

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1273 Session of 2023

INTRODUCED BY PIELLI, MADDEN, PROBST, SAMUELSON, KINKEAD,
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BOROWSKI AND KAZEEM, MAY 31, 2023

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
MAY 31, 2023

AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated
2 Statutes, in unconventional gas well fee, repealing
3 provisions relating to expiration; imposing a natural gas
4 tax; and imposing penalties.

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

7 Section 1. Section 2318 of Title 58 of the Pennsylvania
8 Consolidated Statutes is repealed:

9 [§ 2318. Expiration.

10 (a) Notice.--The Secretary of the Commonwealth shall, upon
11 the imposition of a severance tax on unconventional gas wells in
12 this Commonwealth, submit for publication in the Pennsylvania
13 Bulletin notice of the imposition.

14 (b) Date.--This chapter shall expire on the date of the
15 publication of the notice under subsection (a).]

16 Section 2. Title 58 is amended by adding a part to read:

17 PART IV

18 TAXATION

1 Chapter

2 41. (Reserved)

3 43. Severance Tax

4 CHAPTER 41

5 (Reserved)

6 CHAPTER 43

7 SEVERANCE TAX

8 Sec.

9 4301. Scope of chapter.

10 4302. Definitions.

11 4303. Imposition of tax.

12 4304. Impact fee credits.

13 4305. Registration.

14 4306. Meters.

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16 4308. Time for assessment.

17 4309. Extension of assessment period.

18 4310. Reassessments.

19 4311. Interest.

20 4312. Penalties.

21 4313. Administration of tax.

22 4314. Criminal acts.

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- 1 4322. Refund petition.
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- 11 4332. Deposit of proceeds.
- 12 § 4301. Scope of chapter.

13 This chapter relates to taxation of the severance of natural
14 gas.

15 § 4302. Definitions.

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

19 "Average annual price of natural gas." As defined in section
20 2301 (relating to definitions).

21 "Department." The Department of Revenue of the Commonwealth.

22 "Gross value." The value, whether in money or other
23 property, actually proceeding from the sale of property prior to
24 the payment of royalties or other payments to a lessor and
25 without any other deduction or credits, except as follows:

26 (1) In a transaction involving related parties, the
27 gross value of the property transferred may not be less than
28 the fair market value of similar grade and quality property.

29 (2) In the absence of a sale, the gross value of the
30 property transferred may not be less than the fair market

1 value of similar grade and quality property.

2 (3) In a transaction where property is transferred for
3 the purpose of processing and resale, the gross value of the
4 property transferred may not be less than the fair market
5 value of similar grade and quality property.

6 "Mcf." A unit of measurement expressed by 1,000 cubic feet.

7 "Natural gas." As defined in section 2301.

8 "Person." A natural person, corporation, fiduciary,
9 association or other entity. The term includes the Commonwealth
10 and any political subdivision, instrumentality and authority of
11 the Commonwealth.

12 "Producer." As defined in section 2301.

13 "Related parties." Two or more people, organizations or
14 businesses owned or controlled directly or indirectly by the
15 same interests. Control exists if a contract or lease, either
16 written or oral, is entered into where one party severs or
17 processes natural gas owned or held by another party and the
18 owner or lessor participates in the severing, processing or
19 marketing of the natural gas or receives any value other than an
20 arm's-length passive royalty interest.

21 "Reporting period." A calendar month in which natural gas is
22 severed.

23 "Secretary." The Secretary of Revenue of the Commonwealth.

24 "Sever." Extract or otherwise remove natural gas from the
25 soil or water of this Commonwealth.

26 "Storage field." A natural formation or other site that is
27 used to store natural gas that did not originate from and has
28 been transplanted into the formation or site.

29 "Stripper well." A natural gas well incapable of producing
30 more than 90 units of natural gas each day of the calendar month

1 immediately preceding the reporting period, including production
2 from all zones and multilateral well bores at a single well,
3 without regard to whether the production is separately metered.

4 "Trigger date." The date that is 60 days after the effective
5 date of this section.

6 "Unconventional gas well." As defined in section 2301.

7 "Unit." One thousand cubic feet of natural gas measured at
8 the wellhead at a temperature of 60 degrees Fahrenheit and an
9 absolute pressure of 14.73 pounds per square inch in accordance
10 with American Gas Association standards and according to Boyle's
11 law for the measurement of gas under varying pressures with
12 deviations as follows:

13 (1) The average absolute atmospheric pressure shall be
14 assumed to be 14.4 pounds to the square inch, regardless of
15 elevation or location of point of delivery above sea level or
16 variations in atmospheric pressure.

