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## West Virginia Legislature Passes Cotenancy Modernization and Majority Protection Act

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On March 5, 2018, the West Virginia Legislature completed legislative action on and passed [House Bill 4268](#), known as the Cotenancy Modernization and Majority Protection Act. The bill will now be delivered to the Governor's desk for his consideration and ultimate approval or veto. At its core, this bill will allow development of the oil and gas within a particular mineral tract owned by seven or more cotenants once the operator obtains the consent of at least three-fourths of the executive interest in that tract. As such, this bill, if signed into law by the Governor, will alter the common law of West Virginia announced in *Law v. Heck Oil Co.*, 106 W. Va. 296 (1928), which held that an owner of an undivided 1/768 interest in the oil and gas in place could block development of the resource even though the owners of the other 767/768 undivided interest had consented to development and leased their interests to the operator. The passage of this legislation is the culmination of years of negotiations between farmers, land and mineral owners, royalty owners, surface owners, the oil and gas industry and West Virginia elected officials to make West Virginia's mineral development laws more competitive with other mineral producing states.

The bill also creates a statutory defense against claims for waste and trespass, limits the liability of non-consenting cotenants, affords non-consenting cotenants an option to elect a production royalty or working interest, and provides for administrative oversight by the West Virginia Oil and Gas Conservation Commission in specified circumstances.

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