

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Committee Substitute

for

House Bill 4270

BY DELEGATES DEEM, KELLY, ZATEZALO, ANDERSON, R.

ROMINE, HOLLEN, A. EVANS, WHITE, LANE,

HARSHBARGER AND SHOTT

[Reported from Committee on the Judiciary; February

12, 2018.]

1 A BILL to amend and reenact §22-6-22 of the Code of West Virginia, 1931, as amended, and to
2 amend said code by adding a new chapter, designated §37B-1-1, §37B-1-2, and §37B-1-
3 3, all relating generally to real property; providing for timely payment of moneys owed from
4 oil and natural gas production; establishing interest penalties for certain late payments;
5 requiring specified information to be remitted with payments; requiring quarterly reporting
6 of production data to Department of Environmental Protection; and providing for rule-
7 making authority.

Be it enacted by the Legislature of West Virginia:

§22-6-22. Well report, logs, core samples and cuttings to be filed; confidentiality and permitted use; authority to promulgate rules; reporting of production data for horizontal wells.

1 (a) Within a reasonable time after the completion of the drilling of a shallow well or deep
2 well, the well operator shall file with the secretary and with the state Geological and Economic
3 Survey a completion report containing the following:

4 (1) The character, depth and thickness of geological formations encountered, including
5 fresh water, coal seams, mineral beds, brine and oil and gas bearing formations; and

6 (2) Such other information as the secretary may require to effectuate the purposes of this
7 chapter.

8 The secretary may promulgate such reasonable rules in accordance with article three,
9 chapter twenty-nine-a of this code, as may be considered necessary to ensure that the character,
10 depth and thickness of geological formations encountered are accurately logged: *Provided*, That
11 the secretary shall not require logging by the use of an electrical logging device: *Provided*,
12 *however*, That if electrical or mechanical or geophysical logs are recorded in the well, the
13 secretary may request copies of these logs: *Provided further*, That mechanical or geophysical
14 logs may not include vertical seismic profiles or two-dimensional or three-dimensional seismic
15 information.

16 (b) If a well operator takes core samples, that activity shall be noted within the report, and,
17 within sixty days after filing the completion report, the operator shall, subject to the terms of this
18 article, provide the state Geological and Economic Survey with a complete set of cores, consisting
19 of at least quarter slabs, correctly labeled and identified according to depth. The core samples
20 requested by and provided to the state Geological and Economic Survey may not contain any
21 materials or documents made with regard to analyzing or interpreting the core samples.

22 (c) If a well operator catches cuttings during the drilling of any deep or shallow well, that
23 activity shall be noted within the report and, within sixty days after filing the completion report, the
24 operator shall, subject to the terms of this article, provide the state Geological and Economic
25 Survey with a sample of the cuttings, correctly labeled and identified according to depth.

26 (d) Any information, reports, cuttings and core samples requested by and provided to the
27 state Geological and Economic Survey by the operator shall be kept confidential at the written
28 request of the operator for a specified amount of time as follows:

29 (1) Except for core samples, any logs, drill cuttings, reports and other information or
30 materials that reveal trade secrets or other confidential business information relating to the
31 competitive interests of the operator or the operator's privy may not be disclosed to the public for
32 one year following delivery, unless the operator consents in writing to a shorter time. At the
33 operator's written request, the period of confidentiality may be extended in annual increments:
34 *Provided*, That the total period of confidentiality may not exceed three years.

35 (2) Any core samples may not be disclosed to the public for five years following delivery
36 to the state Geological and Economic Survey, unless the operator consents in writing to a shorter
37 time. At the operator's written request, the period of confidentiality may be extended for an
38 additional five years: *Provided*, That the total period of confidentiality may not exceed ten years.

39 (e) Notwithstanding the provisions of subsection (d) of this section, the state Geological
40 and Economic Survey may store and process confidential information within its minerals mapping
41 or geographic information systems; however, that confidential information may not be revealed to

42 the public until the lapsing of the period of confidentiality created pursuant to subsection (d) of
43 this section. After the period of confidentiality has lapsed, statistics or other information generated
44 as the result of storage and processing may be disclosed in the aggregate through articles,
45 reports, maps, or lectures presented in accordance with generally accepted academic or scientific
46 practices and in a manner to preclude the identification of a particular well or operator.

47 (f) A quarterly report of the monthly volumes of oil, natural gas, and natural gas liquids
48 produced from any horizontal well drilled shall be filed with the Chief of the Office of Oil and Gas
49 on a form prescribed by the Secretary of the West Virginia Department of Environmental
50 Protection. All reported data shall be made available to the public through the Office of Oil and
51 Gas' website within a reasonable time, but not more than sixty days after such data is filed. The
52 secretary has the express authority pursuant to this article, as well as pursuant to the powers
53 enumerated in section two, article six, chapter twenty-two of this code, to promulgate rules and to
54 amend the current rules to require timely quarterly reporting of production data as well as to
55 establish a process for collecting such data.