17 (2) The temperature of the gas passing the meters shall
18 be determined by the continuous use of a recording
19 thermometer installed to properly record the temperature of
20 gas flowing through the meters. The arithmetic average of the
21 temperature recorded each 24-hour day shall be used in
22 computing gas volumes. If a recording thermometer is not
23 installed, or is installed and not operating properly, an
24 average flowing temperature of 60 degrees Fahrenheit shall be
25 used in computing gas volume.

26 (3) The specific gravity of the gas shall be determined
27 annually by tests made by the use of an Edwards or Acme
28 gravity balance, or at intervals as found necessary in
29 practice. Specific gravity determinations shall be used in
30 computing gas volumes.

1 (4) The deviation of the natural gas from Boyle's law
2 shall be determined by annual tests or at other shorter
3 intervals as found necessary in practice. The apparatus and
4 method used in making the test shall be in accordance with
5 recommendations of the National Institute of Standards and
6 Technology or Report No. 3 of the Gas Measurement Committee
7 of the American Gas Association. The results of the tests
8 shall be used in computing the volume of gas delivered under
9 this chapter.

10 "Wellhead meter." A meter that measures the volume of
11 natural gas severed from an unconventional gas well.

12 § 4303. Imposition of tax.

13 (a) Establishment.--Beginning July 1, 2023, a natural gas
14 volumetric severance tax is levied and payable by every producer
15 on each unconventional gas well.

16 (b) Effect.--The imposition of the volumetric severance tax
17 under subsection (a) shall not affect the collection and
18 distribution of the unconventional gas well fee imposed under
19 Chapter 23 (relating to unconventional gas well fee).

20 (c) Computation.--The volumetric severance tax payable under
21 subsection (a) shall be calculated by applying the applicable
22 rate under subsection (d) to natural gas severed from the
23 unconventional gas well subject to the tax during the imposition
24 period under subsection (e).

25 (d) Tax rate.--The tax rate under this section shall be as
26 follows:

27 (1) If the average annual price of natural gas for the
28 calendar year immediately preceding the start of the
29 imposition period is less than \$3, the tax rate shall be
30 \$0.134 per unit severed.

1 (2) If the average annual price of natural gas for the
2 calendar year immediately preceding the start of the
3 imposition period is equal to or greater than \$3 and less
4 than \$5, the tax rate shall be \$0.152 per unit severed.

5 (3) If the average annual price of natural gas for the
6 calendar year immediately preceding the start of the
7 imposition period is equal to or greater than \$5 and less
8 than \$6, the tax rate shall be \$0.174 per unit severed.

9 (4) If the average annual price of natural gas for the
10 calendar year immediately preceding the start of the
11 imposition period is equal to or greater than \$6, the tax
12 rate shall be \$0.20 per unit severed.

13 (e) Imposition period.--The imposition period shall be as
14 follows:

15 (1) For fiscal year 2023-2024, the imposition period
16 shall be from July 1, 2023, to April 30, 2024.

17 (2) For fiscal year 2024-2025 and each fiscal year
18 thereafter, the imposition period shall be from May 1 of the
19 preceding fiscal year to April 30 of the current fiscal year.

20 (f) Payment.--The volumetric severance tax imposed under
21 this section shall be due on the same day the report is due
22 under subsection (g). The tax shall become delinquent if not
23 remitted to the department on the reporting date.

24 (g) Report.--By June 15, 2024, and June 15 of each year
25 thereafter, each producer shall submit payment of the volumetric
26 severance tax to the department and a report on a form
27 prescribed by the department for the imposition period.

28 (h) Exemptions.--The volumetric severance tax imposed under
29 this section shall not be imposed on the following:

30 (1) natural gas severed, sold and delivered by a

1 producer at or within five miles of the producing site for
2 the processing or manufacture of tangible personal property
3 as defined under section 201 of the act of March 4, 1971
4 (P.L.6, No.2), known as the Tax Reform Code of 1971;

5 (2) natural gas severed under a natural gas lease and
6 provided to a lessor for no consideration for the lessor's
7 own use;

8 (3) natural gas severed from a storage field; or

9 (4) a stripper well.

10 (i) Volume measurement.--

11 (1) Except as provided under paragraph (2), for purposes
12 of computing the volumetric severance tax, natural gas
13 severed shall be measured at the wellhead meter.

14 (2) Natural gas severed prior to the trigger date shall
15 be measured according to the standards and methods used for
16 reporting natural gas production to the Department of
17 Environmental Protection.

