

## CHAPTER 127

SENATE Substitute for HOUSE BILL No. 2032

AN ACT enacting the Kansas surface owner notice act; relating to oil and gas operations; state corporation commission; amending K.S.A. 55-155, 55-173 and K.S.A. 2008 Supp. 55-151 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

New Section 1. Sections 1 through 3, and amendments thereto, may be cited as the Kansas surface owner notice act.

New Sec. 2. As used in this act and in K.S.A. 55-155, 55-173 and K.S.A. 2008 Supp. 55-151, and amendments thereto:

(a) "Surface" or "surface estate" means a specific tract of land and improvements thereon created by and held in fee or other legal title under a deed or other instrument of conveyance, or equitable title under a recorded contract for deed, by a person other than the United States, a state, an Indian tribal organization or any agency, instrumentality or subdivision of any of the foregoing, regardless of whether such person also owns or otherwise holds interest in the mineral estate underlying the surface estate; and

(b) "surface owner" means a person or a designee of such person who holds or owns legal title to the surface estate or an interest therein, as shown on the records of the register of deeds for the county where the surface estate is located, and who is assessed real estate property taxes in accordance with the records of the county treasurer, except that surface owner shall not include a tenant or persons whose only rights to use that surface estate are based upon an easement, right-of-way, license, mortgage lien, severed mineral interest or any non-possessory interest in the surface.

New Sec. 3. The state corporation commission, with input from the advisory committee on the regulation of oil and gas activities authorized under K.S.A. 55-153, and amendments thereto, shall adopt or amend such forms and rules and regulations deemed necessary to carry out the provisions of this act. Such rules and regulations shall be promulgated on or before July 1, 2010.

Sec. 4. K.S.A. 2008 Supp. 55-151 is hereby amended to read as follows: 55-151. (a) Prior to the drilling of any well, every operator shall file an application of intent to drill with the commission. Such application shall include such information as required by the commission ~~and~~, *including the name and address of the surface owner, and shall be on a form prescribed by the commission. Such application shall also include non-binding preliminary estimates of the location of roads of ingress or egress, any tank battery and any pipeline or electrical line. The commission shall, upon receipt of such application, send a copy of such application to the named surface owner, as well as the contact information, including name, address, phone number, fax or email address, for a designated representative of the applicant. The commission need not send such information if the operator verifies that the application filed with the commission has been delivered to the surface owner.*

(b) No change in the use of a well shall be made without express approval of the commission. The state corporation commission shall have the authority to adopt rules and regulations to fix, charge and collect a fee for an application of intent to drill a well, except that such fee for an application of intent to drill a well shall not exceed \$300. No drilling shall be commenced until the authorized agents of the commission have approved the application. The agent, in giving approval, shall determine that the proposed construction of the well will protect all usable waters. Such approval shall include the amount of pipe necessary to protect all usable water, plugging requirements upon abandonment and such other requirements deemed appropriate by the commission. The commission may refuse to process any application submitted pursuant to this section unless the applicant has been in compliance with all rules and regulations adopted pursuant to this act.

~~(b)~~ (c) The commission shall make available to the secretary of the department of health and environment information related to all notifications of intents to drill. The commission shall make available to the clerk of any county in which a well will be drilled information related to the intent to drill for such well.

Sec. 5. K.S.A. 55-155 is hereby amended to read as follows: 55-155.  
(a) Operators and contractors shall be licensed by the commission pursuant to this section.

(b) Every operator and contractor shall file an application or a renewal application with the commission. Application and renewal application forms shall be prescribed, prepared and furnished by the commission.

(c) No application or renewal application shall be approved until the applicant has:

(1) Provided sufficient information, as required by the commission, for purposes of identification;

(2) submitted evidence that all current and prior years' taxes for property associated with the drilling or servicing of wells have been paid;

(3) demonstrated to the commission's satisfaction that the applicant complies with all requirements of chapter 55 of the Kansas Statutes Annotated, all rules and regulations adopted thereunder and all commission orders and enforcement agreements, if the applicant is registered with the federal securities and exchange commission;

(4) demonstrated to the commission's satisfaction that the following comply with all requirements of chapter 55 of the Kansas Statutes Annotated, all rules and regulations adopted thereunder and all commission orders and enforcement agreements, if the applicant is not registered with the federal securities and exchange commission: (A) The applicant; (B) any officer, director, partner or member of the applicant; (C) any stockholder owning in the aggregate more than 5% of the stock of the applicant; and (D) any spouse, parent, brother, sister, child, parent-in-law, brother-in-law or sister-in-law of the foregoing;

(5) paid an annual license fee of \$100, except that an applicant for a license who is operating one gas well used strictly for the purpose of heating a residential dwelling shall pay an annual license fee of \$25;

(6) complied with subsection (d); and

(7) paid an annual license fee of \$25 for each rig operated by the applicant. The commission shall issue an identification tag for each such rig which shall be displayed on such rig at all times.

