

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1379

By: Taylor

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8 COMMITTEE SUBSTITUTE

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

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

SECTION 1. AMENDATORY Section 2, Chapter 201, O.S.L.
2012 (52 O.S. Supp. 2018, Section 902), is amended to read as
follows:

Section 902. The sanctity of private agreements, and the
consistent and predictable application and interpretation of
statutes, governmental orders and common law, being essential to the
oil and gas industry, the following are declared to be paramount

1 rules of construction to be applied by the courts of this state in
2 the construction of private agreements, statutes and governmental
3 orders relating to the exploration for, operations for, producing
4 of, or marketing oil or gas, or disbursing proceeds of production of
5 oil or gas:

6 1. A person is bound as a reasonably prudent operator to
7 operate the well on behalf of all owners in the well and perform any
8 duties owed to any person under a private agreement, statute,
9 governmental order or common law relating to the exploration for,
10 operations for, producing of, or marketing oil or gas, or disbursing
11 proceeds of production of oil or gas, and performance of the duties
12 described herein is that performance which an operator acting
13 reasonably would have undertaken given the circumstances at the
14 time, without being required to subordinate its own business
15 interests, but with due regard to the interests of all affected
16 parties, including the operator; ~~and~~

17 2. A person is bound as a reasonably prudent operator to
18 operate his or her wells relating to the exploration, operations or
19 producing of oil or gas to prevent and not precipitate, induce or
20 cause pollution at the surface or at adjacent, nearby or surrounding
21 oil and gas wells. In the event pollution occurs such person shall
22 take immediate actions to halt the activity inducing or causing the
23 pollution and remediate the pollution. The performance of the
24 duties described herein is that performance of which a prudent

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 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/27/2019 - DO
7 PASS, As Amended.

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