
Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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House Bill 5709 (Substitute H-2 as reported without amendment)
Sponsor: Representative Larry De Vuyst
House Committee: Conservation and Outdoor Recreation
Senate Committee: Natural Resources and Environmental Affairs

CONTENT

The bill would amend Part 615 of the Natural Resources and Environmental Protection Act, which pertains to regulation of oil and gas wells, to revise provisions concerning the recovery of attorney fees in litigation over the deduction of postproduction costs.

Under the bill, if a court found that a lessee had deducted postproduction costs from a lessor's royalty contrary to the Act, the lessor could recover reasonable attorney fees incurred in bringing the action unless the lessee endeavored to cure the alleged violation before the action was brought. The bill also specifies that a lessee could recover reasonable attorney fees incurred in defending the action if the court found that the lessor's position was frivolous.

Under the Act, a person who enters into a gas lease as a lessee after March 28, 2000, may not deduct from the lessor's royalty any portion of postproduction costs unless the lease explicitly allows for the deduction. If a lease specifically provides for the deduction of postproduction costs, the lessee may deduct only items specified in the Act, unless the lease explicitly provides for the deduction of other items.

If a court finds that a lessee deducted postproduction costs from a lessor's royalty contrary to the Act, the lessor may recover as damages the amount of postproduction costs improperly deducted. In addition, a party who prevails in the litigation may recover reasonable attorney fees incurred in bringing the action if the court finds that the position taken by the nonprevailing party was frivolous. The bill would amend the attorney fee provision as described above.

MCL 324.61503b & 324.61503c

Legislative Analyst: N. Nagata

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 10-3-00

Fiscal Analyst: P. Graham