

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 1626 Session of  
2017

---

INTRODUCED BY MICCARELLI, BARRAR, SANTORA, CHARLTON AND  
C. QUINN, JUNE 28, 2017

---

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
JUNE 28, 2017

---

AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated  
2 Statutes, in unconventional gas well fee, further providing  
3 for definitions and repealing expiration; and providing for  
4 imposition of tax, for impact fee credits, for registration,  
5 for meters, for assessments, for time for assessment, for  
6 extension of assessment period, for reassessments, for  
7 interest, for penalties, for administration of tax, for  
8 criminal acts, for abatement of additions or penalties, for  
9 bulk and auction sales, for collection upon failure to  
10 request reassessment, review or appeal, for tax liens, for  
11 tax suit reciprocity, for service, for refunds, for refund  
12 petition, for rules and regulations, for recordkeeping, for  
13 examinations, for unauthorized disclosure, for cooperation  
14 with other governments, for bonds, for prohibition, for  
15 future agreements and for deposit of proceeds.

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

18 Section 1. The definition of "stripper well" in section 2301  
19 of Title 58 of the Pennsylvania Consolidated Statutes is amended  
20 to read:

21 § 2301. Definitions.

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

1 \* \* \*

2 "Stripper well." [An unconventional gas well incapable of  
3 producing more than 90,000 cubic feet of gas per day during any  
4 calendar month, including production from all zones and  
5 multilateral well bores at a single well, without regard to  
6 whether the production is separately metered.] As defined in  
7 section 4302 (relating to definitions).

8 \* \* \*

9 Section 2. Section 2318 of Title 58 is repealed:

10 [§ 2318. Expiration.

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

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

17 Section 3. Title 58 is amended by adding a part to read:

18 PART IV

19 TAXATION

20 Chapter

21 41. (Reserved)

22 43. Severance Tax

23 CHAPTER 41

24 (Reserved)

25 CHAPTER 43

26 SEVERANCE TAX

27 Sec.

28 4301. Scope of chapter.

29 4302. Definitions.

30 4303. Imposition of tax.

1 4303.1. Impact fee credits.  
2 4304. Registration.  
3 4305. Meters.  
4 4306. Assessments.  
5 4307. Time for assessment.  
6 4308. Extension of assessment period.  
7 4309. Reassessments.  
8 4310. Interest.  
9 4311. Penalties.  
10 4311.1. Administration of tax.  
11 4312. Criminal acts.  
12 4313. Abatement of additions or penalties.  
13 4314. Bulk and auction sales.  
14 4315. Collection upon failure to request reassessment, review  
15                   or appeal.  
16 4316. Tax liens.  
17 4317. Tax suit reciprocity.  
18 4318. Service.  
19 4319. Refunds.  
20 4320. Refund petition.  
21 4321. Rules and regulations.  
22 4322. Recordkeeping.  
23 4323. Examinations.  
24 4324. Unauthorized disclosure.  
25 4325. Cooperation with other governments.  
26 4326. Bonds.  
27 4327. Prohibition.  
28 4328. Future agreements.  
29 4329. Deposit of proceeds.  
30 § 4301. Scope of chapter.

1 This chapter relates to taxation of the severance of natural  
2 gas and natural gas liquids.

3 § 4302. Definitions.

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

7 "Average Pennsylvania hub price." The average of the settled  
8 prices at the five largest trading points in Pennsylvania,  
9 weighted by volume, on the last trading day for the month, for  
10 the previous 12-month period ending on December 31, as reported  
11 in the sources of current market data which shall be selected by  
12 the department and published in the Pennsylvania Bulletin at  
13 least 30 days prior to the determination and publication of the  
14 gas base rate adjustment and gas tax in accordance with section  
15 4303 (relating to imposition of tax).

16 "Average price of natural gas." The arithmetic mean of the  
17 market price for arm's-length transactions as reported to the  
18 department for the previous reporting period. Within 20 days  
19 after the end of each reporting period the department shall  
20 calculate and publish the average price of natural gas from  
21 returns received in the prior reporting period based on the  
22 total units of gas severed and the total gross value of gas  
23 reported by all producers for all arm's-length transactions on  
24 returns filed with the department.

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

26 "Gas base rate." Six and one-half percent of the gross value  
27 of natural gas units or natural gas liquids.

