

SUBSTITUTE FOR
HOUSE BILL NO. 4281

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding section 61503b; and to
repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 61503B. (1) A PERSON WHO ENTERS INTO A GAS LEASE AS A
2 LESSEE AFTER THE EFFECTIVE DATE OF THIS SECTION SHALL NOT DEDUCT
3 FROM THE LESSOR'S ROYALTY ANY PORTION OF POSTPRODUCTION COSTS
4 UNLESS THE LEASE EXPLICITLY ALLOWS FOR THE DEDUCTION OF POSTPRO-
5 Duction COSTS. IF A LEASE EXPLICITLY PROVIDES FOR THE DEDUCTION
6 OF POSTPRODUCTION COSTS, THE LESSEE MAY ONLY DEDUCT POSTPRODUC-
7 TION COSTS FOR THE FOLLOWING ITEMS, UNLESS THE LEASE EXPLICITLY
8 AND SPECIFICALLY PROVIDES FOR THE DEDUCTION OF OTHER ITEMS:

9 (A) THE REASONABLE COSTS OF REMOVAL OF CARBON DIOXIDE (CO₂),
10 HYDROGEN SULFIDE (H₂S), MOLECULAR NITROGEN (N₂), OR OTHER

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1 CONSTITUENTS, EXCEPT WATER, THE REMOVAL OF WHICH WILL ENHANCE THE
2 VALUE OF THE GAS FOR THE BENEFIT OF THE LESSOR AND LESSEE.

3 (B) TRANSPORTATION COSTS AFTER THE POINT OF ENTRY INTO ANY
4 OF THE FOLLOWING:

5 (i) AN INDEPENDENT, NONAFFILIATED, THIRD-PARTY-OWNED PIPE-
6 LINE SYSTEM.

7 (ii) A PIPELINE SYSTEM OWNED BY A GAS DISTRIBUTION COMPANY
8 OR ANY SUBSIDIARY OF THE GAS DISTRIBUTION COMPANY, WHICH IS REGU-
9 LATED BY THE MICHIGAN PUBLIC SERVICE COMMISSION.

10 (iii) AN AFFILIATED PIPELINE SYSTEM, IF THE RATES CHARGED BY
11 THE PIPELINE SYSTEM HAVE BEEN APPROVED BY THE MICHIGAN PUBLIC
12 SERVICE COMMISSION, OR IF THE RATES CHARGED ARE REASONABLE, AS
13 COMPARED TO INDEPENDENT PIPELINE SYSTEMS, BASED ON THE PIPELINE
14 SYSTEM'S LOCATION, DISTANCE, COST OF SERVICE, AND OTHER PERTINENT
15 FACTORS.

16 (2) A LESSEE SHALL NOT CHARGE POSTPRODUCTION COSTS INCURRED
17 ON GAS PRODUCED FROM 1 DRILLING UNIT, POOLED OR COMMUNITIZED
18 AREA, OR UNIT AREA AGAINST A LESSOR'S ROYALTY FOR GAS PRODUCED
19 FROM ANOTHER DRILLING UNIT, POOLED OR COMMUNITIZED AREA, OR UNIT
20 AREA. AS USED IN THIS SUBSECTION, "UNIT AREA" MEANS THE FORMA-
21 TION OR FORMATIONS THAT ARE UNITIZED AND SURFACE ACREAGE THAT IS
22 A PART OF THE UNITIZED LANDS, AS DESCRIBED IN EITHER OF THE
23 FOLLOWING:

24 (A) THE PLAN FOR UNIT OPERATIONS THAT IS THE SUBJECT OF THE
25 SUPERVISOR'S ORDER AS PROVIDED IN SECTION 61706.

26 (B) AN APPLICABLE AGREEMENT PROVIDING FOR UNIT OPERATIONS.

1 (3) IF A PERSON WHO HAS ENTERED INTO A GAS LEASE AS A LESSEE
2 PRIOR TO OR AFTER THE EFFECTIVE DATE OF THIS SECTION CHARGES THE
3 LESSOR FOR ANY PORTION OF POSTPRODUCTION COSTS, THE LESSEE SHALL
4 NOTIFY THE LESSOR IN WRITING OF THE AVAILABILITY OF THE FOLLOWING
5 INFORMATION AND IF THE LESSOR REQUESTS IN WRITING TO RECEIVE THIS
6 INFORMATION, THE LESSEE SHALL PROVIDE THE LESSOR, IN WRITING, A
7 SPECIFIC ITEMIZED EXPLANATION OF ALL POSTPRODUCTION COSTS TO BE
8 ASSESSED.

