62nd Legislature HB0107.02

1	HOUSE BILL NO. 107
2	INTRODUCED BY G. HOLLENBAUGH
3	BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE OBLIGATION TO PAY ROYALTIES TO THE
6	STATE UNDER COAL LEASE CONTRACTS; REQUIRING THAT THE PAYMENT OF ROYALTIES ON A COAL
7	LEASE BE OF THE ESSENCE IN A LEASE CONTRACT; REQUIRING THAT INTEREST BE PAID ON
8	DELINQUENT COAL ROYALTY PAYMENTS; PROVIDING FOR AN AUDIT, AFTER NOTICE, OF COAL
9	ROYALTIES PAID TO THE STATE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
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11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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13	NEW SECTION. Section 1. Obligation to pay royalties under coal lease contract interest. (1) The
14	obligation arising under a coal lease to pay coal royalties to the department, to deliver coal to a purchaser to the
15	credit of the department, or to pay a portion of the proceeds of the sale of the coal to the department is of the
16	essence in the lease contract.
17	(2) If the operator under a coal lease fails to pay coal royalties to the department within 120 days after
18	the initial coal produced under the lease is marketed and within 90 days for all coal produced and marketed
19	thereafter, the unpaid royalties must bear interest at a THE LEGAL rate of interest authorized under 31-1-107
20	31-1-106 from the date due until paid. The operator may remit semiannually to the department the aggregate of
21	6 months' royalties if the aggregate amount is less than \$50 and annually if the aggregate amount is less than
22	\$10.
23	(3) An action for failure to make payments under the lease or seeking payments under this section must
24	be filed in the district court for the county in which the coal mine is located, and that court has jurisdiction over
25	any actions brought under this section. The prevailing party in a proceeding brought under this section is entitled
26	to recover court costs and reasonable attorney fees.
27	(4) This section does not apply if the department has elected to take the owner's or assignee's
28	proportionate share of production in kind or if there is a dispute as to the title to the minerals or entitlement to
29	royalties, the outcome of which would affect distribution of royalty payments.



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1	NEW SECTION. Section 2. Audit Notice Action to Compel Payment. (1) Except as provided in
2	SUBSECTION (2), THE DEPARTMENT MAY, WITHIN 5 YEARS OF THE FILING OF A REPORT PURSUANT TO 77-3-317,
3	COMMENCE AN AUDIT OF A LESSEE'S OR FORMER LESSEE'S OPERATION TO DETERMINE WHETHER THE REPORT IS
4	COMPLETE AND ACCURATE AND WHETHER ALL ROYALTIES OWED HAVE BEEN PAID. THE DEPARTMENT SHALL NOTIFY THE
5	LESSEE IN WRITING OF THE AUDIT. THE NOTICE MUST DESCRIBE THE PERIOD FOR WHICH THE AUDIT IS BEING CONDUCTED.
6	UPON CONCLUSION OF THE AUDIT, THE DEPARTMENT SHALL NOTIFY THE LESSEE OF THE DEPARTMENT'S CONCLUSIONS
7	AND, IF THE DEPARTMENT HAS DETERMINED THAT ADDITIONAL ROYALTIES ARE OWED, THE BASIS FOR THAT
8	DETERMINATION. AN ACTION TO COMPEL PAYMENT OF ROYALTIES DUE MUST BE COMMENCED WITHIN 2 YEARS OF THE DATE
9	OF MAILING THE NOTICE.
10	(2) If a lessee or former lessee, with intent to evade payment of royalties, purposely or
11	KNOWINGLY FILES A FALSE REPORT OR PURPOSELY OR KNOWINGLY FAILS TO PAY ROYALTIES OWED, THE DEPARTMENT
12	MAY CONDUCT AN AUDIT AND FILE AN ACTION TO COLLECT ROYALTIES AT ANY TIME AFTER THE ROYALTIES ARE DUE.
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14	NEW SECTION. Section 3. Codification instruction. [Section 1] is [SECTIONS 1 AND 2] ARE intended
15	to be codified as an integral part of Title 77, chapter 3, part 3, and the provisions of Title 77, chapter 3, part 3,
16	apply to [section 1] [SECTIONS 1 AND 2].
17	
18	NEW SECTION. Section 4. Saving clause. [This act] does not affect rights and duties that matured,
19	penalties that were incurred, or proceedings that were begun before [the effective date of this act].
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21	NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.
22	- END -

