

SEC. 2. Upon payment being received by the state treasurer, as prescribed in section 1 hereof, for deposit in the general fund, the governor shall issue in behalf of the state of Washington a conveyance transferring the land, buildings and equipment described in section 1 unto the Varney-Sunnyside Packing Company, Inc.

Passed the Senate February 4, 1955.

Passed the House March 5, 1955.

Approved by the Governor March 14, 1955.

CHAPTER 131.

[S. B. 269.]

STATE LANDS—OIL, GAS, ETC. LEASES.

AN ACT relating to oil leases on state lands; providing for and regulating the granting of leases for the extraction of oil, gas or other hydrocarbons and certain preference rights to take the same; defining the powers and duties of certain officers in connection therewith; providing for the issuance of leases at public auction in certain cases; providing for appeals, and repealing sections 1 through 28, chapter 161, Laws of 1937, section 37, chapter 146, Laws of 1951 and RCW 78.28.010 through 78.28.270.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Whenever used in this act, unless the context otherwise requires, words and terms shall have the meaning attributed to them herein: Definitions:

(1) "Public lands": Lands and areas belonging to or held in trust by the state, including tide and submerged lands of the Pacific Ocean or any arm thereof and lands of every kind and nature including mineral rights reserved to the state. "Public lands."

(2) "Person": Any citizen of the United States or person who has, in good faith, declared his intention of becoming a citizen of the United States, or any corporation organized and existing under and "Person."

by virtue of the laws of any state or territory of the United States and authorized to do business in this state.

"Commissioner."

(3) "Commissioner": The commissioner of public lands of the state of Washington.

Leases authorized.

SEC. 2. The commissioner is authorized to lease public lands for the purpose of prospecting for, developing and producing oil, gas or other hydrocarbon substances. Each such lease is to be composed of not more than six hundred forty acres, except a lease on river bed, lake bed, tide and submerged lands which is to be composed of not more than one thousand nine hundred twenty acres. All leases shall contain such terms and conditions as may be prescribed by the rules and regulations adopted by the commissioner in accordance with the provisions of this act. All leases shall be for terms of five years and for so long thereafter as lessee shall produce any of said substances from the leased lands, and shall comply with the provisions hereof, or shall be engaged in drilling, deepening, repairing, or re-drilling any well thereon, or be thereafter excused therefrom but not to exceed a period of twenty years. The lessee shall have preferential right to a new lease covering such lands for an additional twenty-year period on the same terms and conditions as set forth in such previous lease.

Acreage limitations.

Terms and conditions.

Renewal.

Rental fee.

SEC. 3. The commissioner shall require as a prerequisite to the issuing of any lease a rental of fifty cents per acre for the first year of such lease, payable in advance to the commissioner at the time of making application therefor and a like rental of fifty cents per acre annually in advance thereafter so long as such lease remains in force: *Provided*, That in the event no lease be issued or the lease when issued includes less acreage than that applied for, such rental shall be returned to the applicant insofar as it pertains to lands not included in such lease. Such

rental shall cease at such time as royalty accrues to the state from production from such lease. Com- Royalties.
 mencing with the lease year beginning on or after oil, gas or other hydrocarbon substances are first produced in quantities deemed paying quantities by lessee on the land subject to such lease, lessee shall pay a minimum royalty of five dollars per acre or fraction thereof at the expiration of each year, or the difference between the actual royalty paid during the year if less than five dollars per acre and the prescribed minimum royalty of five dollars per acre: *Provided*, That if such lease is unitized, the minimum royalty shall be payable only on the leased acreage after production is obtained in such paying quantities from such lease.

SEC. 4. No lessee shall commence any operation Compensation
 upon lands covered by his lease until such lessee has of private
 provided for compensation to owners of private owners.
 rights therein according to law, or in lieu thereof, filed a surety bond with the commissioner in an amount sufficient in the opinion of the commissioner to cover such compensation until the amount of compensation is determined by agreement, arbitration or judicial decision and has provided for compensation to the state of Washington for damage to the surface rights of the state in accordance with the rules and regulations adopted by the commissioner.

