

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1368

By: Taylor

AS INTRODUCED

An Act relating to oil and gas; amending 52 O.S. 2021, Section 318.1, which relates to evidence of financial ability for drilling and operating wells; modifying Category B surety amount; providing for tiered surety amount based on number of operating wells; and providing an effective date.

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

SECTION 1. AMENDATORY 52 O.S. 2021, Section 318.1, is amended to read as follows:

Section 318.1. A. Any person who drills or operates any well for the exploration, development or production of oil or gas, or as an injection or disposal well, within this state, shall furnish in writing, on forms approved by the Corporation Commission, his or her agreement to drill, operate and plug wells in compliance with the rules of the Commission and the laws of this state, together with evidence of financial ability to comply with the requirements for 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, amount of such letter of credit, cash,
13 cashier's check, certificate, bond, receipt or other negotiable
14 instrument shall be ~~in the amount of Twenty-five Thousand Dollars~~
15 ~~(\$25,000.00) but may be set higher at the discretion of the Director~~
16 ~~of the Oil and Gas Conservation Division.~~ based on the number of
17 wells that the person operates, as follows:

18 a. for one to ten wells, Twenty-five Thousand Dollars
19 (\$25,000.00),

20 b. for eleven to fifty wells, Fifty Thousand Dollars
21 (\$50,000.00),

22 c. for fifty-one to two hundred wells, One Hundred
23 Thousand Dollars (\$100,000.00), and
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1 d. for more than two hundred wells, One Hundred Fifty
2 Thousand Dollars (\$150,000.00).

3 ~~The Commission is authorized to determine the amount of Category~~
4 ~~B surety based upon the past performance of the operator and its~~
5 ~~insiders and affiliates regarding compliance with the laws of this~~
6 ~~state, and any rules promulgated thereto including but not limited~~
7 ~~to the drilling, operation and plugging of wells, closure of surface~~
8 ~~impoundments or removal of trash and equipment. Any instrument~~
9 ~~shall constitute an unconditional promise to pay and be in a form~~
10 ~~negotiable by the Commission.~~

11 3. The Commission upon certification by any operator subject to
12 Category B surety that its plugging liability statewide is less than
13 the ~~twenty-five thousand dollar standard~~ amount based on the number
14 of wells operated as specified in this section may allow said
15 operator to provide Category B type surety in an amount less than
16 the amount required by this section ~~Twenty-five Thousand Dollars~~
17 ~~(\$25,000.00)~~, but at least sufficient to cover the estimated cost of
18 all plugging, closure, and removal operations currently the
19 responsibility of that operator. The liability certification
20 referred to in this paragraph shall take the form of an affidavit
21 from a licensed well plugger estimating the costs of all plugging,
22 closure, and removal operations of the operator requesting such
23 relief. This alternative amount shall be modified upward upon the
24 assumption of additional operations by such operator, the maximum

1 amount of Category B surety to be posted not to exceed ~~the twenty-~~
2 ~~five thousand dollar total unless as provided previously~~ One Hundred
3 Fifty Thousand Dollars (\$150,000.000).

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

8 New operators, operators who have outstanding fines or contempt
9 citations and operators whose insiders or affiliates have
10 outstanding contempt citations or fines as of June 7, 1989, shall be
11 required to post Category B surety. Operators who have posted
12 Category B surety and have operated under this type surety and have
13 no outstanding fines at the end of three (3) years may post Category
14 A surety.

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

19 C. For good cause shown concerning pollution or improper
20 plugging of wells by the operator posting either Category A or B
21 surety or by an insider or affiliate of such operator, the
22 Commission, upon application of the Director of the Oil and Gas
23 Conservation Division, after notice and hearing, may require the
24 filing of additional Category B surety in an amount greater than

1 Twenty-five Thousand Dollars (\$25,000.00) but not to exceed One
2 Hundred Thousand Dollars (\$100,000.00).

3 D. If the Commission determines that a blanket surety bond is
4 required, the bond shall be conditioned on the fact that the
5 operator shall cause the wells to be plugged and abandoned surface
6 impoundments to be closed, and trash and equipment to be removed in
7 accordance with the laws of this state and the rules of the
8 Commission. Each bond shall be executed by a corporate surety
9 authorized to do business in this state and shall be renewed and
10 continued in effect until the conditions have been met or release of
11 the bond is authorized by the Commission.

12 E. The agreement provided for in subsection A of this section
13 shall provide that if the Commission determines that the person
14 furnishing the agreement has neglected, failed, or refused to plug
15 and abandon, or cause to be plugged and abandoned, or replug any
16 well or has neglected, failed or refused to close any surface
17 impoundment or removed or cause to be removed trash and equipment in
18 compliance with the rules of the Commission, then the person shall
19 forfeit from his or her bond, letter of credit or negotiable
20 instrument or shall pay to this state, through the Commission, for
21 deposit in the State Treasury, a sum equal to the cost of plugging
22 the well, closure of any surface impoundment or removal of trash and
23 equipment. The Commission may cause the remedial work to be done,
24 issuing a warrant in payment of the cost thereof drawn against the

1 monies accruing in the State Treasury from the forfeiture or
2 payment. Any monies accruing in the State Treasury by reason of a
3 determination that there has been a noncompliance with the
4 provisions of the agreement or the rules of the Commission, in
5 excess of the cost of remedial action ordered by the Commission,
6 shall be credited to the Oil and Gas Revolving Fund. The Commission
7 shall also recover any costs arising from litigation to enforce this
8 provision. Provided, before a person is required to forfeit or pay
9 any monies to the state pursuant to this section, the Commission
10 shall notify the person at his or her last-known address of the
11 determination of neglect, failure or refusal to plug or replug any
12 well, or close any surface impoundment or remove trash and equipment
13 and said person shall have ten (10) days from the date of
14 notification within which to commence remedial operations. Failure
15 to commence remedial operations shall result in forfeiture or
16 payment as provided in this subsection.

17 F. It shall be unlawful for any person to drill or operate any
18 oil or gas well subject to the provisions of this section, without
19 the evidence of financial ability required by this section. The
20 Commission shall shut in, without notice, hearing or order of the
21 Commission, the wells of any such person violating the provisions of
22 this subsection and such wells shall remain shut in for
23 noncompliance until the required evidence of Category B surety is
24 obtained and verified by the Commission.

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

5 H. As used in this section:

6 1. "Affiliate" means an entity that owns twenty percent (20%)
7 or more of the operator, or an entity of which twenty percent (20%)
8 or more is owned by the operator; and

9 2. "Insider" means officer, director, or person in control of
10 the operator; general partners of or in the operator; general or
11 limited partnership in which the operator is a general partner;
12 spouse of an officer, director, or person in control of the
13 operator; spouse of a general partner of or in the operator;
14 corporation of which the operator is a director, officer, or person
15 in control; affiliate, or insider of an affiliate as if such
16 affiliate were the operator; or managing agent of the operator.

17 SECTION 2. This act shall become effective November 1, 2022.

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