

As Introduced

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H. B. No. 582

Representatives Thompson, O'Brien, S.

A BILL

To amend sections 1509.071 and 1509.34 of the 1
Revised Code to allow a landowner to report an 2
idle and orphaned well or abandoned well, to 3
require the Chief of the Division of Oil and Gas 4
Resources Management to inspect and classify 5
such a well, and to require the Chief to begin 6
plugging a well classified as distressed-high 7
priority within a specified time period. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1509.071 and 1509.34 of the 9
Revised Code be amended to read as follows: 10

Sec. 1509.071. (A) When the chief of the division of oil 11
and gas resources management finds that an owner has failed to 12
comply with a final nonappealable order issued or compliance 13
agreement entered into under section 1509.04, the restoration 14
requirements of section 1509.072, plugging requirements of 15
section 1509.12, or permit provisions of section 1509.13 of the 16
Revised Code, or rules and orders relating thereto, the chief 17
shall make a finding of that fact and declare any surety bond 18
filed to ensure compliance with those sections and rules 19

forfeited in the amount set by rule of the chief. The chief 20
thereupon shall certify the total forfeiture to the attorney 21
general, who shall proceed to collect the amount of the 22
forfeiture. In addition, the chief may require an owner, 23
operator, producer, or other person who forfeited a surety bond 24
to post a new surety bond in the amount of fifteen thousand 25
dollars for a single well, thirty thousand dollars for two 26
wells, or fifty thousand dollars for three or more wells. 27

In lieu of total forfeiture, the surety or owner, at the 28
surety's or owner's option, may cause the well to be properly 29
plugged and abandoned and the area properly restored or pay to 30
the treasurer of state the cost of plugging and abandonment. 31

(B) All moneys collected because of forfeitures of bonds 32
as provided in this section shall be deposited in the state 33
treasury to the credit of the oil and gas well fund created in 34
section 1509.02 of the Revised Code. 35

The chief annually shall spend not less than fourteen per 36
cent of the revenue credited to the fund during the previous 37
fiscal year for the following purposes: 38

(1) In accordance with division ~~(D)~~ (F) of this section, 39
to plug idle and orphaned wells or to restore the land surface 40
properly as required in section 1509.072 of the Revised Code; 41

(2) In accordance with division ~~(E)~~ (G) of this section, 42
to correct conditions that the chief reasonably has determined 43
are causing imminent health or safety risks at an idle and 44
orphaned well or a well for which the owner cannot be contacted 45
in order to initiate a corrective action within a reasonable 46
period of time as determined by the chief. 47

Expenditures from the fund shall be made only for lawful 48

purposes. In addition, expenditures from the fund shall not be 49
made to purchase real property or to remove a dwelling in order 50
to access a well. 51

(C) The chief shall issue an order that requires the owner 52
of a well to pay the actual documented costs of a corrective 53
action that is described in division (B)(2) of this section 54
concerning the well. The chief shall transmit the money so 55
recovered to the treasurer of state who shall deposit the money 56
in the state treasury to the credit of the oil and gas well 57
fund. 58

(D) (1) If a landowner discovers an idle and orphaned well 59
or abandoned well on the landowner's real property and the 60
landowner is not the owner of the well, the landowner may report 61
the existence of the well to the chief. 62

(2) If the chief receives a report from a landowner of the 63
existence of an idle and orphaned well or an abandoned well, the 64
chief shall inspect the well not later than thirty days after 65
the date of the landowner's report. 66

(3) Not later than sixty days after the date of the 67
chief's inspection, the chief shall provide the landowner with a 68
written report categorizing the well as either distressed-high 69
priority, moderate-medium priority, or maintenance-low priority 70
in accordance with rules adopted under this section. 71

(4) If the chief categorizes the well as distressed-high 72
priority, the chief shall begin plugging the well in accordance 73
with the requirements of this section not later than six months 74
after the date the chief issued the report to the landowner 75
regarding the well. 76

(5) A landowner that reports the existence of a well in 77

accordance with division (D) of this section is not financially 78
responsible for plugging that well, but the landowner may elect 79
to proceed in accordance with division (F) (2) (a) of this 80
section. 81

(E)(1) Upon determining that the owner of a well has 82
failed to properly plug and abandon it or to properly restore 83
the land surface at the well site in compliance with the 84
applicable requirements of this chapter and applicable rules 85
adopted and orders issued under it or that a well is an 86
abandoned well for which no funds are available to plug the well 87
in accordance with this chapter, the chief shall do all of the 88
following: 89