SEC. 5. All leases shall provide that if oil, gas or other hydrocarbon substances are not encountered on or before the end of the initial five-year term, the lease shall not terminate if the lessee is then prosecuting drilling operations on the leased lands with due diligence, in which event the same shall remain in force so long as lessee shall keep one string of tools in operation on the leased lands, allowing not to exceed ninety days between the completion of one well and the commencement of the next until such substances are encountered in quan- Drilling
 beyond term
 of lease.

tities deemed paying quantities by lessee. All leases shall further provide that if oil, gas or other hydrocarbon substances in paying quantities shall have been discovered on the leased lands prior to the expiration of the initial five-year term, then in the event at any time after the expiration of the initial five-year term production on the leased land shall cease from any cause, the lease shall not terminate provided lessee resumes operations for the drilling of a well or the restoration of production within ninety days from such cessation. The lease shall remain in force during the prosecution of such operations, and if production results therefrom, then so long as production continues.

Surrender
of lease.

SEC. 6. Every lessee shall have the option of surrendering his lease as to all or any portion or portions of the land covered thereby at any time and shall be relieved of all liability thereunder with respect to the land so surrendered except for monetary payments theretofore accrued and except for physical damage to the premises embraced by his lease which have been occasioned by his operations.

Royalty rate.

SEC. 7. All oil and gas leases issued pursuant to this act shall be upon a royalty of not less than twelve and one-half percent of the gross production of all oil, gas or other hydrocarbons produced and saved from the lands covered by such lease.

Unleased lands
within a known
geologic structure
of a producing oil or
gas field.

SEC. 8. Oil and gas leases shall not be issued on unleased lands which have been classified by the commissioner as being within a known geologic structure of a producing oil or gas field, except as follows: Upon application of any person, the commissioner shall lease in areas not exceeding six hundred forty acres, at public auction, any or all unleased lands within such geologic structure to the person offering the greatest cash bonus therefor at such auction. Notice of the offer of such lands for

lease will be given by publication in a newspaper of general circulation in Olympia, Washington, and in such other publications as the commissioner may authorize. The first publication shall be at least thirty days prior to the date of sale.

SEC. 9. The commissioner is hereby authorized to cancel any lease issued as provided herein for nonpayment of rentals or royalties or nonperformance by the lessee of any provision or requirement of the lease: *Provided*, That before any such cancellation shall be made, the commissioner shall mail to the lessee by registered mail, addressed to the post office address of such lessee shown by the records of the office of the commissioner, a notice of intention to cancel such lease specifying the default for which the lease is subject to cancellation. If lessee shall, within thirty days after the mailing of said notice to the lessee, commence and thereafter diligently and in good faith prosecute the remedying of the default specified in such notice, then no cancellation of the lease shall be entered by the commissioner. Otherwise, the said cancellation shall be made and all rights of the lessee under the lease shall automatically terminate, except that lessee shall retain the right to continue its possession and operation of any well or wells in regard to which lessee is not in default: *Provided further*, That failure to pay rental and royalty required under leases within the time prescribed therein shall automatically and without notice work a forfeiture of such leases and of all rights thereunder. Upon the expiration, forfeiture, or surrender of any lease, no new lease covering the lands or any of them embraced by such expired, forfeited, or surrendered lease, shall be issued for a period of ten days following the date of such expiration, forfeiture, or surrender. If more than one application for a lease covering such lands or any of them shall be made during such ten-day

Cancellation
of lease.

period the commissioner shall issue a lease to such lands or any of them to the person offering the greatest cash bonus for such lease at a public auction to be held at the time and place and in the manner as the commissioner shall by regulation prescribe.

Cooperative
unit plan;
lessees may
join.

SEC. 10. For the purpose of more properly conserving the natural resources of any oil or gas pool, field, or like area, lessees thereon and their representatives may unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative unit plan of development or operation of such pool, field, or like area, or any part thereof, whenever determined and certified by commissioner to be necessary or advisable in the public interest. The commissioner is thereunto authorized, in his discretion, with the consent of the holders of leases involved, in order to conform with the terms and conditions of any such cooperative or unit plan to establish, alter, change or revoke exploration, drilling, producing, rental, and royalty requirements of such leases with like consent on the part of the lessees, in connection with the institution and operation of any such cooperative or unit plan as he may deem necessary or proper to secure the proper protection of the public interest.

Modification
of lease.

Pooling plans.

When separate tracts cannot be independently developed and operated in conformity with an established well spacing or development program, any lease or any portion thereof may be pooled with other lands, whether or not owned by the state of Washington under a communization or drilling agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing unit when determined by the commissioner to be in the public interest, and operations or production pursuant to such an agreement shall be deemed to be operations

or production as to each such lease committed thereto.