28 "Gross value." The value, whether in money or other  
29 property, actually proceeding from the sale of property prior to  
30 the payment of any royalties or other payments to a lessor and

1 without any other deduction or credits of any kind, except as  
2 follows:

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

6 (2) In the absence of a sale, the gross value of the  
7 property transferred may not be less than the fair market  
8 value of similar grade and quality property.

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

13 "Natural gas." As defined in section 2301 (relating to  
14 definitions).

15 "Natural gas liquids." Hydrocarbons, including ethane,  
16 propane, butane, isobutane and pentane, that are separated from  
17 natural gas severed from unconventional formations as liquids  
18 through the process of absorption, condensation, adsorption,  
19 cooling in gas separators, gas processing or cycling plants or  
20 condensate at the well head.

21 "Person." Any natural person, a corporation, fiduciary,  
22 association or other entity. The term includes the Commonwealth  
23 and any political subdivision, instrumentality and authority of  
24 the Commonwealth.

25 "Producer." As defined in section 2301 (relating to  
26 definitions).

27 "Related parties." Two or more people, organizations or  
28 businesses owned or controlled directly or indirectly by the  
29 same interests. Control exists if a contract or lease, either  
30 written or oral, is entered into where one party severs or

1 processes natural gas owned or held by another party and the  
2 owner or lessor participates in the severing, processing or  
3 marketing of the natural gas or receives any value other than an  
4 arm's-length passive royalty interest.

5 "Reporting period." A calendar month in which natural gas is  
6 severed.

7 "Secretary." The Secretary of Revenue of the Commonwealth or  
8 a designee.

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

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

14 "Stripper well." A natural gas well incapable of producing  
15 more than 90,000 cubic feet of gas per day during any calendar  
16 month, including production from all zones and multilateral well  
17 bores at a single well, without regard to whether the production  
18 is separately metered.

19 "Unconventional gas well." As defined in section 2301  
20 (relating to definitions).

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

27 (1) The average absolute atmospheric pressure shall be  
28 assumed to be 14.4 pounds to the square inch, regardless of  
29 elevation or location of point of delivery above sea level or  
30 variations in atmospheric pressure.

1       (2) The temperature of the gas passing the meters shall  
2 be determined by the continuous use of a recording  
3 thermometer installed to properly record the temperature of  
4 gas flowing through the meters. The arithmetic average of the  
5 temperature recorded each 24-hour day shall be used in  
6 computing gas volumes. If a recording thermometer is not  
7 installed, or is installed and not operating properly, an  
8 average flowing temperature of 60 degrees Fahrenheit shall be  
9 used in computing gas volume.

10       (3) The specific gravity of the gas shall be determined  
11 annually by tests made by the use of an Edwards or Acme  
12 gravity balance, or at intervals as found necessary in  
13 practice. Specific gravity determinations shall be used in  
14 computing gas volumes.

15       (4) The deviation of the natural gas from Boyle's law  
16 shall be determined by annual tests or at other shorter  
17 intervals as found necessary in practice. The apparatus and  
18 method used in making the test shall be in accordance with  
19 recommendations of the National Bureau of Standards or Report  
20 No. 3 of the Gas Measurement Committee of the American Gas  
21 Association. The results of the tests shall be used in  
22 computing the volume of gas delivered under this chapter.

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

25 § 4303. Imposition of tax.

26 (a) Establishment.--Beginning July 1, 2017, a natural gas  
27 severance tax is levied and payable by every producer.

28 (b) Rate.--

29 (1) Subject to annual adjustment under paragraph (2),  
30 the rate of tax imposed in subsection (a) shall, for the

1 fiscal year beginning July 1, 2017, be at an initial rate of  
2 3.5% of the gross value of units severed during each  
3 reporting period.

4 (2) (i) The rate of the tax imposed in subsection (a)  
5 shall be adjusted annually on July 1 for the ensuing 12  
6 calendar months, but may not be less than 3% nor more  
7 than 7% of the gross value of the natural gas severed.

8 (ii) On or before April 1, 2018, and annually  
9 thereafter, the secretary shall determine, using the gas  
10 base rate adjustment as provided in subparagraph (iii),  
11 the new gas tax rate for the 12 calendar months beginning  
12 July 1, 2018, and respectively for each 12-month period  
13 beginning thereafter. The gas tax rate shall be  
14 determined by multiplying the gas base rate by the gas  
15 base rate adjustment.