9 (4) A DIVISION ORDER OR OTHER DOCUMENT THAT INCLUDES PROVI-
10 SIONS THAT STIPULATE HOW PRODUCTION PROCEEDS ARE DISTRIBUTED,
11 RECEIVED BY THE LESSOR FROM THE LESSEE, SHALL NOT ALTER OR DEFINE
12 THE TERMS OF A LEASE UNLESS VOLUNTARILY AND EXPLICITLY AGREED TO
13 BY BOTH PARTIES IN A SIGNED DOCUMENT OR DOCUMENTS IN WHICH THE
14 PARTIES EXPRESSLY INDICATE THEIR INTENTION TO AMEND THE LEASE. A
15 LESSEE SHALL NOT PRECONDITION THE PAYMENT OF ROYALTIES UPON THE
16 LESSOR SIGNING A DIVISION ORDER OR OTHER DOCUMENT THAT STIPULATES
17 HOW PRODUCTION PROCEEDS ARE DISTRIBUTED, EXCEPT AS PROVIDED IN
18 THIS SUBSECTION. AS A CONDITION FOR THE PAYMENT OF ROYALTIES
19 UNDER A LEASE OTHER THAN A LEASE GRANTED BY THE STATE OF
20 MICHIGAN, A LESSEE OR OTHER PAYOR SHALL BE ENTITLED TO RECEIVE A
21 SIGNED DIVISION ORDER FROM THE PAYEE CONTAINING ONLY THE FOLLOW-
22 ING PROVISIONS, UNLESS OTHER PROVISIONS HAVE BEEN VOLUNTARILY AND
23 EXPLICITLY AGREED TO BY BOTH PARTIES IN A SIGNED DOCUMENT OR DOC-
24 UMENTS IN WHICH THE PARTIES EXPRESSLY INDICATE THEIR INTENTION TO
25 WAIVE THE PROVISIONS OF THIS SUBSECTION:
26 (A) THE EFFECTIVE DATE OF THE DIVISION ORDER.

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1 (B) A DESCRIPTION OF THE PROPERTY FROM WHICH THE OIL OR GAS
2 IS BEING PRODUCED AND THE TYPE OF PRODUCTION.

3 (C) THE FRACTIONAL OR DECIMAL INTEREST IN PRODUCTION, OR
4 BOTH, CLAIMED BY THE PAYEE, THE TYPE OF INTEREST, THE CERTIFICA-
5 TION OF TITLE TO THE SHARE OF PRODUCTION CLAIMED, AND, UNLESS
6 OTHERWISE AGREED TO BY THE PARTIES, AN AGREEMENT TO NOTIFY THE
7 PAYOR AT LEAST 1 MONTH IN ADVANCE OF THE EFFECTIVE DATE OF ANY
8 CHANGE IN THE INTEREST IN PRODUCTION OWNED BY THE PAYEE AND AN
9 AGREEMENT TO INDEMNIFY THE PAYOR AND REIMBURSE THE PAYOR FOR PAY-
10 MENTS MADE IF THE PAYEE DOES NOT HAVE MERCHANTABLE TITLE TO THE
11 PRODUCTION SOLD.

12 (D) THE AUTHORIZATION TO SUSPEND PAYMENT TO THE PAYEE FOR
13 PRODUCTION UNTIL THE RESOLUTION OF ANY TITLE DISPUTE OR ADVERSE
14 CLAIM ASSERTED REGARDING THE INTEREST IN PRODUCTION CLAIMED BY
15 THE PAYEE.

16 (E) THE NAME, ADDRESS, AND TAXPAYER IDENTIFICATION NUMBER OF
17 THE PAYEE.

18 (F) A STATEMENT THAT THE DIVISION ORDER DOES NOT AMEND ANY
19 LEASE OR OPERATING AGREEMENT BETWEEN THE INTEREST OWNER AND THE
20 LESSEE OR OPERATOR OR ANY OTHER CONTRACTS FOR THE PURCHASE OF OIL
21 OR GAS.

22 Enacting section 1. Enacting section 2 of 1998 PA 127 is
23 repealed.

24 Enacting section 2. This amendatory act takes effect upon
25 the expiration of 90 days after the date of its enactment.

26 Enacting section 3. This amendatory act does not take
27 effect unless Senate Bill No. _____ or House Bill No. _____

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1 (request no. 01983'99) of the 90th Legislature is enacted into
2 law.