

HB 4598 S

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006



ENROLLED

House Bill No. 4598

(By Delegate Michael)



Passed March 11, 2006

In Effect Ninety Days from Passage

FILED

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OFF OF WEST VIRGINIA
SECRETARY OF STATE

E N R O L L E D

H. B. 4598

(BY DELEGATE MICHAEL)

[Passed March 11, 2006; in effect ninety days from passage.]

AN ACT to amend and reenact §11-1C-14 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-10-5w of said code; and to amend and reenact §11-13A-3a of said code, all relating to information provided on oil and gas property tax returns; providing limited information relating to oil and gas property that may be disclosed by certain state agencies; and eliminating by the first day of July, two thousand six, the requirement for a combined oil and gas property tax return.

Be it enacted by the Legislature of West Virginia:

That §11-1C-14 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §11-10-5w of said code be amended and reenacted; and that §11-13A-3a of said code be amended and reenacted, all to read as follows:

ARTICLE 1C. FAIR AND EQUITABLE PROPERTY VALUATION.

§11-1C-14. Confidentiality and disclosure of return information to develop or maintain a mineral mapping or geographic information system; offenses; penalties.

1 (a) All information provided by or on behalf of a natural
2 resources property owner or by or on behalf of an owner of an
3 interest in natural resources property to any state or county
4 representative, including property tax returns, maps and
5 geological information and property tax audit information
6 provided to the West Virginia Department of Environmental
7 Protection, Office of Oil and Gas, and the West Virginia
8 Geological and Economic Survey, for use in the valuation or
9 assessment of natural resources property or for use in the
10 development or maintenance of a legislatively funded mineral
11 mapping or geographic information system is confidential. The
12 information is exempt from disclosure under section four,
13 article one, chapter twenty-nine-b of this code, and shall be
14 kept, held and maintained confidential except to the extent the
15 information is needed by the State Tax Commissioner to defend
16 an appraisal challenged by the owner or lessee of the natural
17 resources property subject to the appraisal: *Provided*, That this
18 section may not be construed to prohibit the publication or
19 release of information generated as a part of the minerals
20 mapping or geographic information system, whether in the form
21 of aggregated statistics, maps, articles, reports, professional
22 talks or otherwise, presented in accordance with generally
23 accepted practices and in a manner so as to preclude the
24 identification or determination of information about particular
25 property owners: *Provided, however*, That effective the first day
26 of July, two thousand six, the Tax Commissioner may disclose
27 the following specified information obtained from the West
28 Virginia oil and gas producer/operator return to the West
29 Virginia Geological and Economic Survey and the West
30 Virginia Department of Environmental Protection, Office of Oil
31 and Gas: *Provided further*, That the West Virginia Geological
32 and Economic Survey and the West Virginia Department of
33 Environmental Protection, Office of Oil and Gas, may disclose
34 the following specified information obtained from the West
35 Virginia oil and gas producer/operator return.

36 (1) The name and address of the owner of a working
37 interest in the well for which the return is filed;

38 (2) The county and district within the county wherein the
39 oil or gas well is located and taxed for ad valorem taxation
40 purposes;

41 (3) The name, address and telephone number of the
42 producer and the producer=s agent;

43 (4) The American Petroleum Institute number assigned to
44 each well for which the return is filed;

45 (5) The total barrels produced in the reporting period for
46 each oil well for which the return is filed; and

47 (6) The total mcf produced in the reporting period for each
48 gas well for which the return is filed.

49 (b) Any state or county representative or employee, or
50 employee or representative of the West Virginia Geological and
51 Economic Survey or the Department of Environmental Protec-
52 tion, who violates this section by disclosing confidential
53 information is guilty of a misdemeanor and, upon conviction
54 thereof, shall be fined not more than one thousand dollars or
55 confined in jail for not more than one year, or both fined and
56 confined, and shall be assessed the cost of prosecution. As used
57 in this section, the term "state or county representative"
58 includes any current or former state or county employee,
59 officer, commission or board member and any state or county
60 agency, institution, organization, contractor or subcontractor
61 and any principal, officer, agent or employee thereof.

ARTICLE 10. TAX PROCEDURE AND ADMINISTRATION.

§11-10-5w. Confidentiality and disclosure of information set forth in the oil and gas combined reporting form speci-

fied in subsection (d), section three-a, article thirteen-a of this chapter to county assessors, the Department of Environmental Protection and to the Public Service Commission; offenses; penalties.

1 (a) *Confidentiality of certain information reported on the*
2 *oil and gas combined reporting form, exception.* — The
3 following information provided by or on behalf of any person
4 or entity on the oil and gas combined reporting form specified
5 in subsection (d), section three-a, article thirteen-a of this
6 chapter is confidential:

7 (1) The natural resources account number (NRA);

8 (2) Total gross revenue for oil or gas or both;

9 (3) Working interest revenue for oil or gas or both;

10 (4) The name and address of the owner of a working
11 interest or override royalty interest in the well;

12 (5) The ownership interest held by the owner of a working
13 interest or override royalty interest in the well, expressed as a
14 percentage or decimal equivalent, of total ownership of each
15 listed owner; and

16 (6) The income of any owner.

17 Such information is exempt from disclosure under section
18 four, article one, chapter twenty-nine-b of this code, and shall
19 be kept, held and maintained as confidential except to the extent
20 the information is disclosable under subsections (b) and (c) of
21 this section.

22 (b) *Disclosure to county assessors, Department of Environ-*
23 *mental Protection and Public Service Commission authorized.*

24 — Notwithstanding the provisions of section five-d, article ten
25 of this chapter to the contrary, and notwithstanding any other
26 provision of this code to the contrary, the Tax Commissioner
27 may disclose the oil and gas combined reporting form specified
28 in subsection (d), section three-a, article thirteen-a of this
29 chapter, and information set forth thereon to county assessors,
30 the Department of Environmental Protection and the Public
31 Service Commission for the purpose of administering and
32 implementing the assessment, administrative, oversight and
33 regulatory functions and responsibilities with which they are
34 charged by law.

