

2017 Regular Session

SENATE RESOLUTION NO. 159

BY SENATOR ALLAIN

MINERALS. Requests the Louisiana State Law Institute to study and make recommendations regarding the classification of mineral royalties for the purposes of bankruptcy proceedings.

1 A RESOLUTION

2 To urge and request that the Louisiana State Law Institute study the classification of mineral  
3 royalties under Louisiana law for the purposes of bankruptcy proceedings.

4 WHEREAS, the legal classification of certain debts and monies owed has  
5 implications for priority of treatment of those debts and monies in bankruptcy proceedings;  
6 and

7 WHEREAS, Louisiana is unique in the United States in its classification of mineral  
8 royalties as "rent", and the reason for the classification is unclear; and

9 WHEREAS, pursuant to R.S. 30:127, mineral leases of state-owned property contain  
10 a provision permitting the state, at its option, to take in-kind the portion due it as royalty of  
11 any minerals produced and saved from leased premises; and

12 WHEREAS, certain mineral leases of privately owned property reserve to the lessor  
13 a fraction of the oil in-kind with the right to sell, dispose, or take it as he sees fit; and

14 WHEREAS, under federal bankruptcy law, the classification of a debt as "rent"  
15 affects the priority that the debt has compared to other competing claims and limits the  
16 remedies available to collect the debt; and

17 WHEREAS, this classification has led to mineral royalties owed to landowners in  
18 Louisiana being given no priority in bankruptcy proceedings.

1           THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana  
2 does hereby request that the Louisiana State Law Institute study the history and reasoning  
3 for the classification of mineral royalties as "rent" in La. R.S. 31:123, and consider whether  
4 the law should be revised to reflect that royalties are properly classified as the property of  
5 the landowner or mineral owner at the moment of severance, rather than rent or any other  
6 type of debt, and report its findings and recommendations for any changes to laws which  
7 would protect the rights of public and private landowners or mineral owners to the Louisiana  
8 Legislature no later than sixty days prior to the convening of the 2018 Regular Session.

9           BE IT FURTHER RESOLVED that during the study of these issues and prior to  
10 submitting any recommendations to the legislature, the Louisiana State Law Institute shall  
11 include in its research information from the following:

12           (1) The State Mineral and Energy Board.

13           (2) The Louisiana Landowner's Association.

14           (3) Legal counsel with experience in bankruptcy matters involving oil and gas  
15 production company debtors.

16           (4) The Louisiana Midcontinent Oil and Gas Association.

17           BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the  
18 director of the Louisiana State Law Institute, the secretary of the Department of Natural  
19 Resources, the chairman of the Louisiana State Mineral and Energy Board, the executive  
20 director of the Louisiana Landowners Association, and the president of the Louisiana  
21 Midcontinent Oil and Gas Association.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Alan Miller.

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SR 159 Original

DIGEST  
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under Louisiana law for the purposes of bankruptcy proceedings.