(a) Determine from the records in the office of the county 90
recorder of the county in which the well is located the identity 91
of the owner of the land on which the well is located, the 92
identity of the owner of the oil or gas lease under which the 93
well was drilled or the identity of each person owning an 94
interest in the lease, and the identities of the persons having 95
legal title to, or a lien upon, any of the equipment appurtenant 96
to the well; 97

(b) Mail notice to the owner of the land on which the well 98
is located informing the landowner that the well is to be 99
plugged. If the owner of the oil or gas lease under which the 100
well was drilled is different from the owner of the well or if 101
any persons other than the owner of the well own interests in 102
the lease, the chief also shall mail notice that the well is to 103
be plugged to the owner of the lease or to each person owning an 104
interest in the lease, as appropriate. 105

(c) Mail notice to each person having legal title to, or a 106
lien upon, any equipment appurtenant to the well, informing the 107

person that the well is to be plugged and offering the person 108
the opportunity to plug the well and restore the land surface at 109
the well site at the person's own expense in order to avoid 110
forfeiture of the equipment to this state. 111

(2) If none of the persons described in division (C) (1) (c) 112
of this section plugs the well within sixty days after the 113
mailing of the notice required by that division, all equipment 114
appurtenant to the well is hereby declared to be forfeited to 115
this state without compensation and without the necessity for 116
any action by the state for use to defray the cost of plugging 117
and abandoning the well and restoring the land surface at the 118
well site. 119

~~(D) Expenditures~~ (F) The chief may expend money from the 120
oil and gas well fund for the purpose of division (B) (1) of this 121
section, and such expenditures shall be made in accordance with 122
either of the following: 123

(1) The chief may make expenditures ~~may be made~~ pursuant 124
to contracts entered into by the chief with persons who agree to 125
furnish all of the materials, equipment, work, and labor as 126
specified and provided in such a contract for activities 127
associated with the restoration or plugging of a well as 128
determined by the chief. The activities may include excavation 129
to uncover a well, geophysical methods to locate a buried well 130
when clear evidence of leakage from the well exists, cleanout of 131
wellbores to remove material from a failed plugging of a well, 132
plugging operations, installation of vault and vent systems, 133
including associated engineering certifications and permits, 134
restoration of property, and repair of damage to property that 135
is caused by such activities. ~~Expenditures~~ The chief shall not 136
~~be used~~ make expenditures for salaries, maintenance, equipment, 137

or other administrative purposes, except for costs directly 138
attributed to the plugging of an idle and orphaned well. Agents 139
or employees of persons contracting with the chief for a 140
restoration or plugging project may enter upon any land, public 141
or private, on which the well is located for the purpose of 142
performing the work. Prior to such entry, the chief shall give 143
to the following persons written notice of the existence of a 144
contract for a project to restore or plug a well, the names of 145
the persons with whom the contract is made, and the date that 146
the project will commence: the owner of the well, the owner of 147
the land upon which the well is located, the owner or agents of 148
adjoining land, and, if the well is located in the same township 149
as or in a township adjacent to the excavations and workings of 150
a mine and the owner or lessee of that mine has provided written 151
notice identifying those townships to the chief at any time 152
during the immediately preceding three years, the owner or 153
lessee of the mine. 154

(2) (a) The owner of the land on which a well is located 155
who has received notice under division ~~(C)~~(E) (1) (b) of this 156
section may plug the well and be reimbursed by the division of 157
oil and gas resources management for the reasonable cost of 158
plugging the well. In order to plug the well, the landowner 159
shall submit an application to the chief on a form prescribed by 160
the chief and approved by the technical advisory council on oil 161
and gas created in section 1509.38 of the Revised Code. The 162
application, at a minimum, shall require the landowner to 163
provide the same information as is required to be included in 164
the application for a permit to plug and abandon under section 165
1509.13 of the Revised Code. The application shall be 166
accompanied by a copy of a proposed contract to plug the well 167
prepared by a contractor regularly engaged in the business of 168

plugging oil and gas wells. The proposed contract shall require 169
the contractor to furnish all of the materials, equipment, work, 170
and labor necessary to plug the well properly and shall specify 171
the price for doing the work, including a credit for the 172
equipment appurtenant to the well that was forfeited to the 173
state through the operation of division ~~(C)~~(E) (2) of this 174
section. Expenditures under division ~~(D)~~(F) (2) (a) of this 175
section shall be consistent with the expenditures for activities 176
described in division ~~(D)~~(F) (1) of this section. The application 177
also shall be accompanied by the permit fee required by section 178
1509.13 of the Revised Code unless the chief, in the chief's 179
discretion, waives payment of the permit fee. The application 180
constitutes an application for a permit to plug and abandon the 181
well for the purposes of section 1509.13 of the Revised Code. 182

