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

4933

2013-2014 Regular Sessions

I N A S S E M B L Y

February 13, 2013

Introduced by M. of A. GOODELL -- 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:

Section 1. Subparagraph 1 of paragraph a of subdivision 3 of section 23-0901 of the environmental conservation law, as amended by chapter 386 of the laws of 2005, is amended to read as follows:

(1) "Integrated non-participating owner" or "non-participating owner" means an owner who elects to reimburse the well operator, out of production proceeds, for such owner's proportionate share of the actual well costs of the initial well in a spacing unit and be subject to a risk penalty, and complies with all of the requirements for integration, including the terms of integration, as specified in an order of integration issued pursuant to the compulsory integration provisions of this section. The non-participating owner shall receive the full share of production attributable to such owner's proportionate interest in the spacing unit following the recoupment by the well operator of the owner's proportionate share of the actual well costs plus a risk penalty of two hundred percent of the share of the actual well costs allocable to such owner. In the case of a leased tract, a royalty shall be deducted from the non-participating owner's share of production, which shall not be subject to charges or costs, but shall be separately calculated and paid to the non-participating owner on behalf of the royalty owner as follows:

(i) During the recovery of the actual well costs, 1/16 or 6.25%,

(ii) During the recovery of the first 100% of the risk penalty, 3/32 or 9.38%,

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

LBD08555-01-3

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

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

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

S 2. This act shall take effect immediately.