

## **Pennsylvania Dormant Oil and Gas Act: 58 PA. STAT. §§ 701.1-701.7**

On July 11, 2006, the Pennsylvania General Assembly enacted the Dormant Oil and Gas Act. The purpose of the Act is to permit the development of underground oil and gas reserves when all owners of oil or gas interests cannot be located or identified. Prior to the passage of the Act, some tracts of land were unavailable for development as the rights could not be leased from all owners who possessed an interest in the tract.

### **How the Act works**

The Dormant Oil and Gas Act allows any person or other entity who has an interest in oil or gas underlying a tract of land to petition the appropriate court of common pleas to declare a trust in favor of all remaining, but unknown, owners of oil or gas interests in the tract. The petitioner can have either an ownership or leasehold interest in the oil or gas rights that are sought to be developed.

### **What the Act does not do**

It is specifically stated within the Dormant Oil and Gas Act that the statute does not grant severed subsurface rights to the owner(s) of the overlying surface estate. This differs from similar statutes in some states that do in fact transfer title to subsurface estates from unknown owners to the owner(s) of the surface rights.

### **Requirements before declaring a trust**

Before a court will declare a trust in favor of the unknown owner(s) of oil or gas interests, the party seeking to develop the oil or gas must demonstrate that:

1. There has been a thorough attempt to ascertain the identity and location of all owners of oil or gas interests;
2. Despite this effort, the party seeking to develop the oil or gas could not determine the identity or location of the current owner(s); and

3. Appointing a trustee to act on behalf of the unknown owner(s) would be in the best interest of all parties.

### **Appointment of the Trustee**

The court may appoint any financial institution authorized to do business within Pennsylvania as the trustee for the unknown owner(s) of interest. The court may then authorize the trustee to execute any number of oil or gas leases and related documents on behalf of the unknown owner(s), subject to terms and conditions set by the court.

Pursuant to the Act, no person or entity other than a financial institution is permitted to act as a trustee.

### **Administration of the Trust**

The trust is to be administered according to relevant Pennsylvania law. All payments that normally would be paid to the unknown owner(s) are to be deposited with the trustee instead. The trustee is required to distribute all funds in the trust to the person(s) entitled to them as determined by the trustee or the court that established the trust. The trust is to remain in force until the unknown owner(s) have been identified, or until such times as the trust is declared unclaimed or abandoned property by state law. Before the

trust can be terminated, notice of termination must be given to all interested parties as required by Pennsylvania law.

### **Liability Provisions**

Under the provisions of the Act, a gas company incurs no liability for bonuses, rental payments, royalties or other income paid to the trustee. However, any person or other entity who fails to make such payments to the trustee within six months of the date on which they become due may incur liability. Further, a court may assess any attorney or court costs against a non-complying company. Interest may be assessed against the company from the date the payment was due, through the date of collection.

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