1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 COMMITTEE SUBSTITUTE
   FOR
4 HOUSE BILL NO. 1379   By: Taylor

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7   COMMITTEE SUBSTITUTE

8   An Act relating to oil and gas; amending Section 2,
         Chapter 201, O.S.L. 2012 (52 O.S. Supp. 2018, Section
9   902), which relates to construction of oil and gas
         contracts, statutes, and governmental orders;
10   requiring operators act as reasonably prudent
         operators; requiring operators take certain
11   preventative and corrective actions; requiring good-
         faith negotiations; allowing for the filing of
12   injunction; allowing court discretion in ordering
         certain funds be held in escrow; and providing an
13   effective date.

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16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17   SECTION 1.   AMENDATORY   Section 2, Chapter 201, O.S.L.

18 2012 (52 O.S. Supp. 2018, Section 902), is amended to read as

19 follows:

20   Section 902. The sanctity of private agreements, and the

21 consistent and predictable application and interpretation of

22 statutes, governmental orders and common law, being essential to the

23 oil and gas industry, the following are declared to be paramount

24 rules of construction to be applied by the courts of this state in

1 the construction of private agreements, statutes and governmental

2 orders relating to the exploration for, operations for, producing

3 of, or marketing oil or gas, or disbursing proceeds of production of

4 oil or gas:

5   1. A person is bound as a reasonably prudent operator to

6 operate the well on behalf of all owners in the well and perform any

7 duties owed to any person under a private agreement, statute,

8 governmental order or common law relating to the exploration for,

9 operations for, producing of, or marketing oil or gas, or disbursing

10 proceeds of production of oil or gas, and performance of the duties

11 described herein is that performance which an operator acting

12 reasonably would have undertaken given the circumstances at the

13 time, without being required to subordinate its own business

14 interests, but with due regard to the interests of all affected

15 parties, including the operator; ~~and~~

16   2. <u>A person is bound as a reasonably prudent operator to</u>

17 <u>operate his or her wells relating to the exploration, operations or</u>

18 <u>producing of oil or gas to prevent and not precipitate, induce or</u>

19 <u>cause pollution at the surface or at adjacent, nearby or surrounding</u>

20 <u>oil and gas wells. In the event pollution occurs such person shall</u>

21 <u>take immediate actions to halt the activity inducing or causing the</u>

22 <u>pollution and remediate the pollution. The performance of the</u>

23 <u>duties described herein is that performance of which a prudent</u>

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1 operator acting reasonably would have undertaken given the

2 circumstances at the time;

3   3. A person is bound as a reasonably prudent operator to

4 operate his or her wells relating to the exploration, operations or

5 producing of oil or gas to prevent and not precipitate, induce or

6 cause adverse impact to the production of oil and gas and

7 recoverable reserves from adjacent, nearby or surrounding leases,

8 drilling and spacing units, and associated oil and gas wells,

9 including, but not limited to, adverse impacts on the production of

10 oil and gas, recoverable reserves, and leasehold equipment. In the

11 event that such adverse impact occurs such person shall take

12 immediate actions to minimize adverse impact and to timely negotiate

13 in good faith to resolve any claims arising from such adverse

14 impact. The performance of the duties described herein is that

15 performance of which a prudent operator acting reasonably would have

16 undertaken given the circumstances at the time; and

17   4. In the event an operator causes damages to adjacent

18 property or existing wells and does not take swift actions to

19 minimize adverse impacts or to timely negotiate in good faith to

20 resolve any claims arising from such adverse impacts, the damaged

21 party may file an emergency injunction with the district court to

22 prevent the operator from causing further damage by continuing

23 operations. In addition, in conjunction with the injunction, the

24 court may order the enjoined operator to place in escrow an amount

1 of money estimated to be equal to the readily apparent damages

2 imposed on the property or well. This dollar figure shall be

3 determined at the discretion of the court and shall be based on the

4 amount of reserves likely lost and on precedence established in

5 similar cases with similar damages. The money shall be held in

6 escrow until a trial is completed or a settlement between the

7 parties can be reached.

8   5. There shall not be implied in the duties in paragraph 1, 2

9 or 3 of this section or otherwise any fiduciary duty, quasi-

10 fiduciary duty or other similar special relationship in any private

11 agreement, statute or governmental order or common law relating to

12 the exploration for, operations for, producing of, or marketing oil

13 or gas, or disbursing proceeds of production of oil or gas.

14 Nothing in this section shall either prohibit the parties to a

15 private agreement from expressly agreeing in writing otherwise or

16 prohibit the Legislature from expressly providing otherwise in any

17 statute subsequently enacted or prohibit any governmental order from

18 expressly providing otherwise to the extent within the power or

19 authority of the issuer of such order. However, the provisions of

20 this paragraph ~~2 of this section~~ shall not apply to Sections 287.1

21 through 287.15 of ~~Title 52 of the Oklahoma Statutes~~ this title and

22 nothing in this act shall be interpreted to relieve an operator or

23 owner from any obligation or duty set forth expressly in the

24 Production Revenue Standards Act or the Natural Gas Market Sharing

1 Act; provided the performance of such obligations or duties shall be

2 subject to the same reasonably prudent operator standard set forth

3 in paragraph 1 of this section.

4   SECTION 2.   This act shall become effective November 1, 2019.

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6   57-1-8283   JBH   02/27/19

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