(b) Within thirty days after receiving an application and 183
accompanying proposed contract under division ~~(D)~~(F) (2) (a) of 184
this section, the chief shall determine whether the plugging 185
would comply with the applicable requirements of this chapter 186
and applicable rules adopted and orders issued under it and 187
whether the cost of the plugging under the proposed contract is 188
reasonable. If the chief determines that the proposed plugging 189
would comply with those requirements and that the proposed cost 190
of the plugging is reasonable, the chief shall notify the 191
landowner of that determination and issue to the landowner a 192
permit to plug and abandon the well under section 1509.13 of the 193
Revised Code. Upon approval of the application and proposed 194
contract, the chief shall transfer ownership of the equipment 195
appurtenant to the well to the landowner. The chief may 196
disapprove an application submitted under division ~~(D)~~(F) (2) (a) 197
of this section if the chief determines that the proposed 198
plugging would not comply with the applicable requirements of 199

this chapter and applicable rules adopted and orders issued 200
under it, that the cost of the plugging under the proposed 201
contract is unreasonable, or that the proposed contract is not a 202
bona fide, arm's length contract. 203

(c) After receiving the chief's notice of the approval of 204
the application and permit to plug and abandon a well under 205
division ~~(D)~~(F)(2) (b) of this section, the landowner shall enter 206
into the proposed contract to plug the well. 207

(d) Upon determining that the plugging has been completed 208
in compliance with the applicable requirements of this chapter 209
and applicable rules adopted and orders issued under it, the 210
chief shall reimburse the landowner for the cost of the plugging 211
as set forth in the proposed contract approved by the chief. The 212
reimbursement shall be paid from the oil and gas well fund. If 213
the chief determines that the plugging was not completed in 214
accordance with the applicable requirements, the chief shall not 215
reimburse the landowner for the cost of the plugging, and the 216
landowner or the contractor, as applicable, promptly shall 217
transfer back to this state title to and possession of the 218
equipment appurtenant to the well that previously was 219
transferred to the landowner under division ~~(D)~~(F)(2) (b) of this 220
section. If any such equipment was removed from the well during 221
the plugging and sold, the landowner shall pay to the chief the 222
proceeds from the sale of the equipment, and the chief promptly 223
shall pay the moneys so received to the treasurer of state for 224
deposit into the oil and gas well fund. 225

The chief may establish an annual limit on the number of 226
wells that may be plugged under division ~~(D)~~(F)(2) of this 227
section or an annual limit on the expenditures to be made under 228
that division. 229

As used in division ~~(D)~~(F)(2) of this section, "plug" and "plugging" include the plugging of the well and the restoration of the land surface disturbed by the plugging.

~~(E)~~(G) Expenditures from the oil and gas well fund for the purpose of division (B)(2) of this section may be made pursuant to contracts entered into by the chief with persons who agree to furnish all of the materials, equipment, work, and labor as specified and provided in such a contract. The competitive bidding requirements of Chapter 153. of the Revised Code do not apply if the chief reasonably determines that an emergency situation exists requiring immediate action for the correction of the applicable health or safety risk. A contract or purchase of materials for purposes of addressing the emergency situation is not subject to division (B) of section 127.16 of the Revised Code. The chief, designated representatives of the chief, and agents or employees of persons contracting with the chief under this division may enter upon any land, public or private, for the purpose of performing the work.

~~(F)~~(H) Contracts entered into by the chief under this section are not subject to any of the following:

(1) Chapter 4115. of the Revised Code;

(2) Section 153.54 of the Revised Code, except that the contractor shall obtain and provide to the chief as a bid guaranty a surety bond or letter of credit in an amount equal to ten per cent of the amount of the contract;

(3) Section 4733.17 of the Revised Code.

~~(G)~~(I) The owner of land on which a well is located who has received notice under division ~~(C)~~(E)(1)(b) of this section,

in lieu of plugging the well in accordance with division ~~(D)~~(F) 259
(2) of this section, may cause ownership of the well to be 260
transferred to an owner who is lawfully doing business in this 261
state and who has met the financial responsibility requirements 262
established under section 1509.07 of the Revised Code, subject 263
to the approval of the chief. The transfer of ownership also 264
shall be subject to the landowner's filing the appropriate forms 265
required under section 1509.31 of the Revised Code and providing 266
to the chief sufficient information to demonstrate the 267
landowner's or owner's right to produce a formation or 268
formations. That information may include a deed, a lease, or 269
other documentation of ownership or property rights. 270

