

1 **SENATE FLOOR VERSION**

2 March 28, 2024

3 ENGROSSED HOUSE
4 BILL NO. 3534

By: Boles and Williams of the
House

5 and

6 Paxton of the Senate

7
8 An Act relating to oil and gas; amending 52 O.S.
9 2021, Section 318.1, which relates to evidence of
10 financial ability for drilling and operating wells;
11 phasing out category A surety; modifying surety
12 amounts; providing for tiered surety amount based on
13 number of operating wells; and providing an effective
14 date.

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

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

18 Section 318.1 A. Any person who drills or operates any well
19 for the exploration, development or production of oil or gas, or as
20 an injection or disposal well, within this state, shall furnish in
21 writing, on forms approved by the Corporation Commission, his or her
22 agreement to drill, operate and plug wells in compliance with the
23 rules of the Commission and the laws of this state, together with
24 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). Category A surety will no
8 longer be accepted as valid form of surety for new operators to
9 select beginning November 1, 2024. All current operators who have
10 valid Category A surety and are in good standing with the Commission
11 will be able to retain their Category A surety for the time they are
12 a valid operator in the State of Oklahoma; or

13 2. Category B surety which shall include an irrevocable
14 commercial letter of credit, cash, a cashier's check, a Certificate
15 of Deposit, ~~Bank Joint Custody Receipt,~~ other negotiable instrument,
16 or, a blanket surety bond. Except as provided in paragraph ~~3~~ 1 of
17 subsection ~~A~~ B or subsection C of this section, amount of such
18 letter of credit, cash, cashier's check, certificate, bond, receipt
19 or other negotiable instrument shall be ~~in the amount of Twenty-five~~
20 ~~Thousand Dollars (\$25,000.00) but may be set higher at the~~
21 ~~discretion of the Director of the Oil and Gas Conservation Division~~
22 based on the number of wells that the person operates as follows:

23 a. for one to ten wells, Twenty-five Thousand Dollars
24 (\$25,000.00),

- 1 **b.** for eleven to fifty wells, Fifty Thousand Dollars
2 (\$50,000.00),
- 3 **c.** for fifty-one to one hundred wells, One Hundred
4 Thousand Dollars (\$100,000.00), and
- 5 **d.** for more than one hundred wells, One Hundred Fifty
6 Thousand Dollars (\$150,000.00).

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

15 ~~3.~~ **B. 1.** The Commission upon certification by any operator
16 subject to Category B surety that its plugging liability statewide
17 is less than the ~~twenty-five-thousand-dollar standard~~ amount based
18 on the number of wells operated as specified in this section may
19 allow said operator to provide Category B type surety in an amount
20 less than the amount required ~~Twenty-five Thousand Dollars~~
21 ~~(\$25,000.00)~~ by this section, but at least sufficient to cover the
22 estimated cost of all plugging, closure, and removal operations
23 currently the responsibility of that operator. The liability
24 certification referred to in this ~~paragraph~~ subsection shall take

1 the form of an affidavit from a licensed well plugger estimating the
2 costs of all plugging, closure, and removal operations of the
3 operator requesting such relief. This alternative amount shall be
4 modified upward upon the assumption of additional operations by such
5 operator, the maximum amount of Category B surety to be posted not
6 to exceed ~~the twenty five thousand dollar total unless as provided~~
7 previously One Hundred Fifty Thousand Dollars (\$150,000.00).

8 ~~B. Operators of record as of June 7, 1989, who do not have any~~
9 ~~outstanding contempt citations or fines and whose insiders or~~
10 ~~affiliates have no outstanding contempt citations or fines may post~~
11 ~~Category A surety.~~

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

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

23 C. For good cause shown concerning pollution or improper
24 plugging of wells by the operator posting either Category A or B

1 surety or by an insider or affiliate of such operator, the
2 Commission, upon application of the Director of the Oil and Gas
3 Conservation Division, after notice and hearing, may require the
4 filing of additional Category B surety in an amount greater than
5 Twenty-five Thousand Dollars (\$25,000.00) but not to exceed ~~One~~
6 ~~Hundred Thousand Dollars (\$100,000.00)~~ One Hundred Fifty Thousand
7 Dollars (\$150,000.00).

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

17 E. The agreement provided for in subsection A of this section
18 shall provide that if the Commission determines that the person
19 furnishing the agreement has neglected, failed, or refused to plug
20 and abandon, or cause to be plugged and abandoned, or replugin any
21 well or has neglected, failed or refused to close any surface
22 impoundment or removed or cause to be removed trash and equipment in
23 compliance with the rules of the Commission, then the person shall
24 forfeit from his or her bond, letter of credit or negotiable

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

22 F. It shall be unlawful for any person to drill or operate any
23 oil or gas well subject to the provisions of this section, without
24 the evidence of financial ability required by this section. The

1 Commission shall shut in, without notice, hearing or order of the
2 Commission, the wells of any such person violating the provisions of
3 this subsection and such wells shall remain shut in for
4 noncompliance until the required evidence of Category B surety is
5 obtained and verified by the Commission.

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

10 H. As used in this section:

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

14 2. "Insider" means officer, director, or person in control of
15 the operator; general partners of or in the operator; general or
16 limited partnership in which the operator is a general partner;
17 spouse of an officer, director, or person in control of the
18 operator; spouse of a general partner of or in the operator;
19 corporation of which the operator is a director, officer, or person
20 in control; affiliate, or insider of an affiliate as if such
21 affiliate were the operator; or managing agent of the operator.

22 SECTION 2. This act shall become effective November 1, 2024.

23 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND TELECOMMUNICATIONS
24 March 28, 2024 - DO PASS