



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 704 (as introduced 9-17-03)
Sponsor: Senator Michelle A. McManus
Committee: Natural Resources and Environmental Affairs

Date Completed: 5-4-04

CONTENT

The bill would amend the Natural Resources and Environmental Protection Act to prohibit a person from selling real property without giving the buyer a notice that the owner of an severed interest in oil and gas in the land could have easements to use the surface of the land for purposes of exploration and production. This requirement would not apply to specific types of transactions, such as those in which no severed oil and gas interest was outstanding or being created. A person violating the requirement would be subject to a civil fine of \$1,000.

Specifically, the bill would add Part 611 (Notice of Severed Surface Rights and Oil and Gas Rights) to the Act to prohibit a person from selling or entering into an agreement to sell a parcel of real property without first giving the buyer a notice in substantially the following form:

NOTICE TO PURCHASER

If there is a severed oil and gas interest in the land that you are purchasing or intend to purchase, or if there will be a severed interest in oil and gas upon consummation of the purchase, the owner of the severed interest in oil and gas may have express easements or implied easements, or both, to enter upon and use the surface of the land for purposes related to exploring for and producing the oil and gas. If this a matter that is significant to you, you should ascertain definitely what are the severed oil and gas interests in the property and the scope of the surface rights belonging to the owners of the severed oil and gas interests. A severed oil and gas interest is one that is owned by a person other than the person who owns the surface of the land.

This notice would not need to be given in connection with a transaction in which one of the following applied:

- The value of the consideration was under \$100.
- The buyer was not acquiring the surface interest in the land.
- The buyer was acquiring a severed interest in oil and gas in the land.
- There was no outstanding severed oil and gas interest in any of the land involved, and no severed oil and gas interest was being created in connection with the transaction.
- The real property was conveyed as security for an obligation, such as a mortgage.

In addition, the notice would not be required in connection with a transaction in which there was a severed oil and gas interest in the land involved, or a severed oil and gas interest was

being created in connection with the transaction, but the instrument by which the severed interest was created, or a subsequent written agreement that was valid and binding on the owner of the severed interest, expressly provided that the owner of the severed interest could not enter upon or use the surface of the land for purposes related to exploring for or producing oil and gas.

The bill specifies that the term "severed oil and gas interest" would not include the interest of a lessee under an oil and gas lease.

The bill also would change the title of Part 610 from "Unified Surface and Subsurface Oil or Gas Ownership" to "Unification of Surface Rights and Oil and Gas Rights". (Under Part 610, the Department of Environmental Quality (DEQ) may divest itself of severed oil and gas rights and reunite those rights with the surface rights.)

Proposed MCL 324.61101

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have a minimal fiscal impact on the State. A civil fine of \$1,000 could be assessed for violations of this section. Revenue from civil fines benefits the DEQ's settlement funds account and is used for site cleanup activities.

Fiscal Analyst: Jessica Runnels

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.