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LEGISLATURE OF WEST VIRGINIA

Regular SESSION, 1982

ENGROSSED
Committee Substitute for
House Bill No. 1254

Passed the House of Delegates with its title [amended] 2-14-82, 1982

To take effect { 90 days from passage.
~~from passage.~~

Mr. Martin (30th Dist) to the Senate.

C. Blankenship
Clerk of the House of Delegates.

Amended and Passed } by the Senate with
Rejected } its title [amended] March 13, 1982

To take effect { 90 days from passage.
~~from passage.~~

Mr. Tonhaver to the House of Delegates.

Todd C. Miller
Clerk of the Senate.

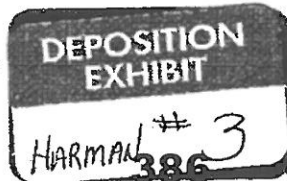
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Senate amendments concurred in and passed as amended with its [amended] title by a majority vote of all the members elected to the House of Delegates, to take effect { 90 days from passage.
~~from passage.~~

Senate amendments rejected and Senate requested to recede therefrom.

Mr. Martin (30th Dist) to the Senate.

C. Blankenship
Clerk of the House of Delegates.



1 That article four, chapter twenty-two of the code of West
2 Virginia, one thousand nine hundred thirty-one, as amended, be
3 amended by adding thereto a new section, designated section
4 one-P, to read as follows:

5 ARTICLE 4. OIL AND GAS WELLS.

6 §22-4-1P. Permits not to be issued on flat well royalty
7 leases; legislative findings and declarations;
8 permit requirements.

9 (a) The Legislature hereby finds and declares:

10 (1) That a significant portion of the oil and gas
11 underlying this state is subject to development pursuant to
12 leases or other continuing contractual agreements wherein the
13 owners of such oil and gas are paid upon a royalty or rental
14 basis known in the industry as the annual flat well royalty
15 basis, in which the royalty is based solely on the existence
16 of a producing well, and thus is not inherently related to the
17 volume of the oil and gas produced or marketed.

18 (2) That continued exploitation of the natural resources
19 of this state in exchange for such wholly inadequate
20 compensation is unfair, oppressive, works an unjust hardship
21 on the owners of the oil and gas in place, and unreasonably
22 deprives the economy of the state of West Virginia of the just
23 benefit of the natural wealth of this state;

24 (3) That a great portion, if not all, of such leases or
25 other continuing contracts based upon or calling for an annual
26 flat well royalty, have been in existence for a great many
27 years and were entered into at a time when the techniques by

1 which oil and gas are currently extracted, produced or
2 marketed, were not known or contemplated by the parties, nor
3 was it contemplated by the parties that oil and gas would be
4 recovered or extracted or produced or marketed from the depths
5 and horizons currently being developed by the well operators;

6 (4) That while being fully cognizant that the provisions
7 of section ten, article I of the United States constitution
8 and of section four, article III of the constitution of West
9 Virginia, proscribe the enactment of any law impairing the
10 obligation of a contract, the Legislature further finds that
11 it is a valid exercise of the police powers of this state and
12 in the interest of the state of West Virginia and in
13 furtherance of the welfare of its citizens, to discourage as
14 far as constitutionally possible the production and marketing
15 of oil and gas located in this state under the type of leases
16 or other continuing contracts described above.

17 (b) In the light of the foregoing findings, the
18 Legislature hereby declares that it is the policy of this
19 state, to the extent possible, to prevent the extraction,
20 production or marketing of oil or gas under a lease or leases
21 or other continuing contract or contracts providing a flat
22 well royalty or any similar provisions for compensation to the
23 owner of the oil and gas in place, which is not inherently
24 related to the volume of oil or gas produced or marketed, and
25 toward these ends, the Legislature further declares that it is
26 the obligation of this state to prohibit the issuance of any
27 permit required by it for the development of oil or gas where

1 the right to develop, extract, produce or market the same
2 based upon such leases or other continuing contractual
3 agreements.

4 (c) In addition to any requirements contained in this
5 article with respect to the issuance of any permit required
6 for the drilling, redrilling, deepening, fracturing,
7 stimulating, pressuring, converting, combining or physically
8 changing to allow the migration of fluid from one formation to
9 another, no such permit shall be hereafter issued unless the
10 lease or leases or other continuing contract or contracts by
11 which the right to extract, produce or market the oil or gas
12 is filed with the application for such permit. In lieu of
13 filing the lease or leases or other continuing contract or
14 contracts, the applicant for a permit described herein may
15 file the following:

16 (1) A brief description of the tract of land including
17 the district and county wherein the tract is located;

18 (2) The identification of all parties to all leases or
19 other continuing contractual agreements by which the right to
20 extract, produce or market the oil or gas is claimed;

21 (3) The book and page number wherein each such lease or
22 contract by which the right to extract, produce or market the
23 oil or gas is recorded; and

24 (4) A brief description of the royalty provisions of
25 each such lease or contract.

26 (d) Unless the provisions of subsection e are met, no
27 such permit shall be hereafter issued for the drilling of a

1 new oil or gas well, or for the ~~redrilling, deepening,~~
2 fracturing, stimulating, pressuring, converting, combining, or
3 physically changing to allow the migration of fluid from one
4 formation to another, of an existing oil or gas production
5 well, where or if the right to extract, produce or market the
6 oil or gas is based upon a lease or leases or other continuing
7 contract or contracts providing for flat well royalty or any
8 similar provision for compensation to the owner of the oil or
9 gas in place which is not inherently related to the volume of
10 oil and gas so extracted, produced and marketed.

11 (e) To avoid the permit prohibition of subsection d
12 hereof, the applicant may file with such application an
13 affidavit which certifies that the affiant is authorized by
14 the owner of the working interest in the well to state that it
15 shall tender to the owner of the oil or gas in place not less
16 than one-eighth of the total amount paid to or received by or
17 allowed to the owner of the working interest at the wellhead
18 for the oil or gas so extracted, produced or marketed before
19 deducting the amount to be paid to or set aside for the owner
20 of the oil or gas in place, on all such oil or gas to be
21 extracted, produced or marketed from the well. If such
22 affidavit be filed with such application, then such
23 application for permit shall be treated as if such lease or
24 leases or other continuing contract or contracts comply with
25 the provisions of this section.

26 (f) The owner of the oil or gas in place shall have a
27 cause of action to enforce his rights established by this

section.

2 (g) The provisions of this section shall not affect or
3 apply to any lease or leases or other continuing contract or
4 contracts for the underground storage of gas or any well
5 utilized in connection therewith or otherwise subject to the
6 provisions of article seven of this chapter.

7 (h) The administrator shall enforce this requirement
8 irrespective of whether such lease or other continuing
9 contract was executed before or after the effective date of
10 this section.

11 (i) The provisions of this section shall not adversely
12 affect any rights to free gas.

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