

HOUSE BILL No. 5535

February 22, 1990, Introduced by Reps. Muxlow, Bartnik, DeMars, Ouwinga, Allen, Giese, Bender, London, Dunaskiss, Kulchitsky, Gnodtke, Stacey, Crandall, Wartner, Martin, DeBeaussaert, Randall, Nye, Knight and DeLange and referred to the Committee on Forestry and Minerals.

A bill to amend section 1 of Act No. 81 of the Public Acts of 1929, entitled

"An act relating to the record, forfeiture and surrender of oil, gas and other mineral leases, providing a procedure therefor, and providing a penalty,"

being section 554.281 of the Michigan Compiled Laws; and to add section 3.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 1 of Act No. 81 of the Public Acts of
2 1929, being section 554.281 of the Michigan Compiled Laws, is
3 amended and section 3 is added to read as follows:

4 Sec. 1. (1) When ~~any~~ AN oil, gas, or other mineral lease
5 ~~heretofore or hereafter~~ given on land ~~situated~~ LOCATED in any
6 county of Michigan and recorded ~~therein shall become~~ IN THAT
7 COUNTY IS forfeited, ~~it shall be the duty of the lessee, his~~
8 ~~successors or assigns, within~~ THE OWNER OF THE LEASE SHALL

1 BEFORE THE EXPIRATION OF 60 days ~~from the date of the taking~~
 2 ~~effect of this act~~ AFTER AUGUST 28, 1929, if the forfeiture
 3 occurred ~~prior thereto~~ BEFORE AUGUST 28, 1929, and ~~within 30~~
 4 BEFORE THE EXPIRATION OF 10 days after the date of the forfeiture
 5 of any other lease, ~~to have such lease surrendered~~ SURRENDER
 6 THE LEASE in writing. ~~, such~~ THE surrender ~~to~~ SHALL be
 7 signed by the party making the ~~same, his successors or assigns,~~
 8 SURRENDER, witnessed, ~~and~~ acknowledged, and placed on record in
 9 the county where the leased land is ~~situated~~ LOCATED, without
 10 cost to the owner. ~~thereof. Provided, That if the said lessee,~~
 11 ~~his successors or assigns shall fail or neglect~~

12 (2) IF AN OWNER OF A LEASE FAILS OR NEGLECTS to execute and
 13 record ~~such~~ A surrender within the time provided for IN SUBSEC-
 14 TION (1), then the owner of ~~said~~ THE land may at any time after
 15 forfeiture serve upon ~~said lessee, his successors or assigns,~~
 16 THE OWNER OF THE LEASE, in person, or by registered letter, at
 17 ~~his~~ THE OWNER'S last known address, or by publication for 3
 18 consecutive weeks in a newspaper of general circulation in the
 19 county where the land is ~~situated~~ LOCATED, a WRITTEN notice ~~in~~
 20 ~~writing~~ in substantially the following form:

21 "To: I, the undersigned, owner of the
 22 following described land ~~situated~~ LOCATED in
 23 county, Michigan, to-wit: (description of land)
 24 upon which a lease dated the day of,
 25 19...., was given to, lessee, AND RECORDED WITH
 26 THE REGISTER OF DEEDS OF COUNTY, ON THE
 27 DAY OF, 19..., IN LIBER, ON PAGE, do hereby

1 notify you that the terms of ~~said~~ THE lease have been broken by
 2 the owner ~~thereof~~ OF THE LEASE, that I hereby ~~elect to declare~~
 3 ~~and do~~ declare the ~~said~~ THE lease forfeited and void, and that
 4 ~~unless~~ IF you do NOT within ~~30~~ 10 days from this date notify
 5 the register of deeds of ~~said~~ THE county IN WHICH THE LAND IS
 6 LOCATED as provided by law, that ~~said~~ THE lease has been for-
 7 feited, I will file with the ~~said~~ register of deeds an affida-
 8 vit of forfeiture as provided by law. ~~and~~ I hereby demand
 9 that you execute or have executed a proper surrender of ~~said~~
 10 THE lease and that you put the ~~same~~ SURRENDER on record in the
 11 office of the register of deeds in ~~said~~ THE county IN WHICH THE
 12 LAND IS LOCATED within ~~30~~ 10 days from this date.