16 (iii) The gas base rate adjustment for the  
17 applicable 12-month period shall be a fraction, the  
18 numerator of which shall be the average Pennsylvania hub  
19 price and the denominator of which shall be the  
20 arithmetic mean of the New York Mercantile Exchange  
21 (NYMEX) Henry Hub settled price for the near-month  
22 contract, as reported by the Wall Street Journal for the  
23 last trading day for each month of a calendar year for  
24 the previous 12-month period ending on December 31.

25 (iv) The secretary shall publish the gas base rate  
26 adjustment and the gas tax rate, as determined under this  
27 paragraph, in the Pennsylvania Bulletin by May 1 of each  
28 year and shall provide the gas base rate adjustment and  
29 the gas tax rate to affected producers by written notice  
30 mailed 60 days prior to the effective date thereof.



1 Failure to comply with this subparagraph shall not affect  
2 the validity of the new gas tax rate.

3 (c) Return and payment.--A producer subject to the  
4 provisions of this chapter shall file a return with the  
5 department on a form prescribed by the department. The return  
6 shall include the following:

7 (1) The total number of natural gas units severed by the  
8 producer for the reporting period broken down into:

9 (i) the number of such units sold by the producer  
10 during the reporting period in arm's-length transactions;

11 (ii) the number of such units sold by the producer  
12 during the reporting period in non-arm's-length  
13 transactions or exchanged for something other than cash;  
14 and

15 (iii) the number of such units not yet sold or  
16 exchanged as of the end of the reporting period.

17 (2) The gross value of the units identified in paragraph  
18 (1).

19 (3) The amount of tax due under subsection (b).

20 (4) Other information reasonably required by the  
21 department.

22 (d) Filing.--

23 (1) The return required by subsection (c) shall be filed  
24 with the department within 15 days following the end of a  
25 reporting period. The tax is due on the day the return is  
26 required to be filed under this subsection and shall become  
27 delinquent if not remitted to the department by the required  
28 date.

29 (2) A producer shall commence filing the returns  
30 required under subsection (c) within 75 days following the

1 effective date of this section. The initial return shall  
2 include the information required by subsection (c) for the  
3 reporting periods that occurred between July 1, 2017, and the  
4 75th day following the effective date of this section.

5 (e) Exemptions.--The tax shall not be imposed on the  
6 following:

7 (1) A unit severed from a stripper well.

8 (2) A unit severed, sold and delivered by an operator at  
9 or within five miles of the producing well for the processing  
10 or manufacture of tangible personal property, as defined  
11 under section 201 of the act of March 4, 1971 (P.L.6, No.2),  
12 known as the Tax Reform Code of 1971, within this  
13 Commonwealth.

14 (3) A unit provided free of charge to the owner of the  
15 surface under which the gas is severed if the surface owner  
16 is the end user of the gas.

17 (4) Natural gas, dry natural gas or natural gas liquids  
18 severed from a storage field.

19 § 4303.1. Impact fee credits.

20 (a) Credits.--Unconventional gas well fees timely paid by a  
21 producer for the prior calendar year under Chapter 23 (relating  
22 to unconventional gas well fee) shall be allowed as credit  
23 against the tax imposed under this subarticle.

24 (b) Initial credit.--The initial credit under paragraph (1)  
25 shall be prorated based on the number of months in which this  
26 chapter was effective during the calendar year for which the  
27 unconventional gas well fee was paid. Thereafter, the credit  
28 shall be based on the entire unconventional gas well fee paid by  
29 a producer on or before April 1 for the preceding calendar year.

30 (c) Carryback and carryforward.--A credit under this section

1 may not be carried back or carried forward beyond 12 months  
2 after payment of the unconventional gas well fee that is sold,  
3 assigned or refunded.

4 § 4304. Registration.

5 (a) Application.--

6 (1) Before a producer severs natural gas or continues to  
7 sever natural gas in this Commonwealth after the date  
8 occurring 60 days following the effective date of this  
9 section, the producer shall apply to the department for a  
10 registration certificate.

11 (2) The department may charge an application fee to  
12 cover the administrative costs associated with the  
13 application and registration process.

14 (b) Issuance.--

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

19 (2) A registrant shall renew the registration  
20 certificate on a staggered renewal system established by the  
21 department. After the initial staggered renewal period, a  
22 registration certificate is valid for a period of five years.

