

1-1 By: West (Senate Sponsor - Armbrister) H.B. No. 380
1-2 (In the Senate - Received from the House March 7, 2005;
1-3 March 30, 2005, read first time and referred to Committee on
1-4 Natural Resources; May 3, 2005, reported favorably by the
1-5 following vote: Yeas 9, Nays 0; May 3, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to oil and gas well plugging insurance policies.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 91.104, Natural Resources Code, is
1-11 amended to read as follows:

1-12 Sec. 91.104. BONDS, LETTERS OF CREDIT, ~~[AND]~~ CASH DEPOSITS,
1-13 AND WELL-SPECIFIC PLUGGING INSURANCE POLICIES. (a) The commission
1-14 shall require a bond, letter of credit, or cash deposit to be filed
1-15 with the commission as provided by Subsection (b) ~~[of this~~
1-16 ~~section]~~.

1-17 (b) A person required to file a bond, letter of credit, or
1-18 cash deposit under Section 91.103 who is an inactive operator or who
1-19 operates one or more wells must, at the time of filing or renewing
1-20 an organization report required by Section 91.142, file:

1-21 (1) an individual bond as provided under Section
1-22 91.1041;

1-23 (2) a blanket bond as provided under Section 91.1042;
1-24 or

1-25 (3) a letter of credit or cash deposit in the same
1-26 amount as required for an individual bond under Section 91.1041 or a
1-27 blanket bond under Section 91.1042.

1-28 (c) A person required to file a bond, letter of credit, or
1-29 cash deposit under Section 91.103 who operates one or more wells is
1-30 considered to have met that requirement for a well if the well bore
1-31 is included in a well-specific plugging insurance policy that:

1-32 (1) is approved by the Texas Department of Insurance;

1-33 (2) names this state as the owner and contingent
1-34 beneficiary of the policy;

1-35 (3) names a primary beneficiary who agrees to plug the
1-36 specified well bore;

1-37 (4) is fully prepaid and cannot be canceled or
1-38 surrendered;

1-39 (5) provides that the policy continues in effect until
1-40 the specified well bore has been plugged;

1-41 (6) provides that benefits will be paid when, but not
1-42 before, the specified well bore has been plugged in accordance with
1-43 commission rules in effect at the time of plugging; and

1-44 (7) provides benefits that equal the greatest of:

1-45 (A) an amount equal to \$2 for each foot of well
1-46 depth, as determined in the manner specified by the commission, for
1-47 the specified well;

1-48 (B) if the specified well is a bay well and
1-49 regardless of whether the well is producing oil or gas, the amount
1-50 required under commission rules for a bay well that is not producing
1-51 oil or gas;

1-52 (C) if the specified well is an offshore well and
1-53 regardless of whether the well is producing oil or gas, the amount
1-54 required under commission rules for an offshore well that is not
1-55 producing oil or gas; or

1-56 (D) the payment otherwise due under the policy
1-57 for plugging the well bore.

1-58 SECTION 2. Section 91.1041, Natural Resources Code, is
1-59 amended by adding Subsections (c) and (d) to read as follows:

1-60 (c) When calculating under Subsection (a) the amount of the
1-61 bond a person who operates one or more wells is required to file,
1-62 the commission shall exclude a well if the well bore is included in
1-63 a well-specific plugging insurance policy described by Section
1-64 91.104(c).

2-1 (d) If the inclusion of a bay or offshore well whose well
 2-2 bore is included in a well-specific plugging insurance policy
 2-3 described by Section 91.104(c) in the calculation under Subsection
 2-4 (b) of the amount of the bond an operator of one or more bay or
 2-5 offshore wells is required to file would result in an increase in
 2-6 the amount of the bond that would otherwise be required, the rules
 2-7 must provide for the exclusion of the well from the calculation.

2-8 SECTION 3. Section 91.1042, Natural Resources Code, is
 2-9 amended by adding Subsections (c) and (d) to read as follows:

2-10 (c) When calculating the number of an operator's wells for
 2-11 purposes of Subsection (a), the commission shall exclude a well if
 2-12 the well bore is included in a well-specific plugging insurance
 2-13 policy described by Section 91.104(c).

2-14 (d) If the inclusion of a bay or offshore well whose well
 2-15 bore is included in a well-specific plugging insurance policy
 2-16 described by Section 91.104(c) in the calculation under Subsection
 2-17 (b) of the amount of the bond an operator of bay or offshore wells is
 2-18 required to file would result in an increase in the amount of the
 2-19 bond that would otherwise be required, the rules must provide for
 2-20 the exclusion of the well from the calculation.

2-21 SECTION 4. Section 91.105, Natural Resources Code, is
 2-22 amended to read as follows:

2-23 Sec. 91.105. BOND CONDITIONS. Each bond required by
 2-24 Section 91.103 [~~of this code~~] shall be conditioned that the
 2-25 operator will plug and abandon all wells and control, abate, and
 2-26 clean up pollution associated with an operator's oil and gas
 2-27 activities covered under the bond in accordance with the law of the
 2-28 state and the permits, rules, and orders of the commission. This
 2-29 section does not apply to a well-specific plugging insurance policy
 2-30 described by Section 91.104(c).