18 (j) Administration.--The department shall enforce the
19 provisions of this section and may prescribe, adopt, promulgate
20 and enforce rules and regulations relating to any matter or
21 thing pertaining to the administration or enforcement of the
22 provisions of this section and the collection of taxes imposed
23 by this section.

24 (k) Payment of tax.--A producer may not make the tax imposed
25 under this section on natural gas severed under a lease an
26 obligation, indebtedness or liability of the lessor and may not
27 otherwise require the lessor to reimburse the producer for the
28 amount of the tax.

29 (l) Postproduction costs.--A reduction in taxes imposed
30 under this section shall not be authorized to account for

1 postproduction costs, including costs relating to the gathering,
2 compression, treatment, processing, transportation or
3 dehydration of severed natural gas.

4 § 4304. Impact fee credits.

5 (a) Credits.--Unconventional gas well fees timely paid by a
6 producer for the prior calendar year under Chapter 23 (relating
7 to unconventional gas well fee) shall be allowed as credit
8 against the tax imposed under this chapter.

9 (b) Initial credit.--The initial credit under subsection (a)
10 shall be prorated based on the number of months in which this
11 chapter was effective during the calendar year for which the
12 unconventional gas well fee was paid. Thereafter, the credit
13 shall be based on the entire unconventional gas well fee paid by
14 a producer on or before April 1 for the preceding calendar year.

15 (c) Carry back and forward.--A credit under this section may
16 not be carried back or carried forward beyond 12 months after
17 payment of the unconventional gas well fee that is sold,
18 assigned or refunded.

19 § 4305. Registration.

20 (a) Application.--

21 (1) Before a producer severs natural gas or continues to
22 sever natural gas in this Commonwealth after the date
23 occurring 60 days following the effective date of this
24 section, the producer shall apply to the department for a
25 registration certificate.

26 (2) The department may charge an application fee to
27 cover the administrative costs associated with the
28 application and registration process. The fee shall not
29 exceed \$0.03 per mcf of severed natural gas.

30 (b) Issuance.--

1 (1) Except as provided in subsection (c), after the
2 receipt of an application and the required application fee,
3 the department shall issue a registration certificate to the
4 producer. The registration certificate is nonassignable.

5 (2) A registrant shall renew the registration
6 certificate on a staggered renewal system established by the
7 department. After the initial staggered renewal period, a
8 registration certificate is valid for a period of five years.

9 (c) Refusal, suspension or revocation.--

10 (1) The department may refuse to issue, suspend or
11 revoke a registration certificate if the applicant or
12 registrant has not filed required State tax reports and paid
13 State taxes not subject to a timely perfected administrative
14 or judicial appeal or an authorized deferred payment plan.

15 (2) The department shall notify the applicant or
16 registrant of a refusal, suspension or revocation. The notice
17 shall contain a statement that the refusal, suspension or
18 revocation may be made public. The notice shall be made by
19 first class mail.

20 (3) An applicant or registrant aggrieved by the
21 determination of the department may file an appeal under the
22 provisions for administrative appeals in the act of March 4,
23 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971. In
24 the case of a suspension or revocation that is appealed, the
25 registration certificate shall remain valid pending a final
26 outcome of the appeals process. Notwithstanding any other
27 provision of law, if no appeal is taken or if an appeal is
28 taken and denied at the conclusion of the appeal process, the
29 department may disclose, by publication or otherwise, the
30 identity of a producer and the fact that the producer's

1 registration certificate has been refused, suspended or
2 revoked under this subsection. Disclosure may include the
3 basis for refusal, suspension or revocation.

4 (d) Violation.--

5 (1) A person that severs natural gas in this
6 Commonwealth in violation of subsection (a) commits a summary
7 offense and shall, upon conviction, be sentenced to pay a
8 fine not less than \$300 nor more than \$1,500 or, in default
9 of the payment, to imprisonment for not less than five days
10 nor more than 30 days.

11 (2) For purposes of this subsection, each day in which
12 natural gas is severed shall constitute a separate violation.

13 (3) The penalties imposed by this subsection shall be in
14 addition to any other penalties imposed by this chapter.

15 (4) The secretary may designate employees of the
16 department to enforce the provisions of this subsection. The
17 employees shall exhibit proof of and be within the scope of
18 the designation when instituting proceedings as provided by
19 the Pennsylvania Rules of Criminal Procedure.

20 (e) Failure to obtain registration certificate.--Failure to
21 obtain or hold a valid registration certificate does not relieve
22 a person from liability for the tax imposed by this chapter.

23 § 4306. Meters.

24 A producer shall provide for and maintain a discrete wellhead
25 meter where natural gas is severed. A producer shall ensure that
26 the meters are maintained according to industry standards. A
27 wellhead meter installed after the effective date of this
28 section shall be a digital meter.

