



Sen. Gary Forby

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LRB099 06177 MLM 35194 a

1 AMENDMENT TO HOUSE BILL 313

2 AMENDMENT NO. _____. Amend House Bill 313 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Oil and Gas Act is amended by
5 adding Section 6.2 as follows:

6 (225 ILCS 725/6.2 new)

7 Sec. 6.2. Oil and gas leases; termination due to
8 non-development or non-production. The Department shall have
9 the authority to adopt rules and hold hearings to determine if
10 oil and gas leases submitted with an application for a permit
11 or transfer of a permit for a well are operative on the basis
12 that prior oil and gas leases covering the same lands have
13 terminated due to non-development or non-production.
14 Department determinations under this Section shall be based
15 upon affidavits of non-development or non-production from
16 knowledgeable individuals familiar with the history of

1 development and production of oil or gas as to such lands,
2 together with other evidence, which create a rebuttable
3 presumption that the prior oil and gas leases have terminated
4 and are of no further force and effect and that the submitted
5 oil and gas leases are operative and effective. To create a
6 rebuttable presumption, such affidavits, together with other
7 evidence provided to or available from the Department, shall
8 reasonably indicate that there has been no development or
9 production of oil and gas on the lands described in the prior
10 leases for at least 24 consecutive months subsequent to the
11 expiration of the primary term or any extension of the primary
12 term as set forth in the leases. A court order or judgment
13 declaring the prior leases terminated is not required for
14 determinations under this Section, except in extraordinary
15 circumstances where such determinations cannot reasonably be
16 concluded from the affidavits or evidence submitted to or
17 available from the Department. Upon the Department's
18 determination of a rebuttable presumption under this Section,
19 the Department shall provide the current permittee with notice
20 and a 30-day opportunity to request a hearing to rebut the
21 presumption before a final determination on a lease is made.
22 Any determination made by the Department under this Section
23 shall not diminish the rights or obligations of any current
24 permittee of a well that are otherwise provided by statute or
25 regulation of the Department. Any request for a determination
26 under this Section shall require the payment of a nonrefundable

1 fee of \$1,000 by the applicant. All determinations on leases by
2 the Department under this Section shall be made no later than
3 90 days after the Department's receipt of a valid request for
4 such determination. Determinations that prior oil and gas
5 leases have terminated due to non-development or
6 non-production shall require the current permittee to properly
7 plug all non-plugged and non-transferred wells within the lease
8 boundaries of the prior leases. If the current permittee fails
9 to properly plug all non-plugged and non-transferred wells
10 within 30 days after the issuance of the determination, the
11 wells shall be deemed abandoned and included in the
12 Department's Oil and Gas Well Site Plugging and Restoration
13 Program. Department determinations under this Section shall
14 not have res judicata or collateral estoppel effect in any
15 judicial proceedings.

16 Section 10. The Oil and Gas Rights Act is amended by
17 changing Section 10 as follows:

18 (765 ILCS 520/10) (from Ch. 96 1/2, par. 4910)

19 Sec. 10. (1) in this Section:

20 (a) "Payee" means any person or persons legally entitled to
21 payment from the proceeds derived from the sale of oil or gas
22 from an oil or gas well located in this State.

23 (b) "Payor" means the first purchaser of production of oil
24 or gas from an oil or gas well, but the owner of the right to

1 produce under an oil or gas lease or pooling order is deemed to
2 be the payor if the owner of the right to produce and the first
3 purchaser have entered into arrangements providing that the
4 proceeds derived from the sale of oil or gas have been paid by
5 the first purchaser to the owner who assumes the responsibility
6 of paying those proceeds to the payee.

7 (2) (a) the proceeds derived from the sale of oil or gas
8 production from an oil or gas well must be paid to each payee
9 on or before 150 days after the end of the month of first
10 purchase by a payor. After that time, payments must be made to
11 each payee on a timely basis according to the frequency of
12 payment specified in a lease or other written agreement between
13 payee and payor. If the lease or other agreement does not
14 specify the time for payment, subsequent proceeds must be paid
15 no later than:

16 (1) 60 days after the end of the calendar month in which
17 subsequent oil production is sold; or

18 (2) 90 days after the end of the calendar month in which
19 subsequent gas production is sold.

20 (b) Payments may be remitted to payees annually for the
21 aggregate of up to 12 months' accumulation of proceeds, if the
22 total amount owed is \$100 ~~\$25~~ or less.

23 (3) (a) If payment has not been made for any reason in the
24 time limits specified in subsection (2)(a) of this Act, the
25 payor must pay interest to a payee beginning at the expiration
26 of those time limits at the rate charged on loans to depository

1 institutions by the New York Federal Reserve Bank, unless a
2 different rate of interest is specified in a written agreement
3 between payor and payee.

4 (b) Subsection (a) of this Section does not apply where
5 payments are withheld or suspended by a payor beyond the time
6 limits specified in subsection (2) (a) of this Act because there
7 is:

8 (1) a dispute concerning title that would affect
9 distribution of payments;

10 (2) a reasonable doubt that the payee does not have clear
11 title to the interest in the proceeds of production; or

12 (3) a requirement in a title opinion that places in issue
13 the title, identity, or whereabouts of the payee and that has
14 not been satisfied by the payee after a reasonable request for
15 curative information has been made by the payor.

16 (4) (a) If a payee seeks relief for the failure of a payor
17 to make timely payment of proceeds from the sale of oil or gas
18 or an interest in oil or gas as required under Section (2) or
19 (3) of this Act, the payee must give the payor written notice
20 by mail of that failure as a prerequisite to beginning judicial
21 action against the payor for nonpayment.

22 (b) The payor has 30 days after receipt of the required
23 notice from the payee in which to pay the proceeds due, or to
24 respond by stating in writing a reasonable cause for
25 nonpayment.

26 (c) A payee has a cause of action for nonpayment of oil or

1 gas proceeds or interest on those proceeds as required in
2 Section (2) or (3) of this Act in any court of competent
3 jurisdiction in the county in which the oil or gas well is
4 located.

5 (Source: P.A. 84-872.)".