The term of any lease that has become the subject of any cooperative or unit plan of development or operation of a pool, field, or like area, which plan has the approval of the commissioner, shall continue in force until the termination of such plan, and in the event such plan is terminated prior to the expiration of any such lease, the original term of such lease shall continue. Any lease under this act hereinafter committed to any such plan embracing lands that are in part within and in part outside of the area covered by any such plan, shall be segregated in separate leases as to the lands committed and the land not committed as of the effective date of unitization.

Term of lease under cooperative unit plan or pooling plan.

SEC. 11. The commissioner is authorized to insert in any lease issued under the provisions of this act such terms as are customary and proper for the protection of the rights of the state and of the lessee and of the owners of the surface of the leased lands not in conflict with the provisions of this act.

Customary protective terms.

SEC. 12. The commissioner is required to prescribe and publish, for the information of the public, all reasonable rules and regulations necessary for carrying out the provisions of this act. He may amend or rescind any rule or regulation promulgated by him under the authority contained herein: *Provided*, That no rule or regulation or amendment of the same or any order rescinding any rule or regulation shall become effective until after thirty days from the promulgation of the same by publication in a newspaper of general circulation published at the state capital and shall take effect and be in force at times specified therein. All rules and regulations of the commissioner and all amendments or revocations of existing rules and regulations shall be recorded in an appropriate book or books, shall be

Rules and regulations of commissioners.

adequately indexed, and shall be kept in the office of the commissioner and shall constitute a public record. Such rules and regulations of the commissioner shall be printed in pamphlet form and furnished to the public free of cost.

Lease provisions relating to spacing of wells.

SEC. 13. Each lease issued under this act shall provide that without the approval of the commissioner, no well shall be drilled on the lands demised thereby in such manner or at such location that the producing interval thereof shall be less than three hundred thirty feet from any of the outer boundaries of the demised lands, except that if the right to oil, gas or other hydrocarbons underlying adjoining lands be vested in private ownership, such approval shall not be required.

Rights of way over public lands.

SEC. 14. Any person granted a lease under the provisions of this act shall have a right of way over public lands, as provided by law, when necessary, for the drilling, recovering, saving and marketing of oil, gas or other hydrocarbons. Before any such right of way grant shall become effective, a written application for, and a plat showing the location of, such right of way, and the land necessary for the well site and drilling operations, with reference to adjoining lands, shall be filed with the commissioner. All timber on said right of way and the land necessary for the drilling operation, shall be appraised by the commissioner and paid for in money by the person to whom the lease is granted.

Timber sales.

SEC. 15. All sales of timber, as prescribed in this act, shall be made subject to the right, power and authority of the commissioner to prescribe rules and regulations governing the manner of the removal of the merchantable timber upon any lands embraced within any lease with the view of protecting the same and other timber against destruction or injury by fire or from other causes. Such rules or

regulations shall be binding upon the lessee, his successors in interest, and shall be enforced by the commissioner.

SEC. 16. After the discovery of oil, gas or other hydrocarbons in paying quantities, lessee shall proceed to develop the oil, gas or other hydrocarbons in the lands covered thereby through the drilling of such wells as will efficiently extract the oil, gas or other hydrocarbons therefrom and such development shall take into account the productiveness of the producing horizon, the depth at which it occurs, the average cost of wells, the market requirements obtaining at any given time, and the maintenance of proper oil and gas ratios.

Producing upon discovery of paying quantities.

SEC. 17. All leases shall contain such terms, conditions, and provisions as will protect the interests of the state with reference to spacing of wells for the purpose of offsetting any wells on privately-owned lands.

Lease provisions relating to spacing of wells.

SEC. 18. Nothing contained in this act shall be construed as requiring the commissioner to offer any tract or tracts of land for lease; but the commissioner shall have power to withhold any tract or tracts from leasing for oil, gas or other hydrocarbons, if, in his judgment, the best interest of the state will be served by so doing.

Leasing of such land permissive.

SEC. 19. The lessee shall pay to the commissioner the market value at the well of the state's royalty share of oil and other hydrocarbons except gas produced and saved and delivered by lessee from the lease. In lieu of receiving payment for the market value of the state's royalty share of oil, the commissioner may elect that such royalty share of oil be delivered in kind at the mouth of the wells into tanks provided by the commissioner. Lessee shall pay to the commissioner the state's royalty share of the sale price received by the lessee for gas produced and

Oil royalties; payment.