29 § 4307. Assessments.

30 (a) Authorization and requirement.--The department shall

1 make inquiries, determinations and assessments of the tax
2 imposed under this chapter, including interest, additions and
3 penalties imposed under this chapter.

4 (b) Notice.--The notice of assessment and demand for payment
5 shall be mailed to the producer. The notice shall state the
6 basis of the assessment. The department shall send the notice of
7 assessment to the producer at the producer's registered post
8 office address via mail if the assessment increases the
9 producer's tax liability by \$300 or more.

10 § 4308. Time for assessment.

11 (a) Requirement.--

12 (1) An assessment as provided under section 4307
13 (relating to assessments) shall be made within three years
14 after the date when the report provided for under section
15 4303(g) (relating to imposition of tax) is filed or the end
16 of the year in which the tax liability arises, whichever
17 shall occur last.

18 (2) For purposes of this subsection and subsection (b),
19 a return filed before the last day prescribed for the filing
20 period shall be considered as filed on the last day.

21 (b) Exception.--If the producer underpays the correct amount
22 of the tax due by 25% or more, the tax may be assessed within
23 six years after the date the return was filed.

24 (c) Intent to evade.--Where no return is filed or where the
25 producer files a false or fraudulent return with intent to evade
26 the tax imposed by this chapter, the assessment may be made at
27 any time.

28 (d) Erroneous credit or refund.--Within three years of the
29 granting of a refund or credit or within the period in which an
30 assessment or reassessment may have been issued by the

1 department for the taxable period for which the refund was
2 granted, whichever period shall occur last, the department may
3 issue an assessment to recover a refund or credit made or
4 allowed erroneously.

5 § 4309. Extension of assessment period.

6 Notwithstanding the provisions of this chapter, the
7 assessment period may be extended in the event a producer has
8 provided written consent before the expiration of the period
9 provided in section 4308 (relating to time for assessment) for a
10 tax assessment. The amount of tax due may be assessed at any
11 time within the extended period. The period may be extended
12 further by subsequent written consents made before the
13 expiration of the extended period.

14 § 4310. Reassessments.

15 A producer against whom an assessment is made may petition
16 the department for a reassessment under Article XXVII of the act
17 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
18 1971.

19 § 4311. Interest.

20 The department shall assess interest on any delinquent tax at
21 the rate prescribed under section 806 of the act of April 9,
22 1929 (P.L.343, No.176), known as The Fiscal Code.

23 § 4312. Penalties.

24 The department shall enforce the following penalties:

25 (1) A penalty against a producer without a registration
26 certificate required under section 4305 (relating to
27 registration). The penalty shall be \$1 for every unit severed
28 without a valid registration certificate. The department may
29 assess this penalty separately from or in conjunction with
30 any assessment of the natural gas severance tax.

1 (2) A penalty against a producer for failure to timely
2 file a return as required under section 4303(g) (relating to
3 imposition of tax). The penalty shall be 5% of the tax
4 liability to be reported on the return for each day beyond
5 the due date that the return is not filed.

6 (3) In addition to the penalty under paragraph (2), a
7 penalty against the producer for a willful failure to timely
8 file a return. The penalty shall be 200% of the tax liability
9 required to be reported on the return.

10 (4) A penalty against a producer for failure to timely
11 pay the tax as required under this chapter. The penalty shall
12 be 5% of the amount of tax due for each day beyond the
13 payment date that the tax is not paid.

14 § 4313. Administration of tax.

15 Unless otherwise specified, Chapters IV, V, VI, VII and VIII
16 of Part VI of Article II of the act of March 4, 1971 (P.L.6,
17 No.2), known as the Tax Reform Code of 1971, shall apply to this
18 chapter.

19 § 4314. Criminal acts.

20 (a) Fraudulent return.--Any person with intent to defraud
21 the Commonwealth, who willfully makes or causes to be made a
22 return required under this chapter that is false, is guilty of a
23 misdemeanor and shall, upon conviction, be sentenced to pay a
24 fine of not more than \$2,000 or to imprisonment for not more
25 than three years, or both.

26 (b) Other crimes.--

27 (1) Except as otherwise provided under subsection (a), a
28 person is guilty of a misdemeanor and shall, upon conviction,
29 be sentenced to pay a fine of not more than \$1,000 and costs
30 of prosecution or to imprisonment for not more than one year,

1 or both, for any of the following:

2 (i) Willfully failing to timely remit the tax to the
3 department.

4 (ii) Willfully failing or neglecting to timely file
5 a return or report required by this chapter.