13 Dated this day of, 19....

14"

15 (3) ~~And the~~ THE owner of ~~said~~ THE land may after ~~30~~
 16 THE EXPIRATION OF 10 days from the date of service, registration,
 17 or ~~first~~ LAST publication of ~~said~~ THE notice DESCRIBED IN
 18 SUBSECTION (2), file with the register of deeds of the county
 19 where ~~said~~ THE land is ~~situated~~ LOCATED, an affidavit setting
 20 forth ~~that~~ ALL OF THE FOLLOWING:

21 (A) THAT the affiant is the owner of ~~said~~ THE land. ~~→~~
 22 ~~that the lessee, or his successors or assigns,~~

23 (B) THAT THE OWNER OF THE LEASE has failed and neglected to
 24 comply with the terms of ~~said~~ THE lease, reciting the facts
 25 constituting ~~such~~ THE failure. ~~→ that~~

1 (C) THAT the ~~same~~ LEASE has been forfeited and is void.
2 ~~, and setting out in said affidavit a~~

3 (D) A copy of the notice served. ~~as above provided and~~
4 ~~the~~

5 (E) THE manner and time of the service ~~thereof~~ OF THE
6 NOTICE.

7 (4) If the ~~lessee, his successors or assigns, shall within~~
8 ~~30~~ OWNER OF THE LEASE BEFORE THE EXPIRATION OF 10 days after the
9 filing of ~~such~~ THE affidavit DESCRIBED IN SUBSECTION (3),
10 ~~give~~ GIVES WRITTEN notice ~~in writing~~ to the register of deeds
11 of the county where ~~said~~ THE lands are located that ~~said~~ THE
12 lease has not been forfeited and that ~~said lessee, his succes-~~
13 ~~sors or assigns, still claim that said~~ THE OWNER OF THE LEASE
14 STILL CLAIMS THAT THE lease is still in full force and effect,
15 then the ~~said~~ affidavit shall not be recorded, but the register
16 of deeds shall notify the owner of the lands of the action of the
17 ~~lessee, his successors or assigns~~ OWNER OF THE LEASE, and the
18 owner of the land shall be entitled to the remedies ~~now~~ pro-
19 vided by law ~~,~~ for the cancellation of ~~such~~ THE disputed
20 lease.

21 (5) If the ~~lessee, his successors or assigns, shall~~ OWNER
22 OF THE LEASE DOES not notify the register of deeds as ~~above~~
23 provided IN SUBSECTION (4), then the register of deeds shall
24 record ~~said~~ THE affidavit DESCRIBED IN SUBSECTION (3) and
25 ~~thereupon~~ the ~~said~~ lease shall be null and void and of no
26 legal effect. ~~, and thereafter~~ AFTER AN AFFIDAVIT DESCRIBED IN
27 SUBSECTION (3) IS RECORDED, the record of the ~~said~~ lease shall

1 not be notice to the public of the existence of ~~said~~ THE lease
2 or of any interest ~~therein~~ IN or rights ~~thereunder~~ UNDER THE
3 LEASE, and ~~said~~ THE record shall not be received in evidence in
4 any court of the state on behalf of the ~~lessee, his successors~~
5 ~~or assigns~~ OWNER OF THE LEASE against the lessor ~~, his~~ OR THE
6 LESSOR'S successors or assigns.

