

SENATE RESOLUTION NO. 159

BY SENATOR ALLAIN

A RESOLUTION

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

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

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

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

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

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

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

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

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

- (1) The State Mineral and Energy Board.
- (2) The Louisiana Landowner's Association.
- (3) Legal counsel with experience in bankruptcy matters involving oil and gas production company debtors.
- (4) The Louisiana Midcontinent Oil and Gas Association.

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

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PRESIDENT OF THE SENATE