

By-Lined Article

Legislation Gives Landowners "Slight Edge" in Court When Mineral Rights Owner Is Unclear

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Marcellus Shale Law and Policy Update

Legislation that gives landowners an early edge in court on certain disputes over mineral rights recently cleared the Pennsylvania Senate Environment Resources and Energy Committee.

"This gives the landowner a rebuttal presumption if going back over 50 years, the owner of the mineral rights can't be determined," said Nick Troutman, who works for Pennsylvania Sen. Gene Yaw, R-Lycoming, the sponsor of the legislation.

Troutman said Senate Bill 1324 alters the "Action to Quiet Title," which has been law for more than 100 years.

Senator Yaw stated that the bill does not change the fact that the plaintiff landowner still must prove his or her case in court by a preponderance of the evidence just as the plaintiff can, and is required to do, today.

Troutman said that numerous instances in Senator Yaw's district—where drilling in the Marcellus Shale is booming—exist where it is unclear who owns the mineral rights.

"Some people buy land and automatically think they own the mineral rights, but they don't," Troutman said. "But this bill gives them a step up if over 50 years back, the owner can't be determined."

The coal industry and natural gas drillers took a neutral stance on the bill, but only after they successfully urged the addition of language in committee that includes exemptions

when the rebuttal presumption would not apply, according to officials with both industries. Among other things, the exemptions include fee interests that include deeds and long-term leases for coal and other minerals as well as oil and gas reserved or acquired by a duly recorded conveyance.

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