7 (6) IF AN OWNER OF A LEASE FAILS OR NEGLECTS TO EXECUTE AND
8 RECORD A SURRENDER OF A LEASE AS REQUIRED BY SUBSECTION (1), THEN
9 THE OWNER OF THE LAND THAT IS SUBJECT TO THE LEASE, IN ADDITION
10 TO THE REMEDY PRESCRIBED IN SUBSECTIONS (1) TO (5), MAY BRING AN
11 ACTION AGAINST THE OWNER OF THE LEASE TO OBTAIN THE SUM OF
12 \$500.00 AND RECOVER ANY ACTUAL DAMAGES CAUSED BY THE FAILURE TO
13 EXECUTE AND RECORD THE SURRENDER OF THE LEASE. AN OWNER OF LAND
14 WHO IS AWARDED DAMAGES IN AN ACTION BROUGHT PURSUANT TO THIS SEC-
15 TION SHALL BE ENTITLED TO ATTORNEYS' FEES AS DETERMINED BY THE
16 COURT.

17 SEC. 3. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2),
18 AN OIL, GAS, OR OTHER MINERAL LEASE TAKEN ON LAND LOCATED IN THIS
19 STATE THAT IS ENTERED INTO AFTER THE EXPIRATION OF 90 DAYS AFTER
20 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION
21 IS DEEMED FORFEITED AND IS NULL AND VOID AND OF NO LEGAL EFFECT
22 UPON THE EXPIRATION OF THE PRIMARY TERM OF THE LEASE OR UPON THE
23 EXPIRATION OF ANY ADDITIONAL TERM OF THE LEASE UNDER SUBSECTION
24 (2), WHICHEVER IS LATER.

25 (2) AN OIL, GAS, OR OTHER MINERAL LEASE TAKEN ON LAND
26 LOCATED IN THIS STATE THAT IS ENTERED INTO AFTER THE EXPIRATION
27 OF 90 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT

1 ADDED THIS SECTION MAY BE KEPT IN EFFECT AFTER THE EXPIRATION OF
2 THE PRIMARY TERM OF THE LEASE OR AFTER THE EXPIRATION OF ANY
3 ADDITIONAL TERM OF THE LEASE UNDER THIS SUBSECTION, IF ANY, FOR
4 AN ADDITIONAL TERM WHICH SHALL NOT BE ANY LONGER THAN THE PRIMARY
5 TERM OF THE LEASE IF BOTH OF THE FOLLOWING APPLY:

6 (A) WITHIN 90 DAYS BEFORE THE EXPIRATION DATE OF THE PRIMARY
7 TERM OF THE LEASE OR WITHIN 90 DAYS BEFORE THE EXPIRATION DATE OF
8 ANY ADDITIONAL TERM OF THE LEASE UNDER THIS SUBSECTION, IF ANY,
9 THE OWNER OF THE LEASE FILES A NOTARIZED WRITTEN NOTICE WITH THE
10 REGISTER OF DEEDS FOR THE COUNTY WHERE THE LEASED PREMISES ARE
11 LOCATED. THE NOTICE SHALL CONTAIN ALL OF THE FOLLOWING:

12 (i) A DESCRIPTION OF THE LEASED PREMISES.

13 (ii) A DESCRIPTION OF THE LEASE AND THE NATURE OF THE INTER-
14 EST CLAIMED IN THE LEASE.

15 (iii) THE NAME AND ADDRESS OF THE PERSONS CLAIMING AN INTER-
16 EST IN THE LEASE.

17 (iv) A REFERENCE TO LIBER AND PAGE NUMBER WHERE THE LEASE IS
18 RECORDED.

19 (v) A STATEMENT THAT THE OWNER OF THE LEASE DESIRES TO KEEP
20 THE LEASE IN EFFECT AFTER THE EXPIRATION OF THE PRIMARY TERM OF
21 THE LEASE OR AFTER THE EXPIRATION OF ANY ADDITIONAL TERM OF THE
22 LEASE UNDER THIS SUBSECTION, WHICHEVER IS LATER, FOR AN ADDI-
23 TIONAL TERM WHICH SHALL NOT BE ANY LONGER THAN THE PRIMARY TERM
24 OF THE LEASE.

25 (B) THE LEASE PROVIDES FOR AN ADDITIONAL TERM AFTER THE
26 EXPIRATION OF THE PRIMARY TERM, AND THE ADDITIONAL TERM IS
27 OTHERWISE IN EFFECT PURSUANT TO THE LEASE.