6 (iii) Refusing to timely pay a tax, penalty or
7 interest imposed or provided for by this chapter.

8 (iv) Willfully failing to preserve the person's
9 books, papers and records as directed by the department.

10 (v) Refusing to permit the department or the
11 person's authorized agents to examine the person's books,
12 records or papers.

13 (vi) Knowingly making any incomplete, false or
14 fraudulent return or report.

15 (vii) Preventing or attempting to prevent the full
16 disclosure of the amount of natural gas severance tax
17 due.

18 (viii) Providing any person with a false statement
19 as to the payment of the tax imposed under this chapter
20 with respect to any pertinent facts.

21 (ix) Making, uttering or issuing a false or
22 fraudulent statement.

23 (2) The penalties imposed under this section shall be in
24 addition to other penalties imposed under this chapter.

25 § 4315. Abatement of additions or penalties.

26 Upon the filing of a petition for reassessment or a petition
27 for refund by a producer as provided under this chapter,
28 additions or penalties imposed upon the producer by this chapter
29 may be waived or abated, in whole or in part, where the
30 petitioner establishes that he acted in good faith, without

1 negligence and with no intent to defraud.

2 § 4316. Bulk and auction sales.

3 A person that sells or causes to be sold at auction, or that
4 sells or transfers in bulk, 51% or more of a stock of goods,
5 wares or merchandise of any kind, fixtures, machinery,
6 equipment, buildings or real estate involved in a business for
7 which the person holds a registration certificate or is required
8 to obtain a registration certificate under the provisions of
9 this chapter shall be subject to the provisions of section 1403
10 of the act of April 9, 1929 (P.L.343, No.176), known as The
11 Fiscal Code.

12 § 4317. Collection upon failure to request reassessment, review
13 or appeal.

14 (a) Power of department.--The department may collect the tax
15 imposed under this chapter:

16 (1) If an assessment of the tax is not paid within 30
17 days after notice to the producer when no petition for
18 reassessment has been filed.

19 (2) Within 60 days of the reassessment, if no petition
20 for review has been filed.

21 (3) If no appeal has been made, within 30 days of:

22 (i) the Board of Finance and Revenue's decision of a
23 petition for review; or

24 (ii) the expiration of the Board of Finance and
25 Revenue's time for acting upon the petition.

26 (4) In all cases of judicial sales, receiverships,
27 assignments or bankruptcies.

28 (b) Prohibition.--In a case for the collection of taxes
29 under subsection (a), the producer against whom the taxes were
30 assessed may not set up a ground of defense that might have been

1 determined by the department, the Board of Finance and Revenue
2 or the courts, provided that the defense of failure of the
3 department to mail notice of assessment or reassessment to the
4 producer and the defense of payment of assessment or
5 reassessment may be raised in proceedings for collection by a
6 motion to stay the proceedings.

7 § 4318. Tax liens.

8 (a) Lien imposed.--

9 (1) If a producer neglects or refuses to pay the tax
10 imposed under this chapter for which the producer is liable
11 under this chapter after demand, the amount, including
12 interest, addition or penalty, together with additional costs
13 that may accrue, shall be a lien in favor of the Commonwealth
14 upon the real and personal property of the producer, but only
15 after the same has been entered and docketed of record by the
16 prothonotary of the county where the property is situated.

17 (2) The department may, at any time, transmit to the
18 prothonotaries of the respective counties certified copies of
19 the liens imposed under this section.

20 (3) The prothonotary receiving the lien shall enter and
21 docket the lien of record to the office of the prothonotary.
22 The lien shall be indexed as judgments are now indexed. No
23 prothonotary may require as a condition precedent to the
24 entry of the lien the payment of costs incidental to its
25 entry.

26 (b) Priority of lien and effect on judicial sale.--

27 (1) A lien imposed under this section shall have
28 priority from the date of its recording and shall be fully
29 paid and satisfied out of the proceeds of any judicial sale
30 of property subject to the lien, before any other obligation,

1 judgment, claim, lien or estate to which the property may
2 subsequently become subject except as follows:

3 (i) the costs of the sale;

4 (ii) the writ upon which the sale was made;

5 (iii) real estate taxes; and

6 (iv) municipal claims against the property.

7 (2) The lien shall be subordinate to mortgages and other
8 liens existing and duly recorded or entered of record prior
9 to the recording of the lien.

10 (c) No discharge by sale on junior lien.--

11 (1) In the case of a judicial sale of property subject
12 to a lien imposed under this section, upon a lien or claim
13 over which the lien imposed under this section has priority,
14 the sale shall discharge the lien imposed under this section
15 to the extent only that the proceeds are applied to its
16 payment, and the lien shall continue in full force and effect
17 as to the balance remaining unpaid.