The chief shall approve or disapprove the transfer of 271
ownership of the well. If the chief approves the transfer, the 272
owner is responsible for operating the well in accordance with 273
this chapter and rules adopted under it, including, without 274
limitation, all of the following: 275

(1) Filing an application with the chief under section 276
1509.06 of the Revised Code if the owner intends to drill deeper 277
or produce a formation that is not listed in the records of the 278
division for that well; 279

(2) Taking title to and possession of the equipment 280
appurtenant to the well that has been identified by the chief as 281
having been abandoned by the former owner; 282

(3) Complying with all applicable requirements that are 283
necessary to drill deeper, plug the well, or plug back the well. 284

~~(H) The chief shall issue an order that requires the owner~~ 285
~~of a well to pay the actual documented costs of a corrective~~ 286
~~action that is described in division (B)(2) of this section~~ 287

~~concerning the well. The chief shall transmit the money so- 288
recovered to the treasurer of state who shall deposit the money- 289
in the state treasury to the credit of the oil and gas well- 290
fund. 291~~

~~(I)-(J) For purposes of division (D) of this section, the 292
chief shall adopt rules in accordance with Chapter 119. of the 293
Revised Code establishing the following three categories of idle 294
and orphaned wells or abandoned wells: distressed-high priority, 295
moderate-medium priority, and maintenance-low priority. 296~~

(K) The chief may engage in cooperative projects under 297
this section with any agency of this state, another state, or 298
the United States; any other governmental agencies; or any state 299
university or college as defined in section 3345.27 of the 300
Revised Code. A contract entered into for purposes of a 301
cooperative project is not subject to division (B) of section 302
127.16 of the Revised Code. 303

Sec. 1509.34. (A) (1) If an owner fails to pay the fees 304
imposed by this chapter, or if the chief of the division of oil 305
and gas resources management incurs costs under division ~~(E)-(G)~~ 306
of section 1509.071 of the Revised Code to correct conditions 307
associated with the owner's well that the chief reasonably has 308
determined are causing imminent health or safety risks, the 309
division of oil and gas resources management shall have a 310
priority lien against that owner's interest in the applicable 311
well in front of all other creditors for the amount of any such 312
unpaid fees and costs incurred. The chief shall file a statement 313
in the office of the county recorder of the county in which the 314
applicable well is located of the amount of the unpaid fees and 315
costs incurred as described in this division. The statement 316
shall constitute a lien on the owner's interest in the well as 317

of the date of the filing. The lien shall remain in force so 318
long as any portion of the lien remains unpaid or until the 319
chief issues a certificate of release of the lien. If the chief 320
issues a certificate of release of the lien, the chief shall 321
file the certificate of release in the office of the applicable 322
county recorder. 323

(2) A lien imposed under division (A) (1) of this section 324
shall be in addition to any lien imposed by the attorney general 325
for failure to pay the assessment imposed by section 1509.50 of 326
the Revised Code or the tax levied under division (A) (5) or (6) 327
of section 5749.02 of the Revised Code, as applicable. 328

(3) If the attorney general cannot collect from a severer 329
or an owner for an outstanding balance of amounts due under 330
section 1509.50 of the Revised Code or of unpaid taxes levied 331
under division (A) (5) or (6) of section 5749.02 of the Revised 332
Code, as applicable, the tax commissioner may request the chief 333
to impose a priority lien against the owner's interest in the 334
applicable well. Such a lien has priority in front of all other 335
creditors. 336

(B) The chief promptly shall issue a certificate of 337
release of a lien under either of the following circumstances: 338

(1) Upon the repayment in full of the amount of unpaid 339
fees imposed by this chapter or costs incurred by the chief 340
under division ~~(E)~~(G) of section 1509.071 of the Revised Code 341
to correct conditions associated with the owner's well that the 342
chief reasonably has determined are causing imminent health or 343
safety risks; 344

(2) Any other circumstance that the chief determines to be 345
in the best interests of the state. 346

(C) The chief may modify the amount of a lien under this 347
section. If the chief modifies a lien, the chief shall file a 348
statement in the office of the county recorder of the applicable 349
county of the new amount of the lien. 350

(D) An owner regarding which the division has recorded a 351
lien against the owner's interest in a well in accordance with 352
this section shall not transfer a well, lease, or mineral rights 353
to another owner or person until the chief issues a certificate 354
of release for each lien against the owner's interest in the 355
well. 356

(E) All money from the collection of liens under this 357
section shall be deposited in the state treasury to the credit 358
of the oil and gas well fund created in section 1509.02 of the 359
Revised Code. 360

Section 2. That existing sections 1509.071 and 1509.34 of 361
the Revised Code are hereby repealed. 362