

No. 2006-115

AN ACT

SB 594

Providing for the creation of a trust for the benefit of certain owners of interests in oil and gas; authorizing the trustee to enter into leases of interests in oil and gas under terms and conditions authorized by the court of common pleas; providing for the administration of the trust and for payment of moneys to the trustee; and imposing penalties for nonpayment.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Dormant Oil and Gas Act.

Section 2. Purpose.

The purpose of this act is to facilitate the development of subsurface properties by reducing the problems caused by fragmented and unknown or unlocatable ownership of oil and gas interests and to protect the interests of unknown or unlocatable owners of oil and gas. It is not the purpose of this act to vest the surface owner with title to oil and gas interests that have been severed from the surface estate.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Business association.” Includes any corporation, joint stock company, business trust, partnership or any association of two or more individuals for business purposes, whether organized or operated under Federal or State law.

“Financial institution.” Includes a bank, private bank, bank and trust company, savings association, savings bank, trust company, savings and loan association and building and loan association, whether organized or operated under Federal or State law.

“Gas.” Natural gas and all other volatile hydrocarbons not defined in this section as oil, including condensate because it originally was in a gaseous phase in the reservoir. The term does not include methane gas that is contained within or produced from underground coal beds or mined out of underground coal mine areas.

“Oil.” Crude petroleum oil and all other hydrocarbons, regardless of gravity, produced at a well in liquid form by ordinary production methods. The term does not include liquid hydrocarbons that were originally in a gaseous phase in a reservoir.

“Owner.” Any person having a legal or equitable interest in property subject to this act or the person’s legal representative and any person who owns a royalty interest in oil or gas deposits.

“Person.” Any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary or other representative of any kind. The term includes any department, agency or instrumentality of the Commonwealth or any governmental subdivision thereof.

“Royalty interest.” An interest in an oil or gas lease which entitles the owner to share in the production of the oil or gas under a lease or the proceeds from a lease without the obligation to pay any costs of production under the lease.

“Unknown owner or owners.” The owner or owners of interests in oil and gas who are unknown or whose present residence or other addresses cannot be found by reasonable efforts to do so.

Section 4. Creation of trust for unknown owners.

(a) General rule.—Any person who owns an interest in oil and gas underlying a tract of land may petition the appropriate division of the court of common pleas of the county in which the tract or any portion of the tract is located to declare a trust in favor of all unknown owners of an interest in the oil and gas underlying the tract whose identity, present residence or present address is unknown and cannot be determined by diligent efforts. The petitioner’s interest may be in fee, by lease, a royalty or by ownership of correlative rights in an oil and gas reservoir.

(b) Requirements.—Before the court shall declare a trust in favor of an unknown owner or owners, the petitioner shall show to the satisfaction of the court that:

(1) Petitioner has made a diligent effort to locate the owner or claimant.

(2) Despite this diligent effort, petitioner has been unable to identify or to locate the present residence or other address of one or more owners or claimants of the oil or gas interest or interests in question.

(3) Appointment of a trustee will be in the best interest of all owners of interests in the oil and gas.

(c) Appointment.—Following a determination that the requirements of subsection (b) have been met, the court shall appoint a financial institution authorized to do business in this Commonwealth as trustee of a trust for the unknown owner or owners and shall authorize the trustee to execute and deliver one or more oil or gas leases or other instruments on terms and conditions approved by the court.

Section 5. Administration of trust.

(a) Governing law.—The trust shall be administered in accordance with the provisions of 20 Pa.C.S. (relating to decedents, estates and fiduciaries).

(b) Payments.—All bonuses, rental payments, royalties and other income due to the unknown owner or owners shall be paid to the trustee until the

trust is terminated and notice of its termination given to all interested parties. The trustee shall distribute all moneys held in the trust to the person or persons entitled thereto as determined by the trustee or by order of the court that created the trust.

(c) Trust to remain in force.—A trust for unknown owners shall remain in force until the unknown owners of the oil and gas interests in question have been identified to the satisfaction of the trustee and received their share of any funds held in trust.

(d) Fiscal Code.—Funds held in a trust for unknown owners are subject to the provisions of Article XIII.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, relating to disposition of unclaimed and abandoned property.

Section 6. Responsibility of lessee or payor.

Any lessee or other person who pays bonuses, rental payments, royalties and other income due to the unknown owners to the trustee shall not be liable for further claims by the unknown owners for any other income produced from the oil and gas interests subject to the trust.

Section 7. Penalty.

Any person who fails to pay any bonuses, rental payments, royalties or other income due owners of interests in oil and gas who are unknown or cannot be found to the trustee within six months of the date of which those funds become due shall be liable for all attorney fees and court costs of collection, with interest to the date of payment.

Section 8. Effective date.

This act shall take effect immediately.

APPROVED—The 11th day of July, A.D. 2006.

EDWARD G. RENDELL