

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1963



ENROLLED

HOUSE BILL No. 567

(By Mr. Kidd)



PASSED March 9 1963

In Effect from Passage



Filed in Office of the Secretary of State  
of West Virginia 3-16-63

JOE F. BURDETT  
SECRETARY OF STATE

# 361

**ENROLLED**  
**House Bill No. 567**

(By MR. KIDD)

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[Passed March 9, 1963; in effect from passage.]

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AN ACT to amend and reenact section nine-a, article four, chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to cancellations of oil and/or gas leases for nonpayment of delay rental after demand therefor.

*Be it enacted by the Legislature of West Virginia:*

That section nine-a, article four, chapter thirty-six of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**Article 4. Covenants.****Section 9-a. Cancellation of Oil and/or Gas Leases for**

2 **Non-Payment of Delay Rental after Demand Therefor,**  
3 **and Barring Any Action or Proceeding in the Courts of**  
4 **This State for the Purpose of Enforcing or Perpetuating**  
5 **during the Term Thereof Any Oil and/or Gas Lease Here-**  
6 **tofore Executed for the Non-Payment of Delay Rental**  
7 **after Demand Therefor.**—Except in the case where opera-  
8 tions for the drilling of a well are being conducted there-  
9 under, any undeveloped lease for oil and/or gas in this  
10 state hereafter executed in which the consideration there-  
11 in provided to be paid for the privilege of postponing ac-  
12 tual drilling or development or for the holding of said  
13 lease without commencing operations for the drilling of a  
14 well, commonly called delay rental, has not been paid  
15 when due according to the terms of such lease, or the  
16 terms of any other agreement between lessor and lessee,  
17 shall be null and void as to such oil and/or gas unless pay-  
18 ment thereof shall be made within sixty days from the  
19 date upon which demand for payment in full of such delay  
20 rental has been made by the lessor upon the lessee there-

21 in, as hereinafter provided, except in such cases where a  
22 bona fide dispute shall exist between lessor and lessee as  
23 to any amount due under such lease.

24 No person, firm, corporation, partnership or association  
25 shall maintain any action or proceeding in the courts of  
26 this state for the purpose of enforcing or perpetuating  
27 during the term thereof any lease heretofore executed  
28 covering oil and/or gas, as against the owner of such oil  
29 and/or gas, or his subsequent lessee, if such person, firm,  
30 corporation, partnership or association has failed to pay  
31 to the lessor such delay rental in full when due according  
32 to the terms thereof, for a period of sixty days after de-  
33 mand for such payment has been made by the lessor upon  
34 such lessee, as hereinafter provided.

35 The demand for payment referred to in the two pre-  
36 ceding paragraphs shall be made by notice in writing and  
37 shall be sufficient if served upon such person, firm, part-  
38 nership, association, or corporation whether domestic or  
39 foreign, whether engaged in business or dissolved, by  
40 United States registered mail, return receipt requested,  
41 to the lessee's last known address.

42 A copy of such notice, together with the return receipt  
43 attached thereto, shall be filed with the clerk of the coun-  
44 ty court in which such lease is recorded, or in which such  
45 oil and/or gas property is located in whole or in part, and  
46 upon payment of a fee of fifty cents for each such lease,  
47 said clerk shall permanently file such notice alphabetical-  
48 ly under the name of the first lessor appearing in such  
49 lease and shall stamp or write upon the margin of the rec-  
50 ord in his office of such lease hereafter executed the words  
51 "cancelled by notice"; and as to any such lease executed  
52 before the enactment of this statute said clerk shall file  
53 such notice as hereinbefore provided and shall stamp or  
54 write upon the margin of the record of such lease in his  
55 office the words "enforcement barred by notice".

56 The word "lessor" shall include the original lessor, as  
57 well as his or its successors in title to the oil and/or gas  
58 involved. The word "lessee" shall include the original  
59 lessee, his or its assignee properly of record at the time  
60 such demand is made, and his or its successors, heirs, or  
61 personal representatives. No assignee of such lease whose  
62 assignment is not recorded in the proper county shall be

63 heard in any court of this state to attack the validity or  
64 sufficiency of the notice hereinbefore mentioned.

65 The continuation in force of any such lease after de-  
66 mand for and failure to pay such delay rental as herein-  
67 before set forth is deemed by the Legislature to be op-  
68 posed to public policy and against the general welfare. If  
69 any part of this section shall be declared unconstitutional  
70 such declaration shall not affect any other part thereof.

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

*A Ray Parker*  
Chairman Senate Committee

*Ethel L. Crandall*  
Chairman House Committee

Originated in the House.

Takes effect *from* passage.

*J Howard Meyer*  
Clerk of the Senate

*C A Blankenship*  
Clerk of the House of Delegates

*Howard W Carson*  
President of the Senate

*Julius W Singleton Jr.*  
Speaker House of Delegates

The within *approved* this the *16th* day of *March*, 1963.

*Howard W Carson*  
Governor

