

AN ACT concerning revenue.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Illinois Hydraulic Fracturing Tax Act is amended by changing Section 2-30 as follows:

(35 ILCS 450/2-30)

Sec. 2-30. Payment and collection of tax.

(a) For oil and gas removed on or after July 1, 2013, the tax incurred under this Act shall be due and payable on or before the last day of the month following the end of the month in which the oil or gas is removed from the production unit. The tax is upon the producers of such oil or gas in the proportion to their respective beneficial interests at the time of severance. The first purchaser of any oil or gas sold shall collect the amount of the tax due from the producers by deducting and withholding such amount from any payments made by such purchaser to the producers and shall remit the tax in this Act.

In the event the tax shall be withheld by a purchaser from payments due a producer and such purchaser fails to make payment of the tax to the State as required herein, the first purchaser shall be liable for the tax. However, in the event a first purchaser fails to pay the tax withheld from a producer's

payment, the producer's interest remains subject to any lien filed pursuant to subsection (c) of this Section. A producer shall be entitled to bring an action against such purchaser to recover the amount of tax so withheld together with penalties and interest which may have accrued by failure to make such payment. A producer shall be entitled to all attorney fees and court costs incurred in such action. To the extent that a producer liable for the tax imposed by this Act collects the tax, and any penalties and interest, from a purchaser, such tax, penalties, and interest are held in trust by the producer for the benefit of the State of Illinois.

(b) For all production units a first purchaser begins to purchase oil or gas from on or after July 1, 2013, the first purchaser is required to withhold and remit the tax imposed by this Act to the Department from the oil and gas purchased from the production unit unless the first purchaser obtains from the operator an exemption certificate signed by the operator stating that the production unit is not subject to the tax imposed by this Act. The exemption certificate must include the following information:

- (1) name and address of the operator;
- (2) name of the production unit;
- (3) number assigned to the production unit by the first purchaser, if available;
- (4) legal description of the production unit; and
- (5) a statement by the operator that the production

unit is exempt from the tax imposed by the Illinois Hydraulic Fracturing Tax Act.

If a first purchaser obtains an exemption certificate that contains the required information and reasonably relies on the exemption certificate and it is subsequently determined by the Department that the production unit is subject to the tax imposed by this Act, the Department will collect any tax that is due from the operator and producers, and the first purchaser is relieved of any liability.

First purchasers shall not be required to obtain exemption certificates from the operator until the first high volume horizontal hydraulic fracturing permit has been approved by the Department of Natural Resources after the effective date of this amendatory Act of the 100th General Assembly.

(c) Notwithstanding subsection (a) of this Section, the tax is a lien on the oil and gas from the time of severance from the land or under the water until the tax and all penalties and interest are fully paid, and the State shall have a lien on all the oil or gas severed from the production unit in this State in the hands of the operator, any producer or the first or any subsequent purchaser thereof to secure the payment of the tax. If a lien is filed by the Department, the purchaser shall withhold from producers or operators the amount of tax, penalty and interest identified in the lien.

(Source: P.A. 98-22, eff. 6-17-13.)