S T A T E O F N E W Y O R K

2534

2013-2014 Regular Sessions

I N A S S E M B L Y

January 16, 2013

Introduced by M. of A. CRESPO -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing the New York office of natural resource revenue

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

Section 1. The tax law is amended by adding a new article 42 to read as follows:

ARTICLE 42

NEW YORK OFFICE OF NATURAL RESOURCE REVENUE

SECTION 4000. NEW YORK OFFICE OF NATURAL RESOURCE REVENUE.
4001. DEFINITIONS.
4002. POWERS AND DUTIES OF THE OFFICE.
4003. ANNUAL REPORT.

S 4000. NEW YORK OFFICE OF NATURAL RESOURCE REVENUE. THERE IS HEREBY CREATED WITHIN THE DEPARTMENT THE NEW YORK OFFICE OF NATURAL RESOURCE REVENUE. THE HEAD OF THE NEW YORK OFFICE OF NATURAL RESOURCE REVENUE SHALL BE THE COMMISSIONER. SUCH COMMISSIONER, SUBJECT TO RULES PRESCRIBED BY THE GOVERNOR, MAY ESTABLISH SUCH BUREAUS OR DIVISIONS IN THE NEW YORK OFFICE OF NATURAL RESOURCE REVENUE, AS HE OR SHE MAY DEEM NECESSARY AND MAY APPOINT SUCH DEPUTIES, DIRECTORS, ASSISTANTS AND OTHER EMPLOYEES AS MAY BE NEEDED FOR THE PERFORMANCE OF HIS OR HER DUTIES AND MAY PRESCRIBE THEIR POWERS AND DUTIES AND FIX THEIR COMPENSATION WITHIN THE AMOUNT APPROPRIATED THEREFOR. SUCH OFFICE SHALL BE FULLY ESTABLISHED WITHIN ONE HUNDRED TWENTY DAYS FROM THE EFFECTIVE DATE OF THIS ARTICLE.

S 4001. DEFINITIONS. FOR PURPOSES OF THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "ROYALTIES" SHALL MEAN THE AMOUNTS PAID BY A PRODUCER TO A LANDOWNER FOR THE RIGHT TO DEVELOP LAND BY EXTRACTING OIL, NATURAL GAS AND/OR OTHER MINERALS, FROM THE AMOUNTS THE PRODUCER ACTUALLY RECEIVES FROM SALE OF SUCH OIL, NATURAL GAS AND/OR OTHER MINERALS.

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

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2. "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF TAXATION AND FINANCE.
3. "OFFICE" SHALL MEAN THE NEW YORK OFFICE OF NATURAL RESOURCE REVENUE.
4. "PRODUCER" SHALL MEAN ANY PERSON, PARTNERSHIP, CORPORATION OR OTHER ASSOCIATION OR ENTITY OWNING, LEASING OR OPERATING THE WORKING INTEREST IN ANY PROPERTY USED FOR OIL, GAS AND/OR OTHER MINERAL EXTRACTION.
5. "NATURAL RESOURCE" SHALL NOT INCLUDE RENEWABLE RESOURCES, INCLUDING BUT NOT LIMITED TO WIND, GEOTHERMAL, SOLAR AND WAVE ENERGY.

S 4002. POWERS AND DUTIES OF THE OFFICE. THE OFFICE SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

1. ESTABLISH AND MAINTAIN A PRINCIPAL OFFICE AND SUCH OTHER OFFICES WITHIN THE STATE AS IT MAY DEEM NECESSARY.
2. APPOINT EMPLOYEES AND AGENTS AS IT MAY DEEM NECESSARY, FIX THEIR COMPENSATION WITHIN THE LIMITATIONS PROVIDED BY LAW, AND PRESCRIBE THEIR DUTIES.
3. ADOPT, PROMULGATE, AMEND AND RESCIND SUITABLE RULES AND REGULATIONS TO CARRY OUT THE PROVISIONS AND PURPOSES OF THIS ARTICLE, PROVIDED THAT, AT A MINIMUM, SUCH RULES AND REGULATIONS:

A. SPECIFY THE AMOUNT OF SUCH ROYALTY FEES AND RATES AND THE METHOD OF COLLECTION OF SUCH ROYALTY FEES AND RATES, PROVIDED THAT SUCH ROYALTY RATE SHALL BE NO LESS THAN ONE-EIGHTH OF THE PROCEEDS RECEIVED FROM THE SALE OF OIL, NATURAL GAS AND/OR OTHER MINERALS EXTRACTED, LESS DEDUCTIONS FOR POST PRODUCTION AND TRANSPORTATION COSTS;

B. REQUIRE PRODUCERS TO:

(I) PAY ROYALTIES WITHIN THIRTY DAYS OF PRODUCTION;
(II) ADHERE TO ACCOUNTING STANDARDS PRESCRIBED BY THE COMMISSIONER;
(III) MAINTAIN ADEQUATE RECORDS; AND
(IV) FILE DETAILED MONTHLY REPORTS WITH THE OFFICE.

4. PUBLISH GUIDANCE MATERIALS PRESCRIBING THE DETAILS OF ROYALTY COMPLIANCE.
5. INCREASE THE SET ROYALTY FEE DUE TO INFLATION AND/OR AN INCREASED SALE PRICE OF OIL, NATURAL GAS AND/OR OTHER MINERALS EXTRACTED DUE TO NATURAL AND UNNATURAL EFFECTS ON THE ENERGY MARKET. THE COMMISSIONER SHALL NOT AUTHORIZE A DECREASE IN THE SET ROYALTY FEE DUE TO INFLATION AND/OR AN INCREASED SALE PRICE OF OIL, NATURAL GAS AND/OR OTHER MINERALS EXTRACTED DUE TO NATURAL AND UNNATURAL EFFECTS ON THE ENERGY MARKET.
6. MONITOR, COLLECT AND ENFORCE PAYMENT OF ANY ROYALTIES OWED TO THE STATE FOR THE RIGHT TO DEVELOP LAND FOR THE EXTRACTION OF OIL, NATURAL GAS AND/OR OTHER MINERALS.

S 4003. ANNUAL REPORT. THE DEPARTMENT SHALL, ON OR BEFORE JANUARY FIRST IN EACH YEAR, SUBMIT A REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE ASSEMBLY, WHICH SHALL INCLUDE THE DETAILS OF ALL REVENUE COLLECTED FROM ROYALTIES, A LIST OF THE GEOGRAPHIC LOCATIONS OF LEASE AGREEMENTS FOR SUCH ROYALTIES, A LIST OF ALL RULES AND REGULATIONS ISSUED REGARDING ROYALTY COLLECTIONS AND ACTUAL ROYALTY COLLECTIONS AND PROJECTED ROYALTY COLLECTIONS BASED ON FUTURE DEVELOPMENT OF MINERALS, INCLUDING OIL AND/OR NATURAL GAS IN THE STATE.

S 2. This act shall take effect immediately; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized and directed to be made and completed on or before such effective date.