

HOUSE BILL No. 2189

By Committee on Water and Environment

1-26

1 AN ACT concerning oil and gas wells; protecting surface owners' property
2 rights; amending K.S.A. 2016 Supp. 55-151 and repealing the existing
3 section.
4

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

6 Section 1. K.S.A. 2016 Supp. 55-151 is hereby amended to read as
7 follows: 55-151. (a) Prior to the drilling of any well, every operator shall
8 file an application of intent to drill with the commission. Such application
9 shall include such information as required by the commission, including
10 the name and address of the surface owner, and shall be on a form
11 prescribed by the commission. Such application shall also include: (1)
12 Non-binding preliminary estimates of the location of roads of ingress or
13 egress, any tank battery and any pipeline or electrical line; (2) *a map*
14 *showing the location and relative distances of all proposed wells,*
15 *structures on the surface property involved, and water wells on the surface*
16 *property involved; and (3) proof of right to enter on the surface property*
17 *where the proposed wells are to be drilled, including, but not limited to, a*
18 *copy of the mineral and oil lease. The commission shall, upon receipt of*
19 *such application, send a copy of such application to the named surface*
20 *owner, as well as the contact information, including name, address, phone*
21 *number, fax or email address, for a designated representative of the*
22 *applicant. The commission need not send such information if the operator*
23 *verifies that the application filed with the commission has been delivered*
24 *to the surface owner.*

25 (b) No change in the use of a well *or commencement of drilling* shall
26 be made without express approval of the commission. The state
27 corporation commission shall have the authority to adopt rules and
28 regulations to fix, charge and collect a fee for an application of intent to
29 drill a well, except that such fee for an application of intent to drill a well
30 shall not exceed \$300. No drilling shall be commenced until the authorized
31 agents of the commission have approved the application. *In determining*
32 *whether to approve the application, the agent shall consider all relevant*
33 *rules and regulations adopted by the commission in addition to: (1)*
34 *Whether the operator has provided proof of right to enter the surface*
35 *property, and, if the operator intends to conduct exploration for oil or gas,*
36 *whether the operator has provided proof that the oil and gas lease is still*

1 viable. A determination of viability shall include, but not be limited to,
2 consideration of the history of production of oil or gas on the property and
3 whether such production has been continuous; and

4 (2) the right of the surface owner and occupants of buildings in
5 proximity to the oil or gas well to quiet enjoyment of their property,
6 including, but not limited to, consideration of the proximity of wells to
7 occupied buildings and other structures, the surface owner's use of the
8 surface owner's property, water wells used by the surface owner, and the
9 rules and regulations adopted pursuant to subsections (c) and (d). The
10 agent, in ~~giving~~ determining whether to give approval, shall determine that
11 the proposed construction of the well will protect all usable waters. If
12 approved, such approval shall include the amount of pipe necessary to
13 protect all usable water, plugging requirements upon abandonment and
14 such other requirements deemed appropriate by the commission. The
15 commission may refuse to process any application submitted pursuant to
16 this section unless the applicant has been in compliance with all rules and
17 regulations adopted pursuant to this act.

18 (c) The commission shall adopt rules and regulations applicable to
19 oil or gas wells within 1,000 feet of an occupied building to ensure safety
20 and protection of affected persons and property and to ensure the rights of
21 surface owners using such buildings are not abridged. Such rules and
22 regulations shall include, but not be limited to:

23 (1) Special procedures to be used by owners or operators of an oil or
24 gas well in proximity to occupied buildings that will: (A) Capture gases
25 emitted during the drilling, completion and operation of the well to protect
26 occupants of nearby occupied buildings from emissions and reduce odors;
27 (B) limit noise, dust and light emitted during the drilling, completion and
28 operation of the well to maximum levels to be established by the
29 commission; and (C) protect the property on which the well is drilled from
30 spills;

31 (2) a requirement that the operator provide notice to any person
32 whose residence or place of business is located within 1,000 feet of the
33 proposed oil or gas well and hold at least one meeting with any person
34 whose residence or place of business is located within 1,000 feet of the
35 proposed oil or gas well and who requests a meeting with the owner or
36 operator;

37 (3) a minimum setback of an oil or gas well from an occupied
38 building; and

39 (4) insurance, bonding and indemnification requirements.

40 The commission may cooperate with the department of health and
41 environment in establishing these rules and regulations.

42 (d) (1) Notwithstanding any other provisions of this section, no well
43 shall be drilled within 500 feet of any structure constructed prior to the

1 *drilling activity that required a permit from a municipal authority to erect,*
2 *without consent of the surface owner. No more than one well may be*
3 *drilled within a ten-acre area without consent of the surface owner or*
4 *owners.*

5 *(2) If consent is not obtained from the surface owner and the lack of*
6 *consent would deprive the owner of the oil and gas rights of the right to*
7 *produce or share in the oil or gas underlying the surface tract, the well*
8 *operator may be granted a variance from the distance restriction upon*
9 *submission of a plan identifying the additional measures, facilities or*
10 *practices as prescribed by the commission to be employed during well site*
11 *construction, drilling and operations. The variance shall include*
12 *additional terms and conditions required by the commission to ensure*
13 *safety and protection of affected persons and property, including*
14 *insurance, bonding, indemnification and technical requirements. If the*
15 *variance will affect an occupied building, the variance shall include*
16 *additional terms and conditions required by the commission pursuant to*
17 *subsection (c).*

18 *(3) Nothing in this section shall alter or abridge the terms of any*
19 *contract entered into prior to the effective date of this act.*

20 *(e) The commission shall make available to the secretary of the*
21 *department of health and environment information related to all*
22 *notifications of intents to drill. The commission shall make available to the*
23 *clerk of any county in which a well will be drilled information related to*
24 *the intent to drill for such well.*

25 *(f) An application of intent to drill may be set for hearing by the*
26 *commission.*

27 *(g) The commission shall adopt rules and regulations to carry out the*
28 *provisions of this act.*

29 Sec. 2. K.S.A. 2016 Supp. 55-151 is hereby repealed.

30 Sec. 3. This act shall take effect and be in force from and after its
31 publication in the statute book.