18 (2) There shall be no inquisition or condemnation upon
19 any judicial sale of real estate made by the Commonwealth
20 under the provisions of this chapter.

21 (3) The lien shall continue as provided in the act of
22 April 9, 1929 (P.L.343, No.176), known as The Fiscal Code,
23 and a writ of execution may directly issue upon the lien
24 without the issuance and prosecution to judgment of a writ of
25 scire facias, provided that not less than 10 days before
26 issuance of any execution on the lien, notice of the filing
27 and the effect of the lien shall be sent by registered mail
28 to the producer's last known post office address. The lien
29 shall have no effect upon any stock of goods, wares or
30 merchandise regularly sold or leased in the ordinary course

1 of business by the producer against whom the lien has been
2 entered, unless and until a writ of execution has been issued
3 and a levy made upon the stock of goods, wares and
4 merchandise.

5 (d) Penalty.--A prothonotary who intentionally violates this
6 section commits a misdemeanor of the third degree and shall,
7 upon conviction, be sentenced to pay a fine of not more than
8 \$1,000 and costs of prosecution or to imprisonment for not more
9 than one year, or both.

10 (e) Priority.--

11 (1) Except as provided in this chapter, in the case of
12 the distribution, voluntary or compulsory, in receivership,
13 bankruptcy or otherwise of the property or estate of a
14 person, all taxes imposed by this chapter that are due and
15 unpaid and are not collectible under the provisions of
16 section 225 of the act of March 4, 1971 (P.L.6, No.2), known
17 as the Tax Reform Code of 1971, shall be paid from the first
18 money available for distribution in priority to all other
19 claims and liens, except as the laws of the United States may
20 give priority to a claim to the Federal Government.

21 (2) A person charged with the administration or
22 distribution of the property or estate who violates the
23 provisions of this section shall be personally liable for the
24 taxes imposed by this chapter that are accrued and unpaid and
25 chargeable against the person whose property or estate is
26 being administered or distributed.

27 (f) Other remedies.--Subject to the limitations contained in
28 this chapter as to the assessment of taxes, nothing contained in
29 this section may be construed to restrict, prohibit or limit the
30 use by the department in collecting taxes due and payable of

1 another remedy or procedure available at law or equity for the
2 collection of debts.

3 § 4319. Tax suit reciprocity.

4 The courts of this Commonwealth shall recognize and enforce
5 liabilities for natural gas severance or extraction taxes
6 lawfully imposed by any other state, if the other state
7 recognizes and enforces the tax imposed under this chapter.

8 § 4320. Service.

9 A producer is deemed to have appointed the Secretary of the
10 Commonwealth as the producer's agent for the acceptance of
11 service of process or notice in a proceeding for the enforcement
12 of the civil provisions of this chapter. Service made upon the
13 Secretary of the Commonwealth as agent shall be of the same
14 legal force and validity as if the service had been personally
15 made on the producer. Where service cannot be made upon the
16 producer in the manner provided by other laws of this
17 Commonwealth relating to service of process, service may be made
18 upon the Secretary of the Commonwealth. In that case, a copy of
19 the process or notice shall be personally served upon any agent
20 or representative of the producer who may be found within this
21 Commonwealth or, where no agent or representative may be found,
22 a copy of the process or notice shall be sent via registered
23 mail to the producer at the last known address of the producer's
24 principal place of business, home office or residence.

25 § 4321. Refunds.

26 (a) General rule.--Under Article XXVII of the act of March
27 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, the
28 department shall refund all taxes, interest and penalties paid
29 to the Commonwealth under the provisions of this chapter to
30 which the Commonwealth is not rightfully entitled. The refunds

1 shall be made to the person or the person's heirs, successors,
2 assigns or other personal representatives who paid the tax,
3 provided that no refund may be made under this section regarding
4 a payment made by reason of an assessment where a producer has
5 filed a petition for reassessment under section 2702 of the Tax
6 Reform Code of 1971 to the extent the petition is adverse to the
7 producer by a decision that is no longer subject to further
8 review or appeal.

9 (b) Construction.--Nothing in this chapter may be construed
10 to prohibit a producer that has filed a timely petition for
11 reassessment from amending it to a petition for refund where the
12 petitioner paid the tax assessed.

13 § 4322. Refund petition.