2-31 SECTION 5. Sections 91.107, 91.108, and 91.1091, Natural
 2-32 Resources Code, are amended to read as follows:

2-33 Sec. 91.107. NEW BOND, LETTER OF CREDIT, OR CASH DEPOSIT.
 2-34 If an active or inactive well is transferred, sold, or assigned by
 2-35 its operator, the commission shall require the party acquiring the
 2-36 well to file a new bond, letter of credit, or cash deposit as
 2-37 provided by Section 91.104(b), and the financial security of the
 2-38 prior operator shall continue to be required and to remain in
 2-39 effect, and the commission may not approve the transfer of
 2-40 operatorship, until the new bond, letter of credit, or cash deposit
 2-41 is provided or the commission determines that the bond, letter of
 2-42 credit, or cash deposit previously submitted to the commission by
 2-43 the person acquiring the well complies with this subchapter. A
 2-44 transfer of a well from one entity to another entity under common
 2-45 ownership is a transfer for purposes of this section. This section
 2-46 does not apply to a well bore that is included in a well-specific
 2-47 plugging insurance policy described by Section 91.104(c).

2-48 Sec. 91.108. DEPOSIT AND USE OF FUNDS. Subject to the
 2-49 refund provisions of Section 91.1091, if applicable, proceeds from
 2-50 bonds and other financial security required pursuant to this
 2-51 chapter and benefits under well-specific plugging insurance
 2-52 policies described by Section 91.104(c) that are paid to the state
 2-53 as contingent beneficiary of the policies shall be deposited in the
 2-54 oil-field cleanup fund and, notwithstanding Sections 91.112 and
 2-55 91.113, may be used only for actual well plugging and surface
 2-56 remediation.

2-57 Sec. 91.1091. REFUND. The commission shall refund the
 2-58 proceeds from a bond, letter of credit, or cash deposit [~~or other~~
 2-59 ~~form of security~~] required under this subchapter if:

2-60 (1) the conditions that caused the proceeds to be
 2-61 collected are corrected;

2-62 (2) all administrative, civil, and criminal penalties
 2-63 relating to those conditions are paid; and

2-64 (3) the commission has been reimbursed for all costs
 2-65 and expenses incurred by the commission in relation to those
 2-66 conditions.

2-67 SECTION 6. Section 91.111(c), Natural Resources Code, is
 2-68 amended to read as follows:

2-69 (c) The fund consists of:

- 3-1 (1) penalties imposed under Section 85.381 for
- 3-2 violation of a law, order, or rule relating to well plugging
- 3-3 requirements;
- 3-4 (2) proceeds from bonds and other financial security
- 3-5 ~~[assurances]~~ required by this chapter and benefits under
- 3-6 well-specific plugging insurance policies described by Section
- 3-7 91.104(c) that are paid to the state as contingent beneficiary of
- 3-8 the policies, subject to the refund provisions of Section 91.1091,
- 3-9 if applicable;
- 3-10 (3) private contributions, including contributions
- 3-11 made under Section 89.084;
- 3-12 (4) expenses collected under Section 89.083;
- 3-13 (5) fees imposed under Section 85.2021;
- 3-14 (6) civil penalties collected for violations of
- 3-15 Chapter 89 or of rules or orders relating to plugging that are
- 3-16 adopted under this code;
- 3-17 (7) proceeds collected under Sections 89.085 and
- 3-18 91.115;
- 3-19 (8) interest earned on the funds deposited in the
- 3-20 fund;
- 3-21 (9) ~~[fees collected under Section 91.104,~~
- 3-22 ~~[(10)]~~ civil penalties or costs recovered under
- 3-23 Section 91.457 or 91.459;
- 3-24 (10) ~~[(11)]~~ oil and gas waste hauler permit
- 3-25 application fees collected under Section 29.015, Water Code;
- 3-26 (11) ~~[(12)]~~ costs recovered under Section 91.113(f);
- 3-27 (12) ~~[(13)]~~ hazardous oil and gas waste generation
- 3-28 fees collected under Section 91.605;
- 3-29 (13) ~~[(14)]~~ oil-field cleanup regulatory fees on oil
- 3-30 collected under Section 81.116;
- 3-31 (14) ~~[(15)]~~ oil-field cleanup regulatory fees on gas
- 3-32 collected under Section 81.117;
- 3-33 (15) ~~[(16)]~~ fees for a reissued certificate collected
- 3-34 under Section 85.167;
- 3-35 (16) ~~[(17)]~~ fees collected under Section 91.1013;
- 3-36 (17) ~~[(18)]~~ fees collected under Section 89.088;
- 3-37 (18) ~~[(19)]~~ penalties collected under Section
- 3-38 81.0531;
- 3-39 (19) ~~[(20)]~~ fees collected under Section 91.142;
- 3-40 (20) ~~[(21)]~~ fees collected under Section 91.654;
- 3-41 (21) ~~[(22)]~~ costs recovered under Sections 91.656 and
- 3-42 91.657;
- 3-43 (22) ~~[(23)]~~ two-thirds of the fees collected under
- 3-44 Section 81.0521; and
- 3-45 (23) ~~[(24)]~~ legislative appropriations.

3-46 SECTION 7. The changes in law made by this Act apply only to

3-47 a person required to file a bond, letter of credit, or cash deposit

3-48 under Section 91.103, Natural Resources Code, on or after the

3-49 effective date of this Act. A person required to file a bond,

3-50 letter of credit, or cash deposit under Section 91.103, Natural

3-51 Resources Code, before the effective date of this Act is governed by

3-52 the law as it existed immediately before the effective date of this

3-53 Act, and that law is continued in effect for that purpose.

3-54 SECTION 8. This Act takes effect immediately if it receives

3-55 a vote of two-thirds of all the members elected to each house, as

3-56 provided by Section 39, Article III, Texas Constitution. If this

3-57 Act does not receive the vote necessary for immediate effect, this

3-58 Act takes effect September 1, 2005.

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