

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 476

By: Taylor

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5
6 AS INTRODUCED

7 An Act relating to oil and gas; amending 52 O.S.
8 2011, Section 318.1, which relates to regulation of
9 wells; providing authority to Commission to rescind
10 certain transfers of oil and gas wells; specifying
11 liability for certain costs related to oil and gas
12 wells; updating statutory language; and providing an
13 effective date.

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

15 SECTION 1. AMENDATORY 52 O.S. 2011, Section 318.1, is
16 amended to read as follows:

17 Section 318.1. A. Any person who drills or operates any well
18 for the exploration, development or production of oil or gas, or as
19 an injection or disposal well, within this state, shall furnish in
20 writing, on forms approved by the Corporation Commission, his or her
21 agreement to drill, operate and plug wells in compliance with the
22 rules of the Commission and the laws of this state, together with
23 evidence of financial ability to comply with the requirements for
24 plugging, closure of surface impoundments, removal of trash and
equipment as established by the rules of the Commission and by law.

1 To establish evidence of financial ability, the Commission shall
2 require:

3 1. Category A surety which shall include a financial statement
4 listing assets and liabilities and including a general release that
5 the information may be verified with banks and other financial
6 institutions. The statement shall prove a net worth of not less
7 than Fifty Thousand Dollars (\$50,000.00); or

8 2. Category B surety which shall include an irrevocable
9 commercial letter of credit, cash, a cashier's check, a Certificate
10 of Deposit, Bank Joint Custody Receipt, other negotiable instrument
11 or, a blanket surety bond. Except as provided in paragraph 3 of
12 subsection A of this section, the amount of such letter of credit,
13 cash, cashier's check, certificate, bond, receipt or other
14 negotiable instrument shall be in the amount of Twenty-five Thousand
15 Dollars (\$25,000.00) but may be set higher at the discretion of the
16 Director of the Oil and Gas Conservation Division. The Commission
17 is authorized to determine the amount of Category B surety based
18 upon the past performance of the operator and its insiders and
19 affiliates regarding compliance with the laws of this state, and any
20 rules promulgated thereto including, but not limited to, the
21 drilling, operation and plugging of wells, closure of surface
22 impoundments or removal of trash and equipment. Any instrument
23 shall constitute an unconditional promise to pay and be in a form
24 negotiable by the Commission.

1 3. The Commission upon certification by any operator subject to
2 Category B surety that its plugging liability statewide is less than
3 the twenty-five-thousand-dollar standard specified in this section
4 may allow ~~said~~ the operator to provide Category B type surety in an
5 amount less than the required Twenty-five Thousand Dollars
6 (\$25,000.00), but at least sufficient to cover the estimated cost of
7 all plugging, closure, and removal operations currently the
8 responsibility of that operator. The liability certification
9 referred to in this paragraph shall take the form of an affidavit
10 from a licensed well plugger estimating the costs of all plugging,
11 closure, and removal operations of the operator requesting such
12 relief. This alternative amount shall be modified upward upon the
13 assumption of additional operations by such operator, the maximum
14 amount of Category B surety to be posted not to exceed the twenty-
15 five-thousand-dollar total unless as provided previously.

16 B. Operators of record as of June 7, 1989, who do not have any
17 outstanding contempt citations or fines and whose insiders or
18 affiliates have no outstanding contempt citations or fines may post
19 Category A surety.

20 New operators, operators who have outstanding fines or contempt
21 citations and operators whose insiders or affiliates have
22 outstanding contempt citations or fines as of June 7, 1989, shall be
23 required to post Category B surety. Operators who have posted
24 Category B surety and have operated under this type surety and have

1 no outstanding fines at the end of three (3) years may post Category
2 A surety.

3 Operators using Category A surety who are assessed a fine of Two
4 Thousand Dollars (\$2,000.00) or more and who do not pay the fine
5 within the specified time shall be required to post a Category B
6 surety within thirty (30) days of notification by the Commission.

