

Regular Session, 2013

SENATE BILL NO. 260 (Substitute of Senate Bill No. 91 by Senator Peacock)

BY SENATOR PEACOCK

MINERALS. Relative to certain solicitations for transfer of mineral rights. (8/1/13)

1 AN ACT

2 To enact Part VI of Chapter 13 of Title 31 of the Louisiana Revised Statutes of 1950,  
3 comprised of R.S. 31:218, relative to mineral rights and interests; to provide relative  
4 to certain offers for lease or purchase of mineral rights or interests; to provide certain  
5 terms, conditions, and requirements, and effects of the offers; and to provide for  
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Part VI of Chapter 13 of Title 31 of the Louisiana Revised Statutes of  
9 1950, comprised of R.S. 31:218 is hereby enacted to read as follows:

10 PART VI. THE FAIR PRACTICES IN SOLICITATION FOR

11 TRANSFER OF MINERAL RIGHTS ACT

12 §218. Solicitations for transfer of mineral rights; requirements; limitations;  
13 effects

14 A.(1) As used in this Article, "payment" shall mean cash, a check, a  
15 draft or other form of payment.

16 (2) In the case of payment made by a check, draft or other similar form  
17 of payment, "acceptance" shall not be deemed to occur until funds have been

1 transferred pursuant to a check, draft, or other similar form of payment.

2 B.(1) Whenever a landowner or an owner of mineral rights receives  
3 payment related to an offer to lease, buy, or otherwise acquire all or any portion  
4 of his mineral rights, or any interest therein, notwithstanding anything  
5 contained in the offer, the acceptance, whether intentional or unintentional, of  
6 the payment by the landowner or owner of mineral rights, without the execution  
7 of a written agreement to enter into a mineral lease or of a sale or transfer of  
8 mineral rights, shall not create or act as a mineral lease, sale, or transfer of  
9 mineral rights. In addition, the acceptance shall not constitute an agreement by  
10 the landowner or owner of mineral rights to grant a mineral lease or to sell or  
11 transfer any mineral rights.

12 (2) The party tendering or delivering the payment in connection with the  
13 offer to lease, buy, or otherwise acquire a mineral right shall not have, nor  
14 acquire, any cause of action to require the landowner or owner of mineral rights  
15 to grant a mineral lease or to sell or transfer mineral rights as a result of the  
16 acceptance of the payment.

17 C.(1) Whenever a party tenders payment to a landowner or owner of  
18 mineral rights, the party tendering payment shall have one hundred eighty days  
19 from the date of deposit of the payment in order to execute an agreement, lease,  
20 or transfer or to send a notice of repayment by certified mail, return receipt  
21 requested, to the landowner or owner of mineral rights. If an agreement, lease,  
22 or transfer is not executed between the parties or the party tendering payment  
23 does not send a notice of repayment by certified mail, return receipt requested,  
24 then the party tendering payment shall not have a cause of action against the  
25 landowner or owner of mineral rights for the repayment.

26 (2) The landowner or owner of mineral rights shall have one year from  
27 the receipt of the notice of repayment to return the original payment to the  
28 party tendering payment.

29 (3) The landowner or owner of mineral rights shall be subject to a

- 1            **liberative prescription of two years from the receipt of the notice of repayment**  
 2            **required by Paragraph (2) of this Subsection.**

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The original instrument was prepared by McHenry Lee. The following digest, which does not constitute a part of the legislative instrument, was prepared by Linda Nugent.

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#### DIGEST

Peacock (SB 260)

Proposed law provides that whenever a landowner or owner of a mineral right receives payment in connection with an offer to lease, buy, or acquire any portion of his mineral rights, the acceptance of such payment shall not constitute an agreement to enter into a lease, sale, or transfer of his mineral rights. Further provides that the party making the offer will have no cause of action to require the owner of the mineral rights to enter into a lease, sale, or transfer of his mineral rights.

Proposed law provides that "payment" shall mean cash, a check, a draft or other form of payment. Further provides that in the case of payment by a check, draft or other similar form of payment, "acceptance of payment" shall not be deemed to occur until funds have been transferred pursuant to a check, draft, or other similar form of payment.

Proposed law provides that when a landowner or owner of mineral rights accepts a payment, but does not execute a written lease, sale, or transfer of his mineral rights, the party making the offer shall have 180 days from the date of the deposit to execute an agreement or to send a notice of repayment to the landowner or owner of mineral rights. If no agreement is executed or notice of repayment sent, the party tendering payment has no cause of action for the repayment. Provides that the landowner or owner will have one year from notice of repayment to submit the repayment. Further provides that the landowner or owner is subject to a liberative prescription of two years from the receipt of the notice of repayment.

Effective August 1, 2013.

(Adds R.S. 31:218)

#### Summary of Amendments Adopted by Senate

##### Senate Floor Amendments to engrossed bill

1. Gives the party making the offer 180 days from the date of the deposit to execute an agreement or to send a notice of repayment to the landowner or owner of mineral rights.
2. Provides that if no agreement is executed or notice of repayment sent, the party tendering payment has no cause of action for the repayment.
3. Gives the landowner or owner one year from notice of repayment to submit the repayment.
4. Provides that the landowner or owner is subject to a liberative prescription of two years from the receipt of the notice of repayment.