

## HOUSE BILL NO. HB0051

Industrial and energy development protection.

Sponsored by: Representative(s) Wallis

A BILL

for

1 AN ACT relating to industrial and energy development;  
2 imposing restrictions on the filing of civil actions as  
3 specified; requiring a surety bond of the party filing a  
4 court action as specified; providing for distribution of  
5 the surety bond proceeds as specified; imposing  
6 restrictions on administrative appeals as specified;  
7 providing damages as specified; providing definitions;  
8 specifying applicability; and providing for an effective  
9 date.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

12

13 **Section 1.** W.S. 30-1-134 is created to read:

14

15 **30-1-134. Administrative appeal; civil remedy.**

16

1           (a) The right to appeal any grant, denial,  
2 suspension, revocation, violation or renewal of any permit,  
3 license, certification or variance authorized, issued or  
4 required under this title to any administrative body wholly  
5 under the control of the state of Wyoming shall be  
6 restricted to aggrieved parties as defined in subsection  
7 (f) of this section.

8

9           (b) If the plaintiff in a court action contesting the  
10 grant, denial, suspension, revocation, violation or renewal  
11 of any permit, license, certification or variance  
12 authorized or required by this act is not an aggrieved  
13 party as defined in subsection (f) of this section, the  
14 court shall require a surety bond of the party filing the  
15 action. The surety bond shall be forfeited to the  
16 defendant if the court enters a final order against the  
17 plaintiff. The bonding requirements of this subsection do  
18 not apply to an indigent person. The surety bond shall be  
19 set in an amount approximating twenty percent (20%) of:

20

21           (i) The estimated cost of developing the  
22 interest subject to the permit, license, certification or  
23 variance; and

24

1           (ii) The estimated gross income that would be  
2 lost to the permittee if the action were to delay  
3 implementation of the permit for one (1) year from the date  
4 the action was filed.

5

6           (c) If a bond required under subsection (b) of this  
7 section is not filed with the clerk of the court within  
8 thirty (30) days of filing the complaint, the action shall  
9 be dismissed.

10

11           (d) The court shall determine the amount of the bond  
12 required under subsection (b) of this section based on:

13

14           (i) The affidavit of the permittee or a  
15 representative of the permittee stating the expected cost  
16 of the project authorized by the permit and the expected  
17 gross income the permittee would realize in the first full  
18 year of production if the action was not filed; and

19

20           (ii) Any other relevant material or testimony  
21 presented to the court.

22

23           (e) The court, in issuing a final order in any action  
24 brought pursuant to this section, may award costs of

1 litigation, including attorney and expert witness fees,  
2 whenever the court determines such an award is appropriate.  
3 A plaintiff's total damages recovered under this subsection  
4 shall be reduced by the amount of any recovery under  
5 subsection (b) of this section.

6

7 (f) As used in this section and throughout this title  
8 unless otherwise specified, "aggrieved party" means the  
9 permittee, the oil and gas commission, the department of  
10 environmental quality, the owner or producer or any person  
11 having a legal interest in the subject of the permit at  
12 issue or a private land owner who may be adversely affected  
13 by the permit.

14

15 **Section 2.** W.S. 30-5-101(a)(x) and by creating a new  
16 paragraph (xi), 30-5-111(h), 30-5-113 by creating new  
17 subsections (g) through (k), 35-11-103(a)(vii) and  
18 35-11-904 by creating new subsections (h) through (k) are  
19 amended to read:

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21 **30-5-101. Definitions.**

22

23 (a) As used in this act unless the context otherwise  
24 requires:

1

2 (x) The term "surety bond or other guaranty"  
3 means a surety bond, a first priority security interest in  
4 a deposit of the proceeds of a collected cashier's check, a  
5 first priority security interest in a certificate of  
6 deposit or an irrevocable letter of credit, all in an  
7 amount and including other terms, conditions and  
8 requirements determined by the commission ~~or the court;~~

9

10 (xi) "Aggrieved party" means the permittee, the  
11 commission, the owner or producer or any person having a  
12 legal interest in the oil or gas at issue or a private land  
13 owner who may be adversely affected by the permit.

14

15 **30-5-111. Rules of practice and procedure; hearings;**  
16 **emergency orders; notice; public inspection.**

17

18 (h) The commission may act upon its own motion, or  
19 upon the petition of any ~~interested person~~ aggrieved party.  
20 On the filing of a petition for a hearing concerning any  
21 matter within the jurisdiction of the commission, it shall  
22 promptly fix a date for a hearing thereon and shall cause  
23 notice of the hearing to be given. The hearing shall be  
24 held without undue delay after the filing of the petition.