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

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

29 (2) The department shall notify the applicant or  
30 registrant of a refusal, suspension or revocation. The notice

1 shall contain a statement that the refusal, suspension or  
2 revocation may be made public. The notice shall be made by  
3 first class mail.

4 (3) An applicant or registrant aggrieved by the  
5 determination of the department may file an appeal under the  
6 provisions for administrative appeals in the act of March 4,  
7 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971. In  
8 the case of a suspension or revocation which is appealed, the  
9 registration certificate shall remain valid pending a final  
10 outcome of the appeals process. Notwithstanding any other  
11 provision of law, if no appeal is taken or if an appeal is  
12 taken and denied at the conclusion of the appeal process, the  
13 department may disclose, by publication or otherwise, the  
14 identity of a producer and the fact that the producer's  
15 registration certificate has been refused, suspended or  
16 revoked under this subsection. Disclosure may include the  
17 basis for refusal, suspension or revocation.

18 (d) Violation.--

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

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

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

29 (4) The Secretary of Revenue may designate employees of  
30 the department to enforce the provisions of this subsection.

1 The employees shall exhibit proof of and be within the scope  
2 of the designation when instituting proceedings as provided  
3 by the Pennsylvania Rules of Criminal Procedure.

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

7 § 4305. Meters.

8 A producer shall provide for and maintain a discrete wellhead  
9 meter where natural gas is severed. A producer shall ensure that  
10 the meters are maintained according to industry standards. Any  
11 wellhead meter installed after the effective date of this  
12 section shall be a digital meter.

13 § 4306. Assessments.

14 (a) Authorization and requirement.--The department shall  
15 make inquiries, determinations and assessments of the tax  
16 imposed under this chapter, including interest, additions and  
17 penalties imposed under this chapter.

18 (b) Notice.--The notice of assessment and demand for payment  
19 shall be mailed to the producer. The notice shall state the  
20 basis of the assessment. The department shall send the notice of  
21 assessment to the producer at the producer's registered address  
22 via mail if the assessment increases the producer's tax  
23 liability by \$300 or more.

24 § 4307. Time for assessment.

25 (a) Requirement.--

26 (1) An assessment as provided under section 4306  
27 (relating to assessments) shall be made within three years  
28 after the date when the return provided for under section  
29 4303(c) (relating to imposition of tax) is filed or the end  
30 of the year in which the tax liability arises, whichever

1 shall occur last.

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

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

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

12 (d) Erroneous credit or refund.--Within three years of the  
13 granting of a refund or credit or within the period in which an  
14 assessment or reassessment may have been issued by the  
15 department for the taxable period for which the refund was  
16 granted, whichever period shall occur last, the department may  
17 issue an assessment to recover a refund or credit made or  
18 allowed erroneously.

19 § 4308. Extension of assessment period.

20 Notwithstanding the provisions of this chapter, the  
21 assessment period may be extended in the event a producer has  
22 provided written consent before the expiration of the period  
23 provided in section 4307 (relating to time for assessment) for a  
24 tax assessment. The amount of tax due may be assessed at any  
25 time within the extended period. The period may be extended  
26 further by subsequent written consents made before the  
27 expiration of the extended period.

28 § 4309. Reassessments.

29 A producer against whom an assessment is made may petition  
30 the department for a reassessment under Article XXVII of the act

1 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of  
2 1971.

3 § 4310. Interest.

4 The department shall assess interest on any delinquent tax at  
5 the rate prescribed under section 806 of the act of April 9,  
6 1929 (P.L.343, No.176), known as The Fiscal Code.

7 § 4311. Penalties.

8 The department shall enforce the following penalties:

9 (1) A penalty against a producer without a registration  
10 certificate required under section 4304 (relating to  
11 registration). The penalty shall be \$1 for every unit severed  
12 without a valid registration certificate. The department may  
13 assess this penalty separately from or in conjunction with  
14 any assessment of the natural gas severance tax.

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

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

24 (4) A penalty against a producer for failure to timely  
25 pay the tax as required by section 4303(d). The penalty shall  
26 be 5% of the amount of tax due for each day beyond the  
27 payment date that the tax is not paid.

28 § 4311.1. Administration of tax.