14 (a) General rule.--Except as provided in subsection (b), the
15 refund or credit of tax, interest or penalty provided under
16 section 4321 (relating to refunds) shall be made only where the
17 person who has paid the tax files a petition for refund with the
18 department under Article XXVII of the act of March 4, 1971
19 (P.L.6, No.2), known as the Tax Reform Code of 1971, within the
20 time limits of section 3003.1 of the Tax Reform Code of 1971.

21 (b) Natural gas severance tax.--

22 (1) A refund or credit of tax, interest or penalty paid
23 as a result of an assessment made by the department under
24 section 4307 (relating to assessments) shall be made only
25 where the person who has paid the tax files a petition for a
26 refund with the department under Article XXVII of the Tax
27 Reform Code of 1971 within the time limits of section 3003.1
28 of the Tax Reform Code of 1971.

29 (2) The filing of a petition for refund under the
30 provisions of this subsection shall not affect the abatement

1 of interest, additions or penalties to which the person may
2 be entitled by reason of payment of the assessment.

3 § 4323. Rules and regulations.

4 The department shall enforce the provisions of this chapter
5 and shall promulgate rules and regulations to administer and
6 enforce the provisions of this chapter and the collection of
7 taxes, penalties and interest imposed by this chapter. The
8 department may prescribe the extent, if any, to which any of the
9 rules and regulations shall be applied without retroactive
10 effect.

11 § 4324. Recordkeeping.

12 (a) General rule.--A person liable for any tax imposed by
13 this chapter, or for the collection of the tax, shall keep
14 records, including those enumerated in subsection (b), render
15 statements, make returns and comply with the rules and
16 regulations as the department may prescribe regarding matters
17 pertinent to the person's business. Whenever it is necessary,
18 the department may require a person, by notice served upon the
19 person or by regulations, to make returns, render statements or
20 keep records as the department deems sufficient to show whether
21 a person is liable to pay tax under this chapter.

22 (b) Records.--Records to be maintained are:

23 (1) Wellhead meter charts for each reporting period and
24 the meter calibration and maintenance records. If turbine
25 meters are in use, the maintenance records shall be made
26 available to the department upon request.

27 (2) Records, statements and other instruments furnished
28 to a producer by a person to whom the producer delivers for
29 sale, transport or delivery of natural gas.

30 (3) Records, statements and other instruments as the

1 department may prescribe by regulation.

2 (c) Records of nonresidents.--

3 (1) A nonresident who does business in this Commonwealth
4 as a producer shall keep adequate records of the business and
5 of the tax due as a result. The records shall be retained
6 within this Commonwealth unless retention outside this
7 Commonwealth is authorized by the department.

8 (2) The department may require a producer that desires
9 to retain records outside this Commonwealth to assume
10 reasonable out-of-State audit expenses.

11 (d) Keeping of separate records.--

12 (1) A producer that is engaged in another business or
13 businesses that do not involve the severing of natural gas
14 taxable under this chapter shall keep separate books and
15 records of the businesses so as to show the taxable severing
16 of natural gas under this chapter separately from other
17 business activities not taxable under this chapter.

18 (2) If a person fails to keep separate books and
19 records, the person shall be liable for a penalty equaling
20 100% of tax due under this chapter for the period where
21 separate records were not maintained.

22 § 4325. Examinations.

23 (a) Right to examine.--

24 (1) The department or any of its authorized agents may
25 examine the books, papers, records and locations of a
26 producer in order to verify the accuracy and completeness of
27 a return made or, if no return was made, to ascertain and
28 assess the tax imposed by this chapter. The department may
29 require the preservation of all books, papers and records for
30 any period deemed proper by the department but not to exceed

1 three years from the end of the calendar year to which the
2 records relate.

3 (2) A producer shall give to the department or its agent
4 the means, facilities and opportunity for examinations and
5 investigations under this section.

6 (3) The department may examine a person, under oath,
7 concerning the taxable severing of natural gas by a producer
8 or concerning any other matter relating to the enforcement or
9 administration of this chapter, and to this end may compel
10 the production of books, papers and records and the
11 attendance of all persons whether as parties or witnesses
12 believed to have knowledge of relevant matters.

13 (b) Procedure.--The procedure for the hearings or
14 examinations shall be the same as that provided under the act of
15 April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.
16 § 4326. Unauthorized disclosure.

17 (a) General rule.--Information gained by the department as a
18 result of a return, examination, investigation, hearing or
19 verification required or authorized under this chapter shall be
20 confidential except for official purposes and except in
21 accordance with proper judicial order or as otherwise provided
22 by law.

23 (b) Penalty.--Any person unlawfully divulging the
24 information shall be guilty of a misdemeanor and shall, upon
25 conviction, be sentenced to pay a fine of not more than \$1,000
26 and costs of prosecution or to imprisonment for not more than
27 one year, or both.