35 (c) *Release and publication of information.* —

36 (1) *Statistical and aggregate information.* — This section
37 shall not be construed to prohibit the publication or release of
38 summary statistical information derived from the oil and gas
39 combined reporting form, including summary statistical
40 information derived from the items specified in subsection (a)
41 of this section. Publication or release of such summary statisti-
42 cal information is authorized in the form of aggregated statis-
43 tics, maps, articles, reports or professional talks, or in other
44 forms, provided it is presented in accordance with generally
45 accepted practices and in a manner so as to preclude the
46 identification of particular oil and gas combined report filers
47 and to preclude derivation or determination of information
48 specified in subsection (a) of this section about particular oil
49 and gas combined report filers.

50 (2) *Release and publication of certain information.* —
51 Notwithstanding the provisions of this section to the contrary
52 and notwithstanding any other provision of this code to the
53 contrary, the Tax Commissioner, county assessors, the Depart-
54 ment of Environmental Protection, and the Public Service
55 Commission may publish or publicly release information
56 provided by or on behalf of any person or entity in the oil and

57 gas combined reporting form except for the information
58 specified as confidential in subsection (a) of this section.

59 (d) *Penalty of unlawful disclosure.* — Any state, county or
60 governmental subdivision employee or representative (includ-
61 ing, but not limited to, any county assessor or any employee or
62 representative of the West Virginia Department of Environmen-
63 tal Protection or the West Virginia Public Service Commis-
64 sion), who violates this section by making an unlawful or
65 unauthorized disclosure of confidential information that is
66 reported on the oil and gas combined reporting form is guilty of
67 a misdemeanor and, upon conviction thereof, shall be fined not
68 more than one thousand dollars or confined in jail for not more
69 than one year, or both fined and confined, and shall be assessed
70 the cost of prosecution. As used in this section, the term “state,
71 county or governmental subdivision employee or representa-
72 tive” includes, but is not limited to, any current or former state,
73 county or municipal employee, officer, or commission or board
74 member, and any state, county or municipal agency, institution,
75 organization, contractor or subcontractor and any principal,
76 officer, agent or employee thereof.

77 (e) Effective the first day of July, two thousand six, this
78 section shall have no force or effect.

ARTICLE 13A. SEVERANCE TAXES.

§11-13A-3a. Imposition of tax on privilege of severing natural gas or oil; Tax Commissioner to develop a uniform reporting form.

1 (a) *Imposition of tax.* — For the privilege of engaging or
2 continuing within this state in the business of severing natural
3 gas or oil for sale, profit or commercial use, there is hereby
4 levied and shall be collected from every person exercising such
5 privilege an annual privilege tax: *Provided*, That effective for
6 all taxable periods beginning on or after the first day of January,

7 two thousand, there is an exemption from the imposition of the
8 tax provided in this article on the following: (1) Free natural gas
9 provided to any surface owner; (2) natural gas produced from
10 any well which produced an average of less than five thousand
11 cubic feet of natural gas per day during the calendar year
12 immediately preceding a given taxable period; (3) oil produced
13 from any oil well which produced an average of less than one-
14 half barrel of oil per day during the calendar year immediately
15 preceding a given taxable period; and (4) for a maximum period
16 of ten years, all natural gas or oil produced from any well which
17 has not produced marketable quantities of natural gas or oil for
18 five consecutive years immediately preceding the year in which
19 a well is placed back into production and thereafter produces
20 marketable quantities of natural gas or oil.

21 (b) *Rate and measure of tax.* — The tax imposed in
22 subsection (a) of this section shall be five percent of the gross
23 value of the natural gas or oil produced, as shown by the gross
24 proceeds derived from the sale thereof by the producer, except
25 as otherwise provided in this article.

26 (c) *Tax in addition to other taxes.* — The tax imposed by
27 this section shall apply to all persons severing gas or oil in this
28 state, and shall be in addition to all other taxes imposed by law.

29 (d)(1) The Legislature finds that in addition to the produc-
30 tion reports and financial records which must be filed by oil and
31 gas producers with the State Tax Commissioner in order to
32 comply with this section, oil and gas producers are required to
33 file other production reports with other agencies, including, but
34 not limited to, the office of oil and gas, the Public Service
35 Commission and county assessors. The reports required to be
36 filed are largely duplicative, the compiling of the information
37 in different formats is unnecessarily time consuming and costly,
38 and the filing of one report or the sharing of information by

39 agencies of government would reduce the cost of compliance
40 for oil and gas producers.

41 (2) On or before the first day of July, two thousand three,
42 the Tax Commissioner shall design a common form that may be
43 used for each of the reports regarding production that are
44 required to be filed by oil and gas producers, which form shall
45 readily permit a filing without financial information when such
46 information is unnecessary. The commissioner shall also design
47 such forms so as to permit filings in different formats, includ-
48 ing, but not limited to, electronic formats.

49 (3) Effective the first day of July, two thousand six, this
50 subsection shall have no force or effect.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Candy White
Chairman Senate Committee

W. Beer
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Samuel E. Holmes
Clerk of the Senate

Bruce W. Sneyd
Clerk of the House of Delegates

Carl Ray Brubaker
President of the Senate

Robert S. Taylor
Speaker of the House of Delegates

The within *is approved* this the *3rd*
day of *April*, 2006.

[Signature]
Governor

PRESENTED TO THE
GOVERNOR

MAR 29 2006

Time 4:00 pm