29 Unless otherwise specified, Chapters IV, V, VI, VII and VIII  
30 of Part VI of Article II of the act of March 4, 1971 (P.L.6,

1 No.2), known as the Tax Reform Code of 1971, shall apply to this  
2 subarticle.

3 § 4312. Criminal acts.

4 (a) Fraudulent return.--Any person with intent to defraud  
5 the Commonwealth, who willfully makes or causes to be made a  
6 return required by this chapter which is false, is guilty of a  
7 misdemeanor and shall, upon conviction, be sentenced to pay a  
8 fine of not more than \$2,000 or to imprisonment for not more  
9 than three years, or both.

10 (b) Other crimes.--

11 (1) Except as otherwise provided under subsection (a), a  
12 person is guilty of a misdemeanor and shall, upon conviction,  
13 be sentenced to pay a fine of not more than \$1,000 and costs  
14 of prosecution or to imprisonment for not more than one year,  
15 or both, for any of the following:

16 (i) Willfully failing to timely remit the tax to the  
17 department.

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

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

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

24 (v) Refusing to permit the department or the  
25 person's authorized agents to examine the person's books,  
26 records or papers.

27 (vi) Knowingly making any incomplete, false or  
28 fraudulent return or report.

29 (vii) Preventing or attempting to prevent the full  
30 disclosure of the amount of natural gas severance tax



1 due.

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

5 (ix) Making, uttering or issuing a false or  
6 fraudulent statement.

7 (2) The penalties imposed by this section shall be in  
8 addition to other penalties imposed by this chapter.

9 § 4313. Abatement of additions or penalties.

10 Upon the filing of a petition for reassessment or a petition  
11 for refund by a producer as provided under this chapter,  
12 additions or penalties imposed upon the producer by this chapter  
13 may be waived or abated, in whole or in part, where the  
14 petitioner establishes that he acted in good faith, without  
15 negligence and with no intent to defraud.

16 § 4314. Bulk and auction sales.

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

26 § 4315. Collection upon failure to request reassessment, review  
27 or appeal.

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

30 (1) If an assessment of the tax is not paid within 30

1 days after notice to the producer when no petition for  
2 reassessment has been filed.

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

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

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

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

10 (4) In all cases of judicial sales, receiverships,  
11 assignments or bankruptcies.

12 (b) Prohibition.--In a case for the collection of taxes  
13 under subsection (a), the producer against whom the taxes were  
14 assessed may not set up a ground of defense that might have been  
15 determined by the department, the Board of Finance and Revenue  
16 or the courts, provided that the defense of failure of the  
17 department to mail notice of assessment or reassessment to the  
18 producer and the defense of payment of assessment or  
19 reassessment may be raised in proceedings for collection by a  
20 motion to stay the proceedings.

21 § 4316. Tax liens.

22 (a) Lien imposed.--

23 (1) If a producer neglects or refuses to pay the tax  
24 imposed under this chapter for which the producer is liable  
25 under this chapter after demand, the amount, including  
26 interest, addition or penalty, together with additional costs  
27 that may accrue, shall be a lien in favor of the Commonwealth  
28 upon the real and personal property of the producer, but only  
29 after the same has been entered and docketed of record by the  
30 prothonotary of the county where the property is situated.

1           (2) The department may, at any time, transmit to the  
2 prothonotaries of the respective counties certified copies of  
3 all liens imposed by this section.

4           (3) The prothonotary receiving the lien shall enter and  
5 docket the lien of record to the office of the prothonotary.  
6 The lien shall be indexed as judgments are now indexed. No  
7 prothonotary shall require as a condition precedent to the  
8 entry of the lien the payment of costs incidental to its  
9 entry.

10          (b) Priority of lien and effect on judicial sale.--Except  
11 for the costs of the sale and the writ upon which the sale was  
12 made and real estate taxes and municipal claims against the  
13 property, a lien imposed under this section shall have priority  
14 from the date of its recording and shall be fully paid and  
15 satisfied out of the proceeds of any judicial sale of property  
16 subject to the lien, before any other obligation, judgment,  
17 claim, lien or estate to which the property may subsequently  
18 become subject, but shall be subordinate to mortgages and other  
19 liens existing and duly recorded or entered of record prior to  
20 the recording of the lien.