Gas royalties; payment.

saved and sold from the lease. If such gas is not sold but is used by lessee for the manufacture of gasoline or other products, lessee shall pay to the commissioner the market value of the state's royalty share of the residue gas and other products, less a proper allowance for extraction costs.

Prior exploration permits.

SEC. 20. All exploration permits issued by the commissioner prior to the effective date of this act, which have not expired or been legally cancelled for nonperformance by the permittees, are hereby declared to be valid and existing contracts with the state of Washington, according to their terms and provisions. The obligation of the state to conform to the terms and provisions of such permits is hereby recognized, and the commissioner is directed to accept and recognize all such permits according to their express terms and provisions. No repeal or amendment made by this act shall affect any right acquired under the law as it existed prior to such repeal or amendment, and such right shall be governed by the law in effect at time of its acquisition. Any permit recognized and confirmed by this section may be relinquished to the state by the permittee, and a new lease or, if such permit contains more than six hundred forty acres, new leases in the form provided for in this act, shall be issued in lieu of same and without bonus therefor; but the new lease or leases so issued shall be as provided for in this act and governed by the applicable provisions of this act instead of by the law in effect prior thereto.

Assignment or sublease.

SEC. 21. Any oil or gas lease issued under the authority of this act may be assigned or subleased as to all or part of the acreage included therein, subject to final approval by the commissioner, and as to either a divided or undivided interest therein to any person. Any assignment or sublease shall take effect as of the first day of the lease month following

the date of filing with the commissioner: *Provided, however,* That the commissioner may, in his discretion, disapprove an assignment of a separate zone or deposit under any lease or of a part of a legal subdivision. Upon approval of any assignment or sublease, the assignee or sublessee shall be bound by the terms of the lease to the same extent as if such assignee or sublessee were the original lessee, any conditions in the assignment or sublease to the contrary notwithstanding. Any partial assignment of any lease shall segregate the assigned and retained portions thereof, and upon approval of such assignment by the commissioner, the assignor shall be released and discharged from all obligations thereafter accruing with respect to the assigned lands.

SEC. 22. Any applicant for a lease under this act, feeling himself aggrieved by any order or decision, rule or regulation of the commissioner of public lands, concerning the same, may appeal therefrom to the superior court of the county wherein such lands are situated, as provided by RCW 79.08.030. **Appeals.**

SEC. 23. If any provision or section of this act shall be adjudicated to be unconstitutional, such adjudication shall not affect the validity of this act as a whole or any part thereof not adjudicated unconstitutional. If any provision of this act, or the application of such provision to any person or circumstances is held unconstitutional, invalid or unenforceable, the remainder of this act or the application of such provision to persons or circumstances other than those as to which it is held unconstitutional, invalid or unenforceable, shall not be affected thereby. **Severability.**

SEC. 24. Sections 1 through 28, chapter 161, Laws of 1937 and section 37, chapter 146, Laws of 1951 **Repeal.**

and RCW 78.28.010 through 78.28.270 are each repealed.

Passed the Senate March 6, 1955.

Passed the House March 5, 1955.

Approved by the Governor March 14, 1955.

CHAPTER 132.

[S. B. 325.]

TAXATION—REAL ESTATE TRANSACTIONS.

AN Act relating to revenue and taxation; and amending section 1, chapter 94, Laws of 1953 and RCW 28.45.010.

Be it enacted by the Legislature of the State of Washington:

Amendment.

SECTION 1. Section 1, chapter 94, Laws of 1953 and RCW 28.45.010 are each amended to read as follows:

"Sale" defined.

As used in this chapter, the term "sale" shall have its ordinary meaning and shall include any conveyance, grant, assignment, quitclaim, or transfer of the ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration, and any contract for such conveyance, grant, assignment, quitclaim, or transfer, and any lease with an option to purchase real property, including standing timber, or any estate or interest therein or other contract under which possession of the property is given to the purchaser, or any other person by his direction, which title is retained by the vendor as security for the payment of the purchase price.

Excluded transactions.

The term shall not include a transfer by gift, devise, or inheritance, a transfer of any leasehold interest other than of the type mentioned above, a cancellation or forfeiture of a vendee's interest in a contract for the sale of real property, whether or