

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4500

BY DELEGATES IRELAND, ANDERSON, R. SMITH, BORDER,

MILLER, AMBLER, COOPER, ZATEZALO, LYNCH AND

ELDRIDGE

[Introduced February 11, 2016; Referred
to the Committee on Energy then Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §22-6C-1, §22-6C-2, §22-6C-3, §22-6C-4, §22-6C-5, §22-6C-6, §22-6C-7,
 3 §22-6C-8, §22-6C-9 and §22-6C-10, all relating to oil and gas royalty owner protections;
 4 creating the Oil and Gas Royalty Payment and Transparency Act of 2016; providing
 5 methods of ensuring transparency in determining the amount paid to a royalty interest
 6 owner by requiring certain information to be attached to the payment instrument provided
 7 to the interest owner by the producer; defining terms; providing for an escalation in certain
 8 circumstances; establishing a general rule for the accumulation of proceeds from
 9 production and the payment of funds therefrom; requiring the timely payment of royalties
 10 and establishing a penalty for failure to timely pay an interest owner; requiring oil and gas
 11 producers to report to the Department of Environmental Protection on a quarterly basis all
 12 production data associated with a given well; requiring the Department of Environmental
 13 Protection to collect all quarterly production data and organize such data on the
 14 Department of Environmental Protection website; resolving conflicts between division
 15 orders and leases; and providing for rule-making.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 article, designated §22-6C-1, §22-6C-2, §22-6C-3, §22-6C-4, §22-6C-5, §22-6C-6, §22-6C-7,
 3 §22-6C-8, §22-6C-9 and §22-6C-10, all to read as follows:

ARTICLE 6C. OIL AND GAS ROYALTY PAYMENT AND TRANSPARENCY ACT.

§22-6C-1. Short title.

1 This act shall be known and may be cited as the Oil and Gas Royalty Payment and
 2 Transparency Act of 2016.

§22-6C-2. Legislative findings and purpose; applicability.

1 The Legislature finds the following:

2 (1) That clear and open communication is essential to the good faith and fair dealings

3 requirements necessary to enter into any fruitful oil and gas lease relationship;

4 (2) That many oil and gas producers possess inherent and unequal bargaining power in
5 comparison to many lessors, and that such inequities leave ample opportunities for abuse;

6 (3) That in order to ensure fairness a new set of requirements should be adopted in order
7 to clearly communicate to lessors so that lessors may make educated decisions with regard to
8 their minerals and existing leases; and

9 (4) That such additional requirements do not impose an undue financial hardship on
10 producers, and the cost to comply is determined to be nominal in relation to the potential for
11 abuse.

§22-6C-3. Definitions.

1 The following words and phrases when used in this article shall have the meanings given
2 to them in this section unless the context clearly indicates otherwise:

3 "Check stub" means the financial record attached to a check;

4 "Division order" means an agreement signed by an interest owner directing the distribution
5 of proceeds from the sale of oil, gas, casing head gas or other related hydrocarbons. The order
6 shall direct and authorize the payor to make payment for the products taken in accordance with
7 the division order;

8 "Interest owner" means a person who is legally entitled to payment from the proceeds
9 derived from the sale of oil or gas from an oil or gas well located in this state; and

10 "Mcf" is a unit of measurement and means one thousand cubic feet.

§22-6C-4. Quarterly Reports of Oil and Gas Production.

1 A quarterly report of oil and gas production for each well shall be filed with the Chief of the
2 Office of Oil and Gas on a form prescribed by the Secretary of the West Virginia Department of
3 Environmental Protection. All reported data shall be made available to the public through the
4 Office of Oil and Gas' website in a reasonable time after such data is collected. The Secretary
5 has the express authority pursuant to this article, as well as pursuant to the powers enumerated

6 in section two, article six of this chapter to promulgate rules and to amend the current rules to
7 require timely quarterly reporting of production data as well as to establish a process for collecting
8 the data.

§22-6C-5. Escalation required for alteration to original state.

1 An oil, natural gas or other designation gas well or oil, natural gas or other designation
2 gas lease which does not include a one-eighth metered royalty shall be subject to an escalation
3 equal to one-eighth metered royalty when its original state is altered by new drilling, deeper
4 drilling, redrilling, artificial well stimulation, hydraulic fracturing or any other procedure to increase
5 production. A lease shall not be affected when the well is altered through routine maintenance or
6 cleaning.

§22-6C-6. Payment information to interest owners.

1 Whenever payment is made for oil or gas production to an interest owner, whether
2 pursuant to a division order, lease, servitude, well unitization order, or other agreement, all of the
3 following information, at a minimum, shall be included on the check stub or on an attachment to
4 the form of payment, unless the information is otherwise provided on a regular basis:

5 (1) A name, number or combination of name and number that identifies the lease, property,
6 unit or well or wells for which payment is being made; and the county in which the lease, property
7 or well is located;

8 (2) Month and year of gas production;

9 (3) Total barrels of crude oil or number of Mcf of gas or volume of natural gas liquids sold;

10 (4) Price received per barrel, Mcf or gallon;

11 (5) Total amount of severance and other production taxes and other deductions permitted
12 under the lease;

13 (6) Net value of total sales from the property less taxes and deductions from subdivision
14 (5) of this section;

15 (7) Interest owner's interest, expressed as a decimal or fraction, in production from

16 subdivision (1) of this section;

17 (8) Interest owner's share of the total value of sales prior to deduction of taxes and
18 deductions from subdivision (5) of this section;

19 (9) Interest owner's share of the sales value less the interest owner's share of taxes and
20 deductions from subdivision (5) of this section; and

21 (10) Contact information, including an address and telephone number.

§22-6C-7. Accumulation of proceeds from production.

1 (a) General rule. - Proceeds from production of oil and gas may be accumulated and
2 remitted to the persons entitled thereto annually for the twelve months' accumulation of proceeds
3 totaling less than \$100.

4 (b) Owner to be paid. - Notwithstanding any other provision of this section to the contrary,
5 all accumulated proceeds shall be paid to the owner thereof immediately, or as soon as
6 practicable thereafter, when production ceases or upon relinquishment or transfer of the payment
7 responsibility.

§22-6C-8. Timely payment of royalties; penalties.

1 All royalty payments due and owing to an interest owner, whether pursuant to a division
2 order, lease, servitude, well unitization order, or other agreement, shall be tendered in a timely
3 manner and shall not exceed thirty days from the date that a financial gain is realized on the
4 production of such oil and gas, and a failure to remit timely payment shall result in a mandatory
5 additional payment of an interest penalty to be set at the prime rate plus an additional two per
6 cent until such payment is tendered to the interest owner.

§22-6C-9. Conflicts.

1 If there is any conflict between a division order and an oil and gas lease, the terms and
2 conditions of the oil and gas lease shall control. A division order may not amend or supplement
3 the terms and conditions of an oil and gas lease.

§22-6C-10. Effective date.

1 This act shall become effective sixty days from passage.

NOTE: The purpose of this bill is to create the Oil and Gas Royalty Payment and Transparency Act of 2016. The bill provides methods of ensuring transparency in determining the amount paid to a royalty owner by requiring certain items be present on the check stub provided at the time of payment. The bill defines terms. The bill provides for an escalation in certain circumstances. The bill provides a general rule for the accumulation of proceeds from production. The bill requires the timely payment of royalties. The bill requires oil and gas producers to report to the Department of Environmental Protection on a quarterly basis all production data. The bill requires the Department of Environmental Protection to collect all quarterly production data and organize such data so that the public may readily avail themselves of the information. The bill resolves conflicts between division orders and leases. The bill provides for rule-making.

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