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

22           (1) In the case of a judicial sale of property subject  
23 to a lien imposed under this section, upon a lien or claim  
24 over which the lien imposed under this section has priority,  
25 the sale shall discharge the lien imposed under this section  
26 to the extent only that the proceeds are applied to its  
27 payment, and the lien shall continue in full force and effect  
28 as to the balance remaining unpaid.

29           (2) There shall be no inquisition or condemnation upon  
30 any judicial sale of real estate made by the Commonwealth

1 under the provisions of this chapter.

2 (3) The lien shall continue as provided in the act of  
3 April 9, 1929 (P.L.343, No.176), known as The Fiscal Code,  
4 and a writ of execution may directly issue upon the lien  
5 without the issuance and prosecution to judgment of a writ of  
6 scire facias, provided that not less than 10 days before  
7 issuance of any execution on the lien, notice of the filing  
8 and the effect of the lien shall be sent by registered mail  
9 to the producer's last known post office address, provided  
10 further that the lien shall have no effect upon any stock of  
11 goods, wares or merchandise regularly sold or leased in the  
12 ordinary course of business by the producer against whom the  
13 lien has been entered, unless and until a writ of execution  
14 has been issued and a levy made upon the stock of goods,  
15 wares and merchandise.

16 (d) Penalty.--A prothonotary who intentionally violates this  
17 section commits a misdemeanor of the third degree and shall,  
18 upon conviction, be sentenced to pay a fine of not more than  
19 \$1,000 and costs of prosecution or to imprisonment for not more  
20 than one year, or both.

21 (e) Priority.--

22 (1) Except as provided in this chapter, the  
23 distribution, voluntary or compulsory, in receivership,  
24 bankruptcy or otherwise of the property or estate of any  
25 person, all taxes imposed by this chapter which are due and  
26 unpaid and are not collectible under the provisions of  
27 section 225 of the act of March 4, 1971 (P.L.6, No.2), known  
28 as the Tax Reform Code of 1971, shall be paid from the first  
29 money available for distribution in priority to all other  
30 claims and liens, except as the laws of the United States may

1 give priority to a claim to the Federal Government.

2 (2) A person charged with the administration or  
3 distribution of the property or estate who violates the  
4 provisions of this section shall be personally liable for the  
5 taxes imposed by this chapter which are accrued and unpaid  
6 and chargeable against the person whose property or estate is  
7 being administered or distributed.

8 (f) Other remedies.--Subject to the limitations contained in  
9 this chapter as to the assessment of taxes, nothing contained in  
10 this section shall be construed to restrict, prohibit or limit  
11 the use by the department in collecting taxes due and payable of  
12 another remedy or procedure available at law or equity for the  
13 collection of debts.

14 § 4317. Tax suit reciprocity.

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

19 § 4318. Service.

20 A producer is deemed to have appointed the Secretary of the  
21 Commonwealth as the producer's agent for the acceptance of  
22 service of process or notice in a proceeding for the enforcement  
23 of the civil provisions of this chapter, and service made upon  
24 the Secretary of the Commonwealth as agent shall be of the same  
25 legal force and validity as if the service had been personally  
26 made on the producer. Where service cannot be made upon the  
27 producer in the manner provided by other laws of this  
28 Commonwealth relating to service of process, service may be made  
29 upon the Secretary of the Commonwealth. In that case, a copy of  
30 the process or notice shall be personally served upon any agent

1 or representative of the producer who may be found within this  
2 Commonwealth or, where no agent or representative may be found,  
3 a copy of the process or notice shall be sent via registered  
4 mail to the producer at the last known address of the producer's  
5 principal place of business, home office or residence.

6 § 4319. Refunds.

7 (a) General rule.--Under Article XXVII of the act of March  
8 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, the  
9 department shall refund all taxes, interest and penalties paid  
10 to the Commonwealth under the provisions of this chapter to  
11 which the Commonwealth is not rightfully entitled. The refunds  
12 shall be made to the person or the person's heirs, successors,  
13 assigns or other personal representatives who paid the tax,  
14 provided that no refund shall be made under this section  
15 regarding a payment made by reason of an assessment where a  
16 producer has filed a petition for reassessment under section  
17 2702 of the Tax Reform Code of 1971 to the extent the petition  
18 is adverse to the producer by a decision which is no longer  
19 subject to further review or appeal.

20 (b) Construction.--Nothing in this chapter shall be  
21 construed to prohibit a producer that has filed a timely  
22 petition for reassessment from amending it to a petition for  
23 refund where the petitioner paid the tax assessed.

