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SENATE BILL NO. 1204

Offered January 14, 2009

Prefiled January 13, 2009

A BILL to amend and reenact § 45.1-361.21 of the Code of Virginia, relating to royalty payments from gas or oil drilling.

Patrons—Puckett; Delegate: Bowling

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 45.1-361.21 of the Code of Virginia is amended and reenacted as follows:

§ 45.1-361.21. Pooling of interests in drilling units.

A. The Board, upon application from any gas or oil owner, shall enter an order pooling all interests in the drilling unit for the development and operation thereof when:

1. Two or more separately owned tracts are embraced in a drilling unit;

2. There are separately owned interests in all or part of any such drilling unit and those having interests have not agreed to pool their interests; or

3. There are separately owned tracts embraced within the minimum statewide spacing requirements prescribed in § 45.1-361.17.

However, no pooling order shall be entered until the notice and hearing requirements of this article have been satisfied.

B. Subject to any contrary provision contained in a gas or oil lease respecting the property, gas or oil operations incident to the drilling of a well on any portion of a unit covered by a pooling order shall be deemed to be the conduct of such operations on each tract in the unit. The portion of production allocated to any tract covered by a pooling order shall be in the same proportion as the acreage of that tract bears to the total acreage of the unit.

C. All pooling orders entered by the Board pursuant to the provisions of this section shall:

1. Authorize the drilling and operation of a well, including the stimulation of all coal seams in the case of a coalbed methane well when authorized pursuant to clause (iii) of subdivision 2 b of subsection F of § 45.1-361.29, subject to the permit provisions contained in Article 3 (§ 45.1-361.27 et seq.) of this chapter;

2. Include the time and date when such order expires;

3. Designate the gas or oil owner who is authorized to drill and operate the well; provided, however, that except in the case of coalbed methane gas wells, the designated operators must have the right to conduct operations or have the written consent of owners with the right to conduct operations on at least 25% of the acreage included in the unit;

4. Prescribe the conditions under which gas or oil owners may become participating operators or exercise their rights of election under subdivision 7 of this subsection;

5. Establish the sharing of all reasonable costs, including a reasonable supervision fee, between participating operators so that each participating operator pays the same percentage of such costs as his acreage bears to the total unit acreage;

6. Require that nonleasing gas or oil owners be provided with reasonable access to unit records submitted to the Director or Inspector;

7. Establish a procedure ~~for~~by which a gas or oil owner who received notice of the hearing and who does not decide to become a participating operator may elect either to (i) sell or lease his gas or oil ownership to a participating operator, (ii) enter into a voluntary agreement to share in the operation of the well at a rate of payment mutually agreed to by the gas or oil owner and the gas or oil operator authorized to drill the well, or (iii) share in the operation of the well as a nonparticipating operator on a carried basis after the proceeds allocable to his share equal the following:

a. In the case of a leased tract, 300 percent of the share of such costs allocable to his interest; or

b. In the case of an unleased tract, 200 percent of the share of such costs allocable to his interest.

D. Any gas or oil owner whose identity and location remain unknown at the conclusion of a hearing concerning the establishment of a pooling order for which public notice was given shall be deemed to have elected to lease his interest to the gas or oil operator at a rate to be established by the Board. The Board shall cause to be established an escrow account into which the unknown lessor's share of proceeds shall be paid and held for his benefit. Such escrowed proceeds shall be deemed to be unclaimed property and shall be disposed of pursuant to the provisions of the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.). Upon discovery of the identity and location of any

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59 unknown owner subject to escrow under the provisions of this subsection and not subject to conflicting
60 claims of ownership, the designated operator shall, within 30 days, file with the Board a petition for
61 disbursement of funds to be considered at the next available hearing. The petition shall include a
62 detailed accounting of all funds deposited in escrow that are subject to the proposed disbursement.

63 E. Any person who does not make an election under the pooling order shall be deemed to have
64 leased his gas or oil interest to the gas or oil well operator as the pooling order may provide. *Such*
65 *person shall be entitled to a royalty payment of no less than one-eighth the value of production*
66 *calculated at the point of the first arms-length sale. Such payment shall not be subject to reduction for*
67 *operating or other costs.*

68 F. Should a gas or oil owner be a person under a disability, the applicant for a pooling order may
69 petition the appropriate circuit court to appoint a guardian ad litem pursuant to the provisions of
70 § 8.01-261 for purposes of making the election provided for by this section.

71 G. Any royalty or overriding royalty reserved in any lease which is deducted from a nonparticipating
72 operator's share of production shall not be subject to charges for operating costs but shall be separately
73 calculated and paid to the royalty owner.

74 H. The Board shall resolve all disputes arising among gas or oil operators regarding the amount and
75 reasonableness of well operation costs. The Board shall, by regulation, establish allowable types of costs
76 which may be shared in pooled gas or oil operations.