(d) In order to assure financial responsibility, each operator shall demonstrate annually compliance with one of the following provisions:

(1) The operator has obtained an individual performance bond or letter of credit, in an amount equal to \$.75 times the total aggregate depth of all wells (including active, inactive, injection or disposal) of the operator.

(2) The operator has obtained a blanket performance bond or letter of credit in an amount equal to the following, according to the number of wells (including active, inactive, injection or disposal) of the operator:

(A) Wells less than 2,000 feet in depth: 1 through 5 wells, \$7,500; 6 through 25 wells, \$15,000; and over 25 wells, \$30,000.

(B) Wells 2,000 or more feet in depth: 1 through 5 wells, \$15,000; 6 through 25 wells, \$30,000; and over 25 wells, \$45,000.

(3) The operator: (A) Has an acceptable record of compliance, as demonstrated during the preceding 36 months, with commission rules and regulations regarding safety and pollution or with commission orders issued pursuant to such rules and regulations; (B) has no outstanding undisputed orders issued by the commission or unpaid fines, penalties or costs assessed by the commission and has no officer or director that has been or is associated substantially with another operator that has any such outstanding orders or unpaid fines, penalties or costs; and (C) pays a nonrefundable fee of \$100 per year.

(4) The operator pays a nonrefundable fee equal to 6% of the amount of the bond or letter of credit that would be required by subsection (d)(2).

(5) The state has a first lien on tangible personal property associated with oil and gas production of the operator that has a salvage value equal to not less than the amount of the bond or letter of credit that would be required by subsection (d)(1) or by subsection (d)(2).

(6) The operator has provided other financial assurance approved by the commission.

(e) Upon the approval of the application or renewal application, the commission shall issue to such applicant a license which shall be in full force and effect until one year from the date of issuance or until surrendered, suspended or revoked as provided in K.S.A. 55-162, and amendments thereto. No new license shall be issued to any applicant who has

had a license revoked until the expiration of one year from the date of such revocation.

(f) If an operator transfers responsibility for the operation of a well or gas gathering system or for underground porosity storage of natural gas to another person, ~~the transfer shall be reported to the commission in accordance with rules and regulations of the commission,~~ *such operator shall file a notice of transfer of operator with the commission in accordance with rules and regulations of the commission. The commission shall, upon receipt of such notice, send a copy of such notice to the surface owner, as well as the contact information, including name, address, phone number, fax or email address, for a designated representative of the operator. The commission need not send such information if the operator verifies that the notice filed with the commission has been delivered to the surface owner. The commission need not send a copy of notice to the surface owner for transfers of responsibility for the operation of a gas gathering system or for underground porosity storage of natural gas to another person.*

(g) The commission shall remit all moneys received from fees assessed pursuant to subsection (c)(7) of this section to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the conservation fee fund created by K.S.A. 55-143, and amendments thereto.

(h) The commission shall remit all moneys received pursuant to subsections (d)(3) and (d)(4) to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the well plugging assurance fund.

Sec. 6. K.S.A. 55-173 is hereby amended to read as follows: 55-173.

~~(a) Before any work or procedure is commenced to abandon and plug any producing oil or gas well in this state and after notice thereof is given to the commission by the operator thereof,~~ *an oil and gas operator shall file a notice of intention to plug and abandon a well with the commission, in accordance with the rules and regulations adopted pursuant to K.S.A. 55-152, and amendments thereto, the commission, in any case where the surface landowner upon whose land such well is located has filed with the commission a statement expressing a desire to be notified when any such well is to be abandoned, shall mail a copy of such notice to such surface landowner and may charge a fee therefor in an amount fixed by the commission and approved by the director of accounts and reports under K.S.A. 45-204, and amendments thereto. The commission shall, upon receipt of such notice, send a copy of such notice to the surface owner, as well as the contact information, including name, address, phone number, fax or email address, for a designated representative of the operator. The commission need not send such information if the operator verifies that the notice filed with the commission has been delivered to the surface owner. The surface owner upon whose land such well is located may file with the commission a desire to be notified when any such well is abandoned.*

Sec. 7. K.S.A. 55-155, 55-173 and K.S.A. 2008 Supp. 55-151 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

Approved May 15, 2009.

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