24 § 4320. Refund petition.

25 (a) General rule.--Except as provided for in subsection (b),  
26 the refund or credit of tax, interest or penalty provided for by  
27 section 4319 (relating to refunds) shall be made only where the  
28 person who has paid the tax files a petition for refund with the  
29 department under Article XXVII of the act of March 4, 1971  
30 (P.L.6, No.2), known as the Tax Reform Code of 1971, within the

1 time limits of section 3003.1 of the Tax Reform Code of 1971.

2 (b) Natural gas severance tax.--

3 (1) A refund or credit of tax, interest or penalty paid  
4 as a result of an assessment made by the department under  
5 section 4306 (relating to assessments) shall be made only  
6 where the person who has paid the tax files a petition for a  
7 refund with the department under Article XXVII of the Tax  
8 Reform Code of 1971 within the time limits of section 3003.1  
9 of the Tax Reform Code of 1971.

10 (2) The filing of a petition for refund under the  
11 provisions of this subsection shall not affect the abatement  
12 of interest, additions or penalties to which the person may  
13 be entitled by reason of payment of the assessment.

14 § 4321. Rules and regulations.

15 The department is charged with the enforcement of the  
16 provisions of this chapter and is authorized and empowered to  
17 prescribe, adopt, promulgate and enforce rules and regulations  
18 not inconsistent with the provisions of this chapter relating to  
19 any matter or thing pertaining to the administration and  
20 enforcement of the provisions of this chapter and the collection  
21 of taxes, penalties and interest imposed by this chapter. The  
22 department may prescribe the extent, if any, to which any of the  
23 rules and regulations shall be applied without retroactive  
24 effect.

25 § 4322. Recordkeeping.

26 (a) General rule.--Every person liable for any tax imposed  
27 by this chapter, or for the collection of the tax, shall keep  
28 records, including those enumerated in subsection (b), render  
29 statements, make returns and comply with the rules and  
30 regulations as the department may prescribe regarding matters

1 pertinent to the person's business. Whenever it is necessary,  
2 the department may require a person, by notice served upon the  
3 person or by regulations, to make returns, render statements or  
4 keep records as the department deems sufficient to show whether  
5 or not a person is liable to pay tax under this chapter.

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

7 (1) Wellhead meter charts for each reporting period and  
8 the meter calibration and maintenance records. If turbine  
9 meters are in use, the maintenance records will be made  
10 available to the department upon request.

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

14 (3) Records, statements and other instruments as the  
15 department may prescribe by regulation.

16 (c) Records of nonresidents.--

17 (1) A nonresident who does business in this Commonwealth  
18 as a producer shall keep adequate records of the business and  
19 of the tax due as a result. The records shall be retained  
20 within this Commonwealth unless retention outside this  
21 Commonwealth is authorized by the department.

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

25 (d) Keeping of separate records.--

26 (1) A producer that is engaged in another business or  
27 businesses which do not involve the severing of natural gas  
28 taxable under this chapter shall keep separate books and  
29 records of the businesses so as to show the taxable severing  
30 of natural gas under this chapter separately from other



1 business activities not taxable hereunder.

2 (2) If any person fails to keep separate books and  
3 records, the person shall be liable for a penalty equaling  
4 100% of tax due under this chapter for the period where  
5 separate records were not maintained.

6 § 4323. Examinations.

7 (a) Right to examine.--

8 (1) The department or any of its authorized agents may  
9 examine the books, papers, records and locations of any  
10 producer in order to verify the accuracy and completeness of  
11 any return made or, if no return were made, to ascertain and  
12 assess the tax imposed by this chapter. The department may  
13 require the preservation of all books, papers and records for  
14 any period deemed proper by the department but not to exceed  
15 three years from the end of the calendar year to which the  
16 records relate.

17 (2) Every producer shall give to the department or its  
18 agent the means, facilities and opportunity for examinations  
19 and investigations under this section.

20 (3) The department may examine any person, under oath,  
21 concerning the taxable severing of natural gas by any  
22 producer or concerning any other matter relating to the  
23 enforcement or administration of this chapter, and to this  
24 end may compel the production of books, papers and records  
25 and the attendance of all persons whether as parties or  
26 witnesses believed to have knowledge of relevant matters.

