OIL AND GAS MINING

Act 178 of 1941

AN ACT defining the rights of cotenants, joint owners, tenants in common and coparceners in lands; to provide for the development and operation of such lands for oil and gas mining purposes; to grant jurisdiction to the circuit court to authorize the exploration, development and operation of such lands for oil and gas mining purposes; to determine and quiet the title to said lands and to repeal all acts in conflict herewith.

History: 1941, Act 178, Eff. Jan. 10, 1942

The People of the State of Michigan enact:

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319.101 Mineral rights in lands owned in undivided interest; right of majority to develop.

Sec. 1.

Whenever lands, or oil and gas, or oil and gas mineral rights in lands in this state are owned by tenants in common, joint owners, cotenants or coparceners, whether such title is derived by purchase, devise or descent, or otherwise, or whether any or all of the owners are minors or of full age, such tenants in common, joint owners, cotenants or coparceners as hold a majority in interest in the title to such lands or the oil and gas rights in such lands, shall be authorized to explore, drill, mine, develop and operate such lands for oil and gas mining purposes and remove and transport oil and gas and other petroleum products from such lands, or store the same on said lands, and sell and dispose of the same in the manner hereinafter provided.

History: 1941, Act 178, Eff. Jan. 10, 1942 ;-- CL 1948, 319.101

319.102 Gas and oil mining rights; definitions.

Sec. 2.

Definitions. The following words and terms as used in this act shall each have the meaning ascribed to them in this section.

(a) "Person" means any natural person, corporation, association, partnership, receiver, trustee, judiciary or common law trust, guardian, executor, administrator or fiduciary of any kind.

(b) "Oil" means natural crude oil or petroleum or other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir.

(c) "Gas" means dry or natural gas, casinghead gas or gas produced incidental to the production of oil.

(d) The phrase "oil and gas" shall not only refer to the oil and gas as such in combination 1 with the other, but shall also have general reference to oil, gas, casinghead gas or other hydrocarbons or any combination or combinations thereof, or any 1 thereof, which may be found in or produced from a natural reservoir or common source of supply of oil or gas or both.

(e) The term "royalty interest" means that share of the produce or profits which the owner of land, or the oil and gas rights in such land, reserves or is entitled to whether under a lease or under the provisions of this act in consideration of permitting the owner of the working interest to develop such oil and gas mineral rights.

(f) The term "working interest" means that share of the produce or profits to which the person who develops the oil and gas mineral rights is entitled by reason thereof pursuant to either the provisions of a lease providing therefor or to the provisions of this act.

(g) The singular shall include the plural and the plural shall include the singular. Each of the genders shall include each of the other genders.

History: 1941, Act 178, Eff. Jan. 10, 1942 ;-- CL 1948, 319.102

319.103 Procedure; bill of complaint in circuit court in chancery.

Sec. 3.

The owners of such majority in interest desiring to lease said lands or their oil and gas mineral rights therein for oil and gas purposes, or desiring to explore, drill, develop or operate said lands for oil and gas and to remove oil and gas therefrom, may file a bill of complaint in the circuit court in chancery of the county in which such lands, or some part thereof, are located, to obtain a decree of the court authorizing them to explore, drill, mine, develop and operate said lands for oil and gas mining purposes, and remove and transport the oil and gas therefrom, or store the same thereon, and sell and dispose of said minerals for the use and benefit of all of the owners thereof. Such bill of complaint shall set forth the relevant facts and the interests therein of all persons, so far as the same are known, to such plaintiffs.

History: 1941, Act 178, Eff. Jan. 10, 1942 ;-- CL 1948, 319.103

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319.104 Fiduciaries; right to prosecute and defend suits; parties.

Sec. 4.

Executors, administrators and administrators with will annexed, receivers and trustees, may institute or defend such suits on behalf of their respective estates and trusts and the heirs, devisees, legatees, successors and assigns thereof. Infants and persons under legal disability may institute or defend suits by guardian or next of friend. Every person, including wives of owners, having any interest in such lands, whether in possession or otherwise, who is not a party plaintiff, shall be made a party defendant to such suit. In case of persons interested in such lands whose names are unknown, the bill of complaint shall so state, and such persons may be made parties to such suits by the name and description of "unknown owners."

History: 1941, Act 178, Eff. Jan. 10, 1942 ;-- CL 1948, 319.104

319.105 Service of process upon defendants; manner.

Sec. 5.

Known defendants shall be summoned or notified in the same manner as is provided for the summoning of known defendants in a suit in chancery to quiet title to real estate. Unknown defendants shall be summoned or notified in the same manner as is provided for the summoning of unknown defendants in a suit in chancery to quiet title to real estate.

History: 1941, Act 178, Eff. Jan. 10, 1942 ;-- CL 1948, 319.105

319.106 Interplea; appearance by interested persons.

Sec. 6.