1 The commission shall enter its order within thirty (30)  
2 days after the hearing. Any ~~person affected by any order of~~  
3 ~~the commission~~ aggrieved party shall have the right at any  
4 time to apply to the commission to repeal, amend, modify,  
5 or supplement ~~the same~~ its order.

6  
7 **30-5-113. Time within which suit to be brought by**  
8 **person adversely affected; appeals; procedure.**

9  
10 (g) The court, in issuing a final order in any action  
11 brought pursuant to this section, may award costs of  
12 litigation, including attorney and expert witness fees, to  
13 any party whenever the court determines that such an award  
14 is appropriate. A plaintiff's total damages recovered  
15 under this subsection shall be reduced by the amount of any  
16 recovery under subsection (h) of this section.

17  
18 (h) If the plaintiff in an action contesting the  
19 grant, denial, suspension, revocation, violation or renewal  
20 of any permit, license, certification or variance  
21 authorized or required by this act is not an aggrieved  
22 party as that term is defined in W.S. 30-5-101(a)(xi), the  
23 court shall require a surety bond of the party filing the  
24 action. The surety bond shall be forfeited to the

1 defendant if the court enters a final order against the  
2 plaintiff. The bonding requirements of this subsection do  
3 not apply to an indigent person. The surety bond shall be  
4 set in an amount approximating twenty percent (20%) of:

5  
6 (i) The estimated cost of developing the oil or  
7 gas interest; and

8  
9 (ii) The estimated gross income that would be  
10 lost to the permittee if the action were to delay  
11 implementation of the permit for one (1) year from the date  
12 the action was filed.

13  
14 (j) If a bond required under subsection (h) of this  
15 section is not filed with the clerk of the court within  
16 thirty (30) days of filing the complaint, the action shall  
17 be dismissed.

18  
19 (k) The court shall determine the amount of the bond  
20 required under subsection (h) of this section based on:

21  
22 (i) The affidavit of the permittee or a  
23 representative of the permittee stating the expected cost  
24 of the project authorized by the permit and the expected

1 gross income the permittee would realize in the first full  
2 year of production if the action was not filed; and

3  
4 (ii) Any other relevant material or testimony  
5 presented to the court.

6  
7 **35-11-103. Definitions.**

8  
9 (a) For the purpose of this act, unless the context  
10 otherwise requires:

11  
12 (vii) "Aggrieved party" means any person named  
13 or admitted as a party or properly seeking or entitled as  
14 of right to be admitted as a party to any proceeding under  
15 this act because of damages that person may sustain or be  
16 claiming because of his unique position in any proceeding  
17 held under this act. For purposes of contesting the grant,  
18 denial, suspension, revocation, violation or renewal of any  
19 permit, license, certification or variance authorized or  
20 required by this act to the council under W.S.  
21 35-11-112(a)(iv) or 35-11-701(c), an "aggrieved party"  
22 shall be limited to the permittee, the department, any  
23 person having a legal interest in the subject of the  
24 permit, license, certification, or variance at issue or a



1 private land owner who may be adversely affected by the  
2 permit, license, certification or variance;

3

4 **35-11-904. Civil or criminal remedy.**

5

6 (h) If the plaintiff in the action is a party that is  
7 not the permittee, the department, any person having a  
8 legal interest in the subject of the permit, license,  
9 certification, or variance at issue or a private land owner  
10 who may be adversely affected by the permit, the court  
11 shall require a surety bond of the party filing the action.  
12 The surety bond shall be forfeited to the defendant if the  
13 court enters a final order against the plaintiff. The  
14 bonding requirements of this subsection do not apply to an  
15 indigent person. The surety bond shall be set in an amount  
16 approximating twenty percent (20%) of:

17

18 (i) The estimated cost of developing the  
19 interest subject to the permit, license, certification or  
20 variance; and

21

22 (ii) The estimated gross income that would be  
23 lost to the permittee if the action were to delay  
24 implementation of the permit, license, certification or

1 variance for one (1) year from the date the action was  
2 filed.

3

4 (j) If a bond required under subsection (h) is not  
5 filed with the clerk of the court within thirty (30) days  
6 of filing the complaint, the action shall be dismissed.

7

8 (k) The court shall determine the amount of the bond  
9 required under subsection (h) of this section based on:

10

11 (i) The affidavit of the permittee or a  
12 representative of the permittee stating the expected cost  
13 of the project authorized by the permit, license,  
14 certification or variance and the expected gross income the  
15 permittee would realize if the action was not filed; and

16

17 (ii) Any other relevant material or testimony  
18 presented to the court.

19

20 **Section 3.** This act is applicable to all actions  
21 initially commenced on or after July 1, 2011.

22

1           **Section 4.** This act is effective July 1, 2011.

2

3

(END)