

4542

2009-2010 Regular Sessions

I N   A S S E M B L Y

February 4, 2009

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Introduced by M. of A. PARMENT -- Multi-Sponsored by -- M. of A. MAGEE  
-- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to rights and obligations of a municipality electing integrated non-participating owner status in gas and oil wells

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subparagraph 1 of paragraph a of subdivision 3 of section  
2     23-0901 of the environmental conservation law, as amended by chapter 386  
3     of the laws of 2005, is amended to read as follows:  
4     (1) "Integrated non-participating owner" or "non-participating owner"  
5     means an owner who elects to reimburse the well operator, out of  
6     production proceeds, for such owner's proportionate share of the actual  
7     well costs of the initial well in a spacing unit and be subject to a  
8     risk penalty, and complies with all of the requirements for integration,  
9     including the terms of integration, as specified in an order of integration  
10    issued pursuant to the compulsory integration provisions of this  
11    section. The non-participating owner shall receive the full share of  
12    production attributable to such owner's proportionate interest in the  
13    spacing unit following the recoupment by the well operator of the  
14    owner's proportionate share of the actual well costs plus a risk penalty  
15    of two hundred percent of the share of the actual well costs allocable  
16    to such owner. In the case of a leased tract, a royalty shall be  
17    deducted from the non-participating owner's share of production, which  
18    shall not be subject to charges or costs, but shall be separately calculated  
19    and paid to the non-participating owner on behalf of the royalty  
20    owner as follows:  
21    (i) During the recovery of the actual well costs, 1/16 or 6.25%,  
22    (ii) During the recovery of the first 100% of the risk penalty, 3/32  
23    or 9.38%,

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 (iii) During the recovery of the second 100% of the risk penalty, the  
2 lowest royalty fraction set forth in an existing lease in the unit, but  
3 no less than 1/8 or 12.5%.

4 A DULY INCORPORATED MUNICIPALITY UNDER THE LAWS OF THE STATE OF NEW  
5 YORK, IF ELECTING INTEGRATED NON-PARTICIPATING OWNER STATUS, SHALL HAVE  
6 NO OBLIGATIONS TO THE WELL OPERATOR OR ANY OTHER OWNER FOR ANY CHARGES,  
7 TAXES OR FEES ASSOCIATED WITH THE OPERATION OF THE OIL OR GAS WELL AND,  
8 NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, SHALL NOT BE LIABLE BY  
9 REASON OF THE OWNER'S STATUS AS AN INTEGRATED NON-PARTICIPATING OWNER  
10 FOR ANY CLAIMS FOR PERSONAL INJURY OR PROPERTY DAMAGE SUFFERED BY ANY  
11 PERSON RELATING TO THE DRILLING AND OPERATION OF THE WELL, AND THE OPER-  
12 ATOR SHALL HOLD HARMLESS, DEFEND AND INDEMNIFY SUCH MUNICIPALITY IN ANY  
13 ACTION FOR DAMAGES ARISING OUT OF THE STATUS OF MUNICIPALITY AS AN INTE-  
14 GRATED NON-PARTICIPATING OWNER.

15 Nothing in this subparagraph relieves any lessee of its obligation to  
16 pay, from the commencement of production, any remaining royalty and  
17 overriding royalty owed under the terms of its lease. ANY MUNICIPALITY  
18 ELECTING INTEGRATED NON-PARTICIPATING OWNER STATUS SHALL BE DEEMED A  
19 LESSEE FOR PURPOSES OF ROYALTY PAYMENTS UNDER ITEMS (I), (II) AND (III)  
20 OF THIS SUBPARAGRAPH.

21 S 2. This act shall take effect immediately.