

HB4724



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4724

by Rep. Natalie Phelps Finnie

SYNOPSIS AS INTRODUCED:

35 ILCS 450/2-30

Amends the Illinois Hydraulic Fracturing Tax Act. Removes provisions concerning first purchaser exemption certificates.

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FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Hydraulic Fracturing Tax Act is
5 amended by changing Section 2-30 as follows:

6 (35 ILCS 450/2-30)

7 Sec. 2-30. Payment and collection of tax.

8 (a) For oil and gas removed on or after July 1, 2013, the
9 tax incurred under this Act shall be due and payable on or
10 before the last day of the month following the end of the month
11 in which the oil or gas is removed from the production unit.
12 The tax is upon the producers of such oil or gas in the
13 proportion to their respective beneficial interests at the time
14 of severance. The first purchaser of any oil or gas sold shall
15 collect the amount of the tax due from the producers by
16 deducting and withholding such amount from any payments made by
17 such purchaser to the producers and shall remit the tax in this
18 Act.

19 In the event the tax shall be withheld by a purchaser from
20 payments due a producer and such purchaser fails to make
21 payment of the tax to the State as required herein, the first
22 purchaser shall be liable for the tax. However, in the event a
23 first purchaser fails to pay the tax withheld from a producer's

1 payment, the producer's interest remains subject to any lien
2 filed pursuant to subsection (c) of this Section. A producer
3 shall be entitled to bring an action against such purchaser to
4 recover the amount of tax so withheld together with penalties
5 and interest which may have accrued by failure to make such
6 payment. A producer shall be entitled to all attorney fees and
7 court costs incurred in such action. To the extent that a
8 producer liable for the tax imposed by this Act collects the
9 tax, and any penalties and interest, from a purchaser, such
10 tax, penalties, and interest are held in trust by the producer
11 for the benefit of the State of Illinois.

12 (b) For all production units permitted, or required to be
13 permitted, under this Act that a first purchaser begins to
14 purchase oil or gas from on or after July 1, 2013, the first
15 purchaser is required to withhold and remit the tax imposed by
16 this Act to the Department from the oil and gas purchased from
17 the production unit. The changes made by this amendatory Act of
18 the 100th General Assembly apply to taxes required to be
19 withheld on or after the effective date of this amendatory Act
20 of the 100th General Assembly. No exemption certificate issued
21 prior to the effective date of this amendatory Act of the 100th
22 General Assembly shall be valid on or after the effective date
23 of this amendatory Act of the 100th General Assembly. ~~unless~~
24 ~~the first purchaser obtains from the operator an exemption~~
25 ~~certificate signed by the operator stating that the production~~
26 ~~unit is not subject to the tax imposed by this Act. The~~

1 ~~exemption certificate must include the following information:~~

2 ~~(1) name and address of the operator;~~

3 ~~(2) name of the production unit;~~

4 ~~(3) number assigned to the production unit by the first~~
5 ~~purchaser, if available;~~

6 ~~(4) legal description of the production unit; and~~

7 ~~(5) a statement by the operator that the production~~
8 ~~unit is exempt from the tax imposed by the Illinois~~
9 ~~Hydraulic Fracturing Tax Act.~~

10 ~~If a first purchaser obtains an exemption certificate that~~
11 ~~contains the required information and reasonably relies on the~~
12 ~~exemption certificate and it is subsequently determined by the~~
13 ~~Department that the production unit is subject to the tax~~
14 ~~imposed by this Act, the Department will collect any tax that~~
15 ~~is due from the operator and producers, and the first purchaser~~
16 ~~is relieved of any liability.~~

17 (c) Notwithstanding subsection (a) of this Section, the tax
18 is a lien on the oil and gas from the time of severance from the
19 land or under the water until the tax and all penalties and
20 interest are fully paid, and the State shall have a lien on all
21 the oil or gas severed from the production unit in this State
22 in the hands of the operator, any producer or the first or any
23 subsequent purchaser thereof to secure the payment of the tax.
24 If a lien is filed by the Department, the purchaser shall
25 withhold from producers or operators the amount of tax, penalty
26 and interest identified in the lien.

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1 (Source: P.A. 98-22, eff. 6-17-13.)