

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) if the specified well is a bay well and
19 regardless of whether the well is producing oil or gas, the amount
20 required under commission rules for a bay well that is not producing
21 oil or gas;

22 (C) if the specified well is an offshore well and
23 regardless of whether the well is producing oil or gas, the amount
24 required under commission rules for an offshore well that is not
25 producing oil or gas; or

26 (D) the payment otherwise due under the policy
27 for plugging the well bore.

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

3 (c) When calculating under Subsection (a) the amount of the
4 bond a person who operates one or more wells is required to file,
5 the commission shall exclude a well if the well bore is included in
6 a well-specific plugging insurance policy described by Section
7 91.104(c).

8 (d) If the inclusion of a bay or offshore well whose well
9 bore is included in a well-specific plugging insurance policy
10 described by Section 91.104(c) in the calculation under Subsection
11 (b) of the amount of the bond an operator of one or more bay or
12 offshore wells is required to file would result in an increase in
13 the amount of the bond that would otherwise be required, the rules
14 must provide for the exclusion of the well from the calculation.

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

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

21 (d) If the inclusion of a bay or offshore well whose well
22 bore is included in a well-specific plugging insurance policy
23 described by Section 91.104(c) in the calculation under Subsection
24 (b) of the amount of the bond an operator of bay or offshore wells is
25 required to file would result in an increase in the amount of the
26 bond that would otherwise be required, the rules must provide for
27 the exclusion of the well from the calculation.

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

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

11 SECTION 5. Sections 91.107, 91.108, and 91.1091, Natural
12 Resources Code, are amended to read as follows:

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

1 Sec. 91.108. DEPOSIT AND USE OF FUNDS. Subject to the
2 refund provisions of Section 91.1091, if applicable, proceeds from
3 bonds and other financial security required pursuant to this
4 chapter and benefits under well-specific plugging insurance
5 policies described by Section 91.104(c) that are paid to the state
6 as contingent beneficiary of the policies shall be deposited in the
7 oil-field cleanup fund and, notwithstanding Sections 91.112 and
8 91.113, may be used only for actual well plugging and surface
9 remediation.

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

13 (1) the conditions that caused the proceeds to be
14 collected are corrected;

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

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

20 SECTION 6. Section 91.111(c), Natural Resources Code, is
21 amended to read as follows:

22 (c) The fund consists of:

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

26 (2) proceeds from bonds and other financial security
27 [~~assurances~~] required by this chapter and benefits under

1 well-specific plugging insurance policies described by Section
2 91.104(c) that are paid to the state as contingent beneficiary of
3 the policies, subject to the refund provisions of Section 91.1091,
4 if applicable;

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

7 (4) expenses collected under Section 89.083;

8 (5) fees imposed under Section 85.2021;

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

12 (7) proceeds collected under Sections 89.085 and
13 91.115;

14 (8) interest earned on the funds deposited in the
15 fund;

16 (9) [~~fees collected under Section 91.104,~~

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

19 (10) [~~(11)~~] oil and gas waste hauler permit
20 application fees collected under Section 29.015, Water Code;

21 (11) [~~(12)~~] costs recovered under Section 91.113(f);

22 (12) [~~(13)~~] hazardous oil and gas waste generation
23 fees collected under Section 91.605;

24 (13) [~~(14)~~] oil-field cleanup regulatory fees on oil
25 collected under Section 81.116;

26 (14) [~~(15)~~] oil-field cleanup regulatory fees on gas
27 collected under Section 81.117;

1 (15) [~~(16)~~] fees for a reissued certificate collected
2 under Section 85.167;

3 (16) [~~(17)~~] fees collected under Section 91.1013;

4 (17) [~~(18)~~] fees collected under Section 89.088;

5 (18) [~~(19)~~] penalties collected under Section
6 81.0531;

7 (19) [~~(20)~~] fees collected under Section 91.142;

8 (20) [~~(21)~~] fees collected under Section 91.654;

9 (21) [~~(22)~~] costs recovered under Sections 91.656 and
10 91.657;

11 (22) [~~(23)~~] two-thirds of the fees collected under
12 Section 81.0521; and

13 (23) [~~(24)~~] legislative appropriations.

14 SECTION 7. The changes in law made by this Act apply only to
15 a person required to file a bond, letter of credit, or cash deposit
16 under Section 91.103, Natural Resources Code, on or after the
17 effective date of this Act. A person required to file a bond,
18 letter of credit, or cash deposit under Section 91.103, Natural
19 Resources Code, before the effective date of this Act is governed by
20 the law as it existed immediately before the effective date of this
21 Act, and that law is continued in effect for that purpose.

22 SECTION 8. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2005.

David Swinhurst

President of the Senate

Tom Craddick

Speaker of the House

I certify that H.B. No. 380 was passed by the House on March 3, 2005, by the following vote: Yeas 135, Nays 0, 1 present, not voting.

Robert Haney
Chief Clerk of the House

I certify that H.B. No. 380 was passed by the Senate on May 20, 2005, by the following vote: Yeas 30, Nays 0, 1 present, not voting.

Patsy Spaw
Secretary of the Senate

APPROVED: 17 JUNE '05

Date

RICK PERRY
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
11:20 A.M. O'CLOCK

JUN 17 2005
Roger Williams
Secretary of State