Any person claiming to be interested in such lands may appear during the pendency of such suit and answer the bill of complaint and assert his rights by way of interplea. The court shall determine the rights of any person so appearing the same as though such person had been made a party in the first instance.

History: 1941, Act 178, Eff. Jan. 10, 1942 ;-- CL 1948, 319.106

319.107 Quieting of titles.

Sec. 7.

In all suits under this act, the court may investigate and determine all questions of conflicting or controverted titles, remove clouds therefrom, and quiet, establish and confirm the titles to such lands.

History: 1941, Act 178, Eff. Jan. 10, 1942 ;-- CL 1948, 319.107

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319.108 Decree to be granted if requested by majority in interest; ty interest holders, option to join in development, procedure; bond.

Sec. 8.

If the court shall find that the material averments of the bill of complaint are true, and that the plaintiffs do in fact own a majority in interest of such lands, or of the oil and gas mineral rights therein, as joint tenants, tenants in common, cotenants, or coparceners, or that a majority in interest of such owners consent to the granting of the relief prayed in such bill of complaint, then the court shall enter a decree authorizing the plaintiffs to explore, drill, mine, develop and operate said lands for oil and gas mining purposes, and to remove oil and gas from such lands, and sell or dispose of same, so as to realize the full value thereof for the benefit of all the parties entitled thereto.

The defendants and minority interest holders, whether fee or royalty owners, or their lessees, shall have 15 days after the date upon which the decree becomes final in which to elect either to come in and join plaintiffs as producers or lessees in the exploration, drilling, mining, developing and operation of said lands for oil and gas mining purposes, and pay their proportionate part, based upon the interest which respective defendants own, of all expenses and costs in such undertaking, and receive their proportionate share of the net proceeds derived from the sale of the oil and gas produced from said lands, or the defendants may continue their position as fee or royalty owners and receive their proportionate proceeds derived from the sale of the royalty interest or portion of the oil and gas produced from such lands. Such royalty interest, unless otherwise fixed by lease, shall be 1/8 of the oil and gas produced from such lands.

If the defendants or any of them elect to join them as producers or operators of the lease and land involved, as above provided, then such defendants shall, within 15 days from the date upon which the decree of the court becomes final, file with the clerk a good and sufficient bond payable to the clerk of the court, with an authorized surety company as surety thereon. The amount of such bond shall be determined by the court as representing the proportionate share of such defendants based upon the interest which they own in such land of the estimated

maximum reasonable cost of exploring, drilling, mining, developing and operating said lands for oil and gas purposes. Such bond shall be conditioned upon the payment when due of such proportionate share of such cost and shall be held by the clerk for the benefit of all interested persons. Said bond and the surety thereon shall be approved by the court prior to the filing of the same.

If the defendants or any of them, whether fee or royalty owners, or their lessees, file such bond within the time stated, they shall be entitled to their share of the proceeds from the sale of the working interest which, in the absence of contract or lease determining the same, shall be 7/8 of the oil and gas produced in addition to any royalty interest they may own. If, however, said defendants or any of them fail to file such bond within said period, then such defendants shall be treated and considered as royalty owners only and shall then receive only their proportionate share of the royalty interest which, in the absence of lease or contract determining the same, shall be 1/8 of the oil and gas produced.

The court shall also provide by decree for the disposition by the plaintiffs of the proportionate part of the proceeds from the sale of the defendants' portion of the oil and gas produced, and provide for the payment and distribution of the net proceeds thereof to the defendants, as their respective interests may appear, after deduction of the proportionate costs of such proceedings and of exploring, mining, drilling, producing and operating said lands for oil and gas, and disposing of such oil and gas.

If the whereabouts of any of the defendants is unknown, the court may require the plaintiffs to deposit such defendants' share of the net proceeds from the sale of oil and gas with the clerk of the court, to be held for said defendants, as the court may direct.

History: 1941, Act 178, Eff. Jan. 10, 1942 ;-- CL 1948, 319.108

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319.109 Lessees under oil or gas lease; right to maintain or defend processings.

Sec. 9.

In case a person or persons, holding a majority in interest in such lands, has or have executed an oil and gas lease or leases to any person, firm or corporation, such lessee or lessees may institute and maintain or defend any suit provided for by this act, either in the name of such lessee or in the name of his lessor.

History: 1941, Act 178, Eff. Jan. 10, 1942 ;-- CL 1948, 319.109

319.110 Judicature act; provisions applicable.

Sec. 10.

The provisions of Act No. 314 of the Public Acts of 1915, including the provisions for appeal, and all existing and future amendments to said act, and the applicable supreme court rules now or hereafter adopted shall apply to all proceedings hereunder, except as otherwise provided in this act.

History: 1941, Act 178, Eff. Jan. 10, 1942 ;-- CL 1948, 319.110
Compiler's Notes: Act 314 of 1915, referred to in this section, was repealed by Act 236 of 1961. See now MCL 600.101 et seq.