7 C. For good cause shown concerning pollution or improper
8 plugging of wells by the operator posting either Category A or B
9 surety or by an insider or affiliate of such operator, the
10 Commission, upon application of the Director of the Oil and Gas
11 Conservation Division, after notice and hearing, may require the
12 filing of additional Category B surety in an amount greater than
13 Twenty-five Thousand Dollars (\$25,000.00) but not to exceed One
14 Hundred Thousand Dollars (\$100,000.00).

15 D. If the Commission determines that a blanket surety bond is
16 required, the bond shall be conditioned on the fact that the
17 operator shall cause the wells to be plugged and abandoned surface
18 impoundments to be closed, and trash and equipment to be removed in
19 accordance with the laws of this state and the rules of the
20 Commission. Each bond shall be executed by a corporate surety
21 authorized to do business in this state and shall be renewed and
22 continued in effect until the conditions have been met or release of
23 the bond is authorized by the Commission.

1 E. The agreement provided for in subsection A of this section
2 shall provide that if the Commission determines that the person
3 furnishing the agreement has neglected, failed, or refused to plug
4 and abandon, or cause to be plugged and abandoned, or replug any
5 well or has neglected, failed or refused to close any surface
6 impoundment or removed or cause to be removed trash and equipment in
7 compliance with the rules of the Commission, then the person shall
8 forfeit from his or her bond, letter of credit or negotiable
9 instrument or shall pay to this state, through the Commission, for
10 deposit in the State Treasury, a sum equal to the cost of plugging
11 the well, closure of any surface impoundment or removal of trash and
12 equipment. The Commission may cause the remedial work to be done,
13 issuing a warrant in payment of the cost thereof drawn against the
14 monies accruing in the State Treasury from the forfeiture or
15 payment. Any monies accruing in the State Treasury by reason of a
16 determination that there has been a noncompliance with the
17 provisions of the agreement or the rules of the Commission, in
18 excess of the cost of remedial action ordered by the Commission,
19 shall be credited to the Oil and Gas Revolving Fund. The Commission
20 shall also recover any costs arising from litigation to enforce this
21 provision. Provided, before a person is required to forfeit or pay
22 any monies to the state pursuant to this section, the Commission
23 shall notify the person at his or her last-known address of the
24 determination of neglect, failure or refusal to plug or replug any

1 well, or close any surface impoundment or remove trash and equipment
2 and said person shall have ten (10) days from the date of
3 notification within which to commence remedial operations. Failure
4 to commence remedial operations shall result in forfeiture or
5 payment as provided in this subsection.

6 F. It shall be unlawful for any person to drill or operate any
7 oil or gas well subject to the provisions of this section, without
8 the evidence of financial ability required by this section. The
9 Commission shall shut in, without notice, hearing or order of the
10 Commission, the wells of any such person violating the provisions of
11 this subsection and such wells shall remain shut in for
12 noncompliance until the required evidence of Category B surety is
13 obtained and verified by the Commission.

14 G. If title to property or a well is transferred, the
15 transferee shall furnish the evidence of financial ability to plug
16 the well and close surface impoundments required by the provisions
17 of this section, prior to the transfer.

18 H. If it can be demonstrated that the transfer of a well or
19 wells has been done for improper or fraudulent purpose, the
20 Commission shall have the authority to rescind the transfer and the
21 transferor shall remain liable for plugging costs and any additional
22 liabilities applicable under this section.

23 I. As used in this section:
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1 1. "Affiliate" means an entity that owns twenty percent (20%)
2 or more of the operator, or an entity of which twenty percent (20%)
3 or more is owned by the operator; and

4 2. "Insider" means officer, director, or person in control of
5 the operator; general partners of or in the operator; general or
6 limited partnership in which the operator is a general partner;
7 spouse of an officer, director, or person in control of the
8 operator; spouse of a general partner of or in the operator;
9 corporation of which the operator is a director, officer, or person
10 in control; affiliate, or insider of an affiliate as if such
11 affiliate were the operator; or managing agent of the operator.

12 SECTION 2. This act shall become effective November 1, 2021.

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