

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5261**

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

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 DDUCTION 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 (COW),
10 HYDROGEN SULFIDE (HWS), MOLECULAR NITROGEN (NW), 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.

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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 WHICH 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 AGREED TO BY BOTH
13 PARTIES. A LESSEE SHALL NOT PRECONDITION THE PAYMENT OF ROYAL-
14 TIES UPON SIGNING A DIVISION ORDER OR OTHER DOCUMENT THAT STIPU-
15 LATES HOW PRODUCTION PROCEEDS ARE DISTRIBUTED, RECEIVED BY THE
16 LESSOR FROM THE LESSEE, EXCEPT AS PROVIDED IN THIS SUBSECTION.
17 AS A CONDITION FOR THE PAYMENT OF ROYALTIES, A LESSEE OR OTHER
18 PAYOR SHALL BE ENTITLED TO RECEIVE A SIGNED DIVISION ORDER FROM
19 THE PAYEE CONTAINING ONLY THE FOLLOWING PROVISIONS, UNLESS OTHER
20 PROVISIONS HAVE BEEN VOLUNTARILY AGREED TO BY BOTH PARTIES:

21 (A) THE EFFECTIVE DATE OF THE DIVISION ORDER.

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

24 (C) THE FRACTIONAL OR DECIMAL INTEREST IN PRODUCTION, OR
25 BOTH, CLAIMED BY THE PAYEE, THE TYPE OF INTEREST, THE CERTIFICA-
26 TION OF TITLE TO THE SHARE OF PRODUCTION CLAIMED, AND, UNLESS
27 OTHERWISE AGREED TO BY THE PARTIES, AN AGREEMENT TO NOTIFY THE

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1 PAYOR AT LEAST 1 MONTH IN ADVANCE OF THE EFFECTIVE DATE OF ANY
2 CHANGE IN THE INTEREST IN PRODUCTION OWNED BY THE PAYEE AND AN
3 AGREEMENT TO INDEMNIFY THE PAYOR AND REIMBURSE THE PAYOR FOR PAY-
4 MENTS MADE IF THE PAYEE DOES NOT HAVE MERCHANTABLE TITLE TO THE
5 PRODUCTION SOLD.

6 (D) THE AUTHORIZATION TO SUSPEND PAYMENT TO THE PAYEE FOR
7 PRODUCTION UNTIL THE RESOLUTION OF ANY TITLE DISPUTE OR ADVERSE
8 CLAIM ASSERTED REGARDING THE INTEREST IN PRODUCTION CLAIMED BY
9 THE PAYEE.

10 (E) THE NAME, ADDRESS, AND TAXPAYER IDENTIFICATION NUMBER OF
11 THE PAYEE.

12 (F) A STATEMENT THAT THE DIVISION ORDER DOES NOT AMEND ANY
13 LEASE OR OPERATING AGREEMENT BETWEEN THE INTEREST OWNER AND THE
14 LESSEE OR OPERATOR OR ANY OTHER CONTRACTS FOR THE PURCHASE OF OIL
15 OR GAS.

16 Enacting section 1. This amendatory act takes effect upon
17 the expiration of 90 days after the date of its enactment.

18 Enacting section 2. This amendatory act does not take
19 effect unless House Bill No. 4259 of the 89th Legislature is
20 enacted into law.