28 § 4327. Cooperation with other governments.

29 Notwithstanding the provisions of section 4319 (relating to
30 tax suit reciprocity), the department may permit the

1 Commissioner of the Internal Revenue Service, the proper officer
2 of any state or the authorized representative of either of them
3 to inspect the tax returns of a producer, or may furnish to the
4 commissioner or officer or to either of their authorized
5 representatives an abstract of the return of a producer, or
6 supply the officer or the officer's authorized representative
7 with information concerning any item contained in a return or
8 disclosed by the report of any examination or investigation of
9 the return of a producer. This permission shall be granted only
10 if the laws of the United States or another state grant
11 substantially similar privileges to the proper officer of the
12 Commonwealth charged with the administration of this chapter.

13 § 4328. Bonds.

14 (a) Producer to file bond.--

15 (1) The department may require a nonresident natural
16 person, or any foreign corporation, association, fiduciary or
17 other entity, not authorized to do business within this
18 Commonwealth or not having an established place of business
19 in this Commonwealth and subject to the tax imposed by
20 section 4303 (relating to imposition of tax), to file a bond
21 issued by a surety company authorized to do business in this
22 Commonwealth and approved by the Insurance Commissioner as to
23 solvency and responsibility, in amounts as the department may
24 fix, to secure the payment of any tax or penalties due or
25 that may become due from a nonresident natural person,
26 corporation, association, fiduciary or other entity whenever
27 the department deems it necessary to protect the revenues
28 obtained under this chapter.

29 (2) The department may also require a bond of a person
30 petitioning the department for reassessment in the case of

1 any assessment over \$500 or where, in the department's
2 opinion, the ultimate collection is in jeopardy.

3 (3) For a period of three years, the department may
4 require a bond of any person that has, on three or more
5 occasions within a 12-month period, either filed a return or
6 made payment to the department more than 30 days late.

7 (4) In the event the department determines a producer is
8 required to file a bond, the department shall give notice to
9 the producer specifying the amount of the bond required.

10 (5) The producer shall file the bond within five days
11 after notice is given by the department unless, within five
12 days, the producer requests in writing a hearing before the
13 secretary or the secretary's representative.

14 (6) At the hearing, the necessity, propriety and amount
15 of the bond shall be determined by the secretary or the
16 secretary's representative.

17 (7) The determination shall be final and the producer
18 shall comply within 15 days after notice is mailed to the
19 producer.

20 (b) Securities in lieu of bond.--

21 (1) In lieu of the bond required under this section,
22 securities approved by the department or cash in a prescribed
23 amount may be deposited. The securities or cash shall be kept
24 in the custody of the department.

25 (2) The department may:

26 (i) Apply the securities or cash to the tax imposed
27 under this chapter and interest or penalties due without
28 notice to the depositor.

29 (ii) Sell the securities to pay the tax and interest
30 or penalties due at public or private sale upon five

1 days' written notice to the depositor.

2 (c) Failure to file bond.--

3 (1) The department may file a lien under section 4318
4 (relating to tax liens) against any producer who fails to
5 file a bond when required to do so under this section.

6 (2) All funds received upon execution of the judgment on
7 the lien shall be refunded to the producer with 3% interest
8 should a final determination be made that the producer does
9 not owe any payment to the department.

10 § 4329. Prohibition.

11 A producer may not make the tax imposed under section 4303
12 (relating to imposition of tax) on natural gas severed under a
13 natural gas lease, an obligation, indebtedness or liability of a
14 landowner, leaseholder or other person in possession of real
15 property upon which the removal or extraction occurs and shall
16 not otherwise require the landowner to pay or reimburse the
17 producer for the amount of the tax.

18 § 4330. Future agreements.

19 On or after the effective date of this section, a provision
20 of an agreement in violation of section 4329 (relating to
21 prohibition) is declared to be illegal, contrary to public
22 policy and null and void.

23 § 4331. Stripper wells.

24 Notwithstanding the definition of "stripper well" in section
25 2301 (relating to definitions) or any other provision of Chapter
26 23 (relating to unconventional gas well fee) to the contrary, a
27 stripper well shall only be exempt from the payment of the
28 unconventional gas well fee due under Chapter 23 if the well was
29 incapable of producing more than 90 units of natural gas each
30 day of every calendar month in a calendar year.

1 § 4332. Deposit of proceeds.

2 The proceeds of the tax imposed under section 4303 (relating
3 to imposition of tax) and penalties and interest imposed under
4 this chapter shall be deposited into the General Fund.

5 Section 3. This act shall take effect immediately.