27 (b) Procedure.--The procedure for the hearings or  
28 examinations shall be the same as that provided under the act of  
29 April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

30 § 4324. Unauthorized disclosure.

1 (a) General rule.--Any information gained by the department  
2 as a result of any return, examination, investigation, hearing  
3 or verification required or authorized by this chapter shall be  
4 confidential except for official purposes and except in  
5 accordance with proper judicial order or as otherwise provided  
6 by law.

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

12 § 4325. Cooperation with other governments.

13 Notwithstanding the provisions of section 4317 (relating to  
14 tax suit reciprocity), the department may permit the  
15 Commissioner of the Internal Revenue Service, the proper officer  
16 of any state or the authorized representative of either of them  
17 to inspect the tax returns of any producer, or may furnish to  
18 the commissioner or officer or to either of their authorized  
19 representatives an abstract of the return of any producer, or  
20 supply him with information concerning any item contained in any  
21 return or disclosed by the report of any examination or  
22 investigation of the return of any producer. This permission  
23 shall be granted only if the laws of the United States or  
24 another state grant substantially similar privileges to the  
25 proper officer of the Commonwealth charged with the  
26 administration of this chapter.

27 § 4326. Bonds.

28 (a) Producer to file bond.--

29 (1) The department may require a nonresident natural  
30 person or any foreign corporation, association, fiduciary or

1 other entity, not authorized to do business within this  
2 Commonwealth or not having an established place of business  
3 in this Commonwealth and subject to the tax imposed by  
4 section 4303 (relating to imposition of tax), to file a bond  
5 issued by a surety company authorized to do business in this  
6 Commonwealth and approved by the Insurance Commissioner as to  
7 solvency and responsibility, in amounts as the department may  
8 fix, to secure the payment of any tax or penalties due or  
9 which may become due from a nonresident natural person,  
10 corporation, association, fiduciary or other entity whenever  
11 the department deems it necessary to protect the revenues  
12 obtained under this chapter.

13 (2) The department may also require a bond of a person  
14 petitioning the department for reassessment in the case of  
15 any assessment over \$500 or where, in the department's  
16 opinion, the ultimate collection is in jeopardy.

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

21 (4) In the event the department determines that a  
22 producer is required to file a bond, the department shall  
23 give notice to the producer specifying the amount of the bond  
24 required.

25 (5) The producer shall file the bond within five days  
26 after notice is given by the department unless, within five  
27 days, the producer requests in writing a hearing before the  
28 Secretary of Revenue or his representative.

29 (6) At the hearing, the necessity, propriety and amount  
30 of the bond shall be determined by the Secretary of Revenue

1 or his representative.

2 (7) The determination shall be final and the producer  
3 shall comply within 15 days after notice is mailed to the  
4 producer.

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

6 (1) In lieu of the bond required by this section,  
7 securities approved by the department or cash in a prescribed  
8 amount may be deposited. The securities or cash shall be kept  
9 in the custody of the department.

10 (2) The department may:

11 (i) Apply the securities or cash to the tax imposed  
12 by this chapter and interest or penalties due without  
13 notice to the depositor.

14 (ii) Sell the securities to pay the tax and interest  
15 or penalties due at public or private sale upon five  
16 days' written notice to the depositor.

17 (c) Failure to file bond.--

18 (1) The department may file a lien under section 4316  
19 (relating to tax liens) against any producer who fails to  
20 file a bond when required to do so under this section.

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

25 § 4327. Prohibition.

26 A producer may not make the tax imposed under section 4303  
27 (relating to imposition of tax) on natural gas severed under a  
28 natural gas lease, an obligation, indebtedness or liability of a  
29 landowner, leaseholder or other person in possession of real  
30 property upon which the removal or extraction occurs and shall

1 not otherwise require the landowner to pay or reimburse the  
2 producer for the amount of the tax.

3 § 4328. Future agreements.

4 On or after the effective date of this section, a provision  
5 of an agreement in violation of section 4327 (relating to  
6 prohibition) is declared to be illegal, contrary to public  
7 policy and null and void.

8 § 4329. Deposit of proceeds.

9 The proceeds of the tax imposed under section 4303 (relating  
10 to imposition of tax) and penalties and interest imposed under  
11 this chapter shall be deposited in the General Fund.

12 Section 4. This act shall take effect immediately.