

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1943

ENROLLED

SENATE BILL No. 157

(By Mr. Fleming)

PASSED March 13 1943

In Effect From Passage



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ENROLLED
Senate Bill No. 157
(By MR. FLEMING)

[Passed March 13, 1943; in effect from passage.]

AN ACT to amend article four, chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, by adding thereto a new section to be designated section nine-a, providing for the cancellation of oil and/or gas leases for the non-payment of delay rental after demand therefor.

Be it enacted by the Legislature of West Virginia:

That article four, chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, be amended by adding thereto a new section to be designated section nine-a, to read as follows:

Section 9-a. *Cancellation of Oil and/or Gas Leases for*
2 *the Non-payment of Delay Rental After Demand Therefor.*
3 Except in the case where operations for the drilling of a
4 well have been commenced thereon and are being con-
5 ducted thereunder, any undeveloped lease for oil and/or
6 gas in this state hereafter executed in which the consider-
7 ation therein provided to be paid for the privilege of post-
8 poning actual drilling or development or for the holding of
9 said lease without commencing operations for the drilling
10 of a well, commonly called delay rental, has not been paid
11 when due according to the terms of such lease, or the
12 terms of any other agreement between lessor and lessee,
13 shall be null and void as to such oil and/or gas unless pay-
14 ment thereof shall be made within sixty days from the
15 date upon which demand for payment in full of such de-
16 lay rental has been made by the lessor upon the lessee
17 therein, as hereinafter provided, except, however, in such
18 cases where a bona fide dispute shall exist between lessor
19 and lessee as to any amount due under any such lease.
20 No person, firm, corporation or association shall main-
21 tain any action or proceeding in the courts of this state

22 for the purpose of enforcing or perpetuating during the
23 term thereof any such lease heretofore executed covering
24 oil and/or gas, as against the owner of such oil and/or
25 gas, or his subsequent lessee, if such person or corporation
26 has failed to pay to the lessor such delay rental in full
27 when due according to the terms thereof, for a period of
28 sixty days after demand for such payment has been made
29 by the lessor upon such lessee, as hereinafter provided.

30 The demand for payment referred to in the two pre-
31 ceding paragraphs shall be made in writing and shall be
32 sufficient if served upon such person, firm, corporation or
33 association then holding said lease in the manner pro-
34 vided for in the service of notice under article two, chapter
35 fifty-six of the code, or by publication for three successive
36 weeks in any newspaper published in the county wherein
37 such oil and/or gas property is situated, in whole or in
38 part, or if no newspaper is published in such county, then
39 in any adjoining county; except in the case of a corpora-
40 tion not dissolved by any of the methods prescribed by
41 law, a copy of the notice to any corporation chartered
42 under the laws of this state or a foreign corporation do-

43 ing business in this state shall be served before such pub-
44 lication upon the auditor of the State of West Virginia,
45 as attorney in fact for such corporation.

46 A copy of such notice showing the required service or
47 publication thereof may be filed with the clerk of the
48 county court in which such lease is recorded, and upon
49 payment of a fee of fifty cents for each lease so can-
50 celled, said clerk shall permanently file such notice alpha-
51 betically under the name of the first lessor appearing in
52 such lease and shall stamp upon the margin of the record
53 of such lease in his office the words "cancelled by notice".

54 The word "lessor" shall include the original lessor,
55 as well as his or its successors in title to the oil and/or gas
56 involved. The word "lessee" shall include the original
57 lessee, his or its assignees of record at the time such de-
58 mand is made, and his or its successors, heirs, or personal
59 representatives.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Ray F. Johnson
Chairman Senate Committee

Fred L. Petroff
Chairman House Committee

Originated in the Senate

Takes effect from passage

Fred B. Mackenzie
Clerk of the Senate

J. R. Shipp
Clerk of the House of Delegates

James Paull
President of the Senate

John E. Bruce
Speaker House of Delegates

The within approved this the 18th
day of March, 1943.

Matthew M. Neely
Governor.



Filed in the office of the Secretary of State
of West Virginia MAR 18 1943

Wm. S. O'BRIEN,
Secretary of State