CHAPTER 37B. MINERAL DEVELOPMENT.

ARTICLE 1. INFORMATION REPORTING AND PAYMENTS TO OWNERS.

§37B-1-1. Oil and natural gas production information reporting from horizontal wells.

1 (a) An operator or producer or their agents, contractors or assigns shall provide the
2 following information with each payment to all interest owners receiving payments resulting from
3 the development and production of oil, natural gas, or their constituents by horizontal wells
4 governed by §22-6A-1 et seq. of this code, being the Natural Gas Horizontal Well Control Act:

5 (1) A name, number, or combination of name and number and the state issued American
6 Petroleum Institute number that identifies each lease, property, unit, pad, and well, for which
7 payment is being made and the county in which the lease, property, and well is located;

8 (2) Month and year of production;

9 (3) Total barrels of oil; number of MCF, MMBTU, or DTH of natural gas; and volume of
10 natural gas liquids produced from each well and sold;

11 (4) Price received per unit of oil, natural gas, and natural gas liquids produced;

12 (5) Gross value of total proceeds from the sale of oil, natural gas, and natural gas liquids
13 from each well less taxes and deductions set forth in subdivision (6) of this subsection;

14 (6) Aggregate amounts for each category of deductions for each well which affect payment
15 and are allowed by law, including without limitation, those deductions provided for under the terms
16 of the governing lease;

17 (7) Interest owner's interest in production from each well expressed as a decimal or
18 fraction and reported pursuant to subdivision (1) of this subsection;

19 (8) Interest owner's ratable share of the total value of the proceeds of the sale of oil,
20 natural gas, and natural gas liquids prior to the deduction of taxes, if applicable, and other
21 deductions set forth in subdivision (6) of this subsection;

22 (9) Interest owner's ratable share of the proceeds from the sale of oil, natural gas, and
23 natural gas liquids less the interest owner's ratable share of taxes, if applicable, and other
24 deductions set forth in subdivision (6) of this subsection; and

25 (10) Contact information of the producer of the oil, natural gas, or natural gas liquids,
26 including a mailing address and telephone number.

27 (b) An interest owner who does not receive the information required to be provided under
28 this section in a timely manner may send a written request for the information by certified mail. Not
29 later than the sixtieth day after the date the operator or producer receives the written request for
30 information under this section, the operator or producer shall provide the requested information
31 to the interest owner. If the interest owner makes a written request for information under this
32 section and the operator or producer does not provide the information within the sixty-day period,
33 the interest owner may bring a civil action against the operator or producer to enforce the

34 provisions of this section, and a prevailing interest owner shall be entitled to recover reasonable
35 attorneys' fees and court costs incurred in the civil action.

§37B-1-2. Accumulation and payment of proceeds from production from horizontal wells.

1 Notwithstanding any of the other provisions of this article, proceeds from production of oil,
2 natural gas, and natural gas liquids from horizontal wells may be accumulated by the owners,
3 cotenants, lessees, operators, or their agents, contractors or assigns, until such time as proceeds
4 attributable to any interest owner exceeds \$100 before making a remittance: *Provided, That,*
5 regardless of the amount of money accumulated, the owners, cotenants, lessees, operators, or
6 their agents, contractors or assigns shall remit proceeds from horizontal wells attributable to the
7 interest owners not less than once annually: *Provided further, That* all accumulated proceeds from
8 horizontal wells shall be paid to the interest owners entitled thereto immediately, or as soon as
9 practicable, upon cessation of production of oil, natural gas, or natural gas liquids or upon
10 relinquishment or transfer of the payment responsibility to another party.

§37B-1-3. Payments from horizontal wells to be made timely; interest penalties.

1 All regular production payments from horizontal wells due and owing to an interest owner
2 shall be tendered in a timely manner, which shall not exceed one hundred twenty days from the
3 first date of sale of oil, natural gas, or natural gas liquids is realized and within sixty days thereafter
4 for each additional sale, unless such failure to remit is due to lack of record title in the interest
5 owner, a legal dispute concerning the interest, a missing or unlocatable owner of the interest, or
6 due to conditions otherwise specified in this article. Failure to remit timely payment for horizontal
7 wells shall result in a mandatory additional payment of an interest penalty to be set at the prime
8 rate plus an additional two percent until such payment is made to be compounded quarterly. The
9 prime rate shall be the rate published on the day of the sale of oil, natural gas, and natural gas
10 liquids in the *Wall Street Journal* reflecting the base rate on corporate loans posted by at least
11 seventy-five percent of the nation's thirty largest banks.

NOTE: The purpose of this bill is to provide for timely payment of moneys owed from oil and natural gas production from horizontal wells; to establish interest penalties for certain late payments; to require specified information be remitted with such payments; to require quarterly reporting of production data to Department of Environmental Protection for horizontal wells; and to provide for rule-making authority.

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