

By: West

H.B. No. 380

A BILL TO BE ENTITLED

AN ACT

relating to oil and gas well plugging insurance policies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 91.104, Natural Resources Code, is amended to read as follows:

Sec. 91.104. BONDS, LETTERS OF CREDIT, ~~AND~~ CASH DEPOSITS, AND WELL-SPECIFIC PLUGGING INSURANCE POLICIES. (a) The commission shall require a bond, letter of credit, or cash deposit to be filed with the commission as provided by Subsection (b) ~~[of this section]~~.

(b) A person required to file a bond, letter of credit, or cash deposit under Section 91.103 who is an inactive operator or who operates one or more wells must, at the time of filing or renewing an organization report required by Section 91.142, file:

(1) an individual bond as provided under Section 91.1041;

(2) a blanket bond as provided under Section 91.1042;
or

(3) a letter of credit or cash deposit in the same amount as required for an individual bond under Section 91.1041 or a blanket bond under Section 91.1042.

(c) A person required to file a bond, letter of credit, or cash deposit under Section 91.103 who operates one or more wells is considered to have met that requirement for a well if the well bore

1 is included in a well-specific plugging insurance policy that:

2 (1) is approved by the Texas Department of Insurance;

3 (2) names this state as the owner and contingent
4 beneficiary of the policy;

5 (3) names a primary beneficiary who agrees to plug the
6 specified well bore;

7 (4) is fully prepaid and cannot be canceled or
8 surrendered;

9 (5) provides that the policy continues in effect until
10 the specified well bore has been plugged;

11 (6) provides that benefits will be paid when, but not
12 before, the specified well bore has been plugged in accordance with
13 commission rules in effect at the time of plugging; and

14 (7) provides benefits that equal the greatest of:

15 (A) an amount equal to \$2 for each foot of well
16 depth, as determined in the manner specified by the commission, for
17 the specified well;

18 (B) the amount determined under Section
19 91.1041(b) for a bay well, if the specified well is a bay well;

20 (C) the amount determined under Section
21 91.1041(b) for an offshore well, if the specified well is an
22 offshore well; or

23 (D) the payment otherwise due under the policy
24 for plugging the well bore.

25 SECTION 2. Section 91.1042, Natural Resources Code, is
26 amended by adding Subsections (c) and (d) to read as follows:

27 (c) When calculating the number of an operator's wells for

1 purposes of Subsection (a), the commission shall exclude a well if
2 the well bore is included in a well-specific plugging insurance
3 policy described by Section 91.104(c).

4 (d) A rule adopted under Subsection (b) must provide for a
5 reasonable reduction in the amount of the bond that would otherwise
6 be required if the well bore of one or more of an operator's bay or
7 offshore wells is included in a well-specific plugging insurance
8 policy described by Section 91.104(c).

9 SECTION 3. Sections 91.107, 91.108, and 91.1091, Natural
10 Resources Code, are amended to read as follows:

11 Sec. 91.107. NEW BOND, LETTER OF CREDIT, OR CASH DEPOSIT.
12 If an active or inactive well is transferred, sold, or assigned by
13 its operator, the commission shall require the party acquiring the
14 well to file a new bond, letter of credit, or cash deposit as
15 provided by Section 91.104(b), and the financial security of the
16 prior operator shall continue to be required and to remain in
17 effect, and the commission may not approve the transfer of
18 operatorship, until the new bond, letter of credit, or cash deposit
19 is provided or the commission determines that the bond, letter of
20 credit, or cash deposit previously submitted to the commission by
21 the person acquiring the well complies with this subchapter. A
22 transfer of a well from one entity to another entity under common
23 ownership is a transfer for purposes of this section. This section
24 does not apply to a well bore that is included in a well-specific
25 plugging insurance policy described by Section 91.104(c).

26 Sec. 91.108. DEPOSIT AND USE OF FUNDS. Subject to the
27 refund provisions of Section 91.1091, if applicable, proceeds from

1 bonds and other financial security required pursuant to this
2 chapter and benefits under well-specific plugging insurance
3 policies described by Section 91.104(c) that are paid to the state
4 as contingent beneficiary of the policies shall be deposited in the
5 oil-field cleanup fund and, notwithstanding Sections 91.112 and
6 91.113, may be used only for actual well plugging and surface
7 remediation.

8 Sec. 91.1091. REFUND. The commission shall refund the
9 proceeds from a bond, letter of credit, or cash deposit [~~or other~~
10 ~~form of security~~] required under this subchapter if:

11 (1) the conditions that caused the proceeds to be
12 collected are corrected;

13 (2) all administrative, civil, and criminal penalties
14 relating to those conditions are paid; and

15 (3) the commission has been reimbursed for all costs
16 and expenses incurred by the commission in relation to those
17 conditions.

18 SECTION 4. Section 91.111(c), Natural Resources Code, is
19 amended to read as follows:

20 (c) The fund consists of:

21 (1) penalties imposed under Section 85.381 for
22 violation of a law, order, or rule relating to well plugging
23 requirements;

24 (2) proceeds from bonds and other financial security
25 [~~assurances~~] required by this chapter and benefits under
26 well-specific plugging insurance policies described by Section
27 91.104(c) that are paid to the state as contingent beneficiary of

1 the policies, subject to the refund provisions of Section 91.1091,
2 if applicable;

3 (3) private contributions, including contributions
4 made under Section 89.084;

5 (4) expenses collected under Section 89.083;

6 (5) fees imposed under Section 85.2021;

7 (6) civil penalties collected for violations of
8 Chapter 89 or of rules or orders relating to plugging that are
9 adopted under this code;

10 (7) proceeds collected under Sections 89.085 and
11 91.115;

12 (8) interest earned on the funds deposited in the
13 fund;

14 (9) [~~fees collected under Section 91.104~~;

15 [~~(10)~~] civil penalties or costs recovered under
16 Section 91.457 or 91.459;

17 (10) [~~(11)~~] oil and gas waste hauler permit
18 application fees collected under Section 29.015, Water Code;

19 (11) [~~(12)~~] costs recovered under Section 91.113(f);

20 (12) [~~(13)~~] hazardous oil and gas waste generation
21 fees collected under Section 91.605;

22 (13) [~~(14)~~] oil-field cleanup regulatory fees on oil
23 collected under Section 81.116;

24 (14) [~~(15)~~] oil-field cleanup regulatory fees on gas
25 collected under Section 81.117;

26 (15) [~~(16)~~] fees for a reissued certificate collected
27 under Section 85.167;

- 1 (16) [~~(17)~~] fees collected under Section 91.1013;
2 (17) [~~(18)~~] fees collected under Section 89.088;
3 (18) [~~(19)~~] penalties collected under Section
4 81.0531;
5 (19) [~~(20)~~] fees collected under Section 91.142;
6 (20) [~~(21)~~] fees collected under Section 91.654;
7 (21) [~~(22)~~] costs recovered under Sections 91.656 and
8 91.657;
9 (22) [~~(23)~~] two-thirds of the fees collected under
10 Section 81.0521; and
11 (23) [~~(24)~~] legislative appropriations.

12 SECTION 5. The changes in law made by this Act apply only to
13 a person required to file a bond, letter of credit, or cash deposit
14 under Section 91.103, Natural Resources Code, on or after the
15 effective date of this Act. A person required to file a bond,
16 letter of credit, or cash deposit under Section 91.103, Natural
17 Resources Code, before the effective date of this Act is governed by
18 the law as it existed immediately before the effective date of this
19 Act, and that law is continued in effect for that purpose.

20 SECTION 6. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2005.