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For Immediate Release

Media Contact:

David Paulson, 410-576-6357

[dpaulson@oag.state.md.us](mailto:dpaulson@oag.state.md.us)

## **Attorney General Douglas F. Gansler Warns Landowners: Before Signing a Mineral Rights Lease, Check Your Mortgage**

***Your bank/mortgage lender may need to approve the lease.  
Latest twist in Marcellus Shale gas leases could put homes  
and farms at risk***

**BALTIMORE, MD ( Oct. 20, 2011)** - Attorney General Douglas F. Gansler is warning landowners that signing a mineral rights lease could conflict with some requirements of their federally-approved home or farm mortgage. To ensure their homes and farms remain safe from legal entanglements, landowners should always check with their bank or mortgage lender before entering into a mineral rights lease.

“Marylanders need to protect themselves from unintentionally putting their homes and farms at risk,” said Attorney General Gansler. “If a mineral rights lease is on the table, take it to your bank or mortgage lender first and have them sign off on it.”

Landowners in Western Maryland, whose properties sit above the gas-rich Marcellus Shale formation, may be particularly vulnerable. High-pressure sales tactics and a lack of knowledge may lead a landowner to neglect checking with their mortgage lender to make sure a mineral rights lease does not conflict with their mortgage. Over 90 percent of all mortgages in the United States are federally backed by government or government-sponsored entities such as the Federal Housing Administration (FHA), the Federal Agricultural Mortgage Corporation (Farmer Mac), the Federal Home Loan Mortgage Corporation (Freddie Mac), Veteran's Affairs (VA), the Rural Housing Service or Federal National Mortgage Association (Fannie Mae).

According to a [New York Times](#) article entitled “[Rush to Drill for Natural Gas Creates Conflicts With Mortgages](#)” published today, this little known and previously unexplored issue with mineral rights leases could be exploited by investors interested in shedding so-called “toxic” assets from their portfolios. In so doing, the investors may attempt to return any mortgage investment found to be in conflict with a mineral rights lease. Potentially, such mortgages could ultimately be returned to the original mortgage lender or local bank to be resolved with the landowner.

This warning to landowners is being issued as Maryland works to determine if permitting natural gas drill sites that use the extraction process known as hydrofracturing or “fracking” can be done without adverse impacts to public health, safety, the environment and natural resources. In June, Governor Martin O'Malley created the [Marcellus Shale Safe-drilling Initiative Advisory Commission](#) to study the risks and benefits of drilling for natural gas within the Marcellus Shale formation of Western Maryland over the next two years. The commission is being assisted by the Office of the Attorney General.

In the meantime, the Maryland Attorney General's Office created and distributed two landowner educational publications entitled, [Leasing Your Land for Natural Gas Drilling - Tips for the Landowner](#) and [Dormant Minerals Interest Act - Questions and Answers](#). A third publication addressing mineral-rights leases and mortgage issues is in development. That publication will address the risky and complex relationship between mineral rights leases and federally regulated mortgages, to include:

### **How a mineral rights lease could breach the terms of an existing mortgage or affect the refinance or sale of property**

Most lenders/banks must follow the guidelines established by the major federal loan guarantors (Fannie Mae, Freddie Mac, Farmer Mac, FHA, etc...). Federal regulations and/or provisions of such mortgage contracts may prohibit:

- Transferring any interest (including mineral rights) in the property without the written consent of your bank or mortgage lender;
- Storage, use, disposal, discharge or release of environmentally hazardous substances, specifically gas, on the mortgaged property;
- Locating any existing dwelling within 300 feet of an active or planned drilling site boundary;
- In some cases, leasing surface or mineral rights located within 200 feet of a residential structure.

### **Title Insurance issues**

Title insurance often contains the following restrictions that, if violated, would make it difficult to get title insurance and thus, difficult to get a mortgage or refinance:

- No structures exceeding 3 stories or 35 feet in height shall be erected on the premises;
- Premises shall not be used for storage of any material, machinery, equipment or supplies of any kind;
- Premises shall not be used for any commercial purpose of any kind.

Landowners who have questions may contact the Office of the Attorney General at 410-576-6300.