventy-five percent of the nation's thirty largest banks.

§37B-1-4. Reporting of production data to state; rule making authority.

1 A quarterly report of the volume of oil, natural gas, and natural gas liquids produced from
2 any horizontal well drilled shall be filed with the Chief of the Office of Oil and Gas on a form
3 prescribed by the Secretary of the West Virginia Department of Environmental Protection. All
4 reported data shall be made available to the public through the Office of Oil and Gas' website
5 within a reasonable time, but not more than thirty days after such data is filed. The secretary
6 has the express authority pursuant to this article, as well as pursuant to the powers enumerated
7 in section two, article six, chapter twenty-two of this code, to promulgate rules and to amend the
8 current rules to require timely quarterly reporting of production data as well as to establish a
9 process for collecting such data.

NOTE: The purpose of this bill is to provide for timely payment of moneys owed from oil and natural gas production; to establish interest penalties for certain late payments; to require specified information be remitted with such payments; to require quarterly reporting of production data to Department of Environmental Protection for horizontal wells; and to provide for rule-making authority.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.