



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB2550

by Rep. Brandon W. Phelps

#### SYNOPSIS AS INTRODUCED:

225 ILCS 725/6

from Ch. 96 1/2, par. 5409

Amends the Illinois Oil and Gas Act. Establishes the criteria that the Department of Natural Resources may consider when making a determination that the oil and gas leases submitted with an application for a permit or transfer of a permit for a well are operative and that prior oil and gas leases covering the same lands have terminated due to non-development or non-production under the current permittee. Provides that the Department may rely upon affidavits of non-development and non-production from individuals familiar with the history of development and production of such lands in addition to other evidence. Requires that such testimony and evidence create a rebuttable presumption that there has been no development or production of oil or gas on the lands described in the prior leases for at least 24 consecutive months subsequent to the expiration of the primary term or any extension of the primary term as set forth in the leases. Further provides that a court order or judgment declaring the prior leases terminated is not required, except in extraordinary circumstances where such a determination cannot reasonably be concluded from the testimony and evidence submitted to the Department. Provides that, upon the Department's determination of a rebuttable presumption, the Department shall provide the current permittee with notice and a 30-day opportunity to request a hearing to rebut the presumption before a final determination on a lease is made. Further provides that, upon the Department's determination of a rebuttable presumption, if the applicant is not requesting a transfer of any existing permit, but is requesting a new permit, the permit shall be issued to the applicant. Provides that any determination made by the Department shall not diminish the rights or obligations of any current permittee of a well that are otherwise provided by statute or regulation of the Department. Further provides that any request for a determination by the Department or any subsequent hearing requires the payment of a nonrefundable fee of \$1000. Requires that the Department make a determination on a lease no later than 90 days after the Department's receipt of a valid request for a determination. Effective immediately.

LRB099 08114 MLM 28263 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Oil and Gas Act is amended by  
5 changing Section 6 as follows:

6 (225 ILCS 725/6) (from Ch. 96 1/2, par. 5409)

7 Sec. 6. The Department shall have the authority to conduct  
8 hearings and to make such reasonable rules as may be necessary  
9 from time to time in the proper administration and enforcement  
10 of this Act, including the adoption of rules and the holding of  
11 hearings for the following purposes:

12 (1) To require the drilling, casing and plugging of  
13 wells to be done in such a manner as to prevent the  
14 migration of oil or gas from one stratum to another; to  
15 prevent the intrusion of water into oil, gas or coal  
16 strata; to prevent the pollution of fresh water supplies by  
17 oil, gas or salt water.

18 (2) To require the person desiring or proposing to  
19 drill, deepen or convert any well for the exploration or  
20 production of oil or gas, for injection or water supply in  
21 connection with enhanced recovery projects, for the  
22 disposal of salt water, brine, or other oil or gas field  
23 wastes, or for input, withdrawal, or observation in

1 connection with the storage of natural gas or other liquid  
2 or gaseous hydrocarbons before commencing the drilling,  
3 deepening or conversion of any such well, to make  
4 application to the Department upon such form as the  
5 Department may prescribe and to comply with the provisions  
6 of this Section. The drilling, deepening or conversion of  
7 any well is hereby prohibited until such application is  
8 made and the applicant is issued a permit therefor as  
9 provided by this Act. Each application for a well permit  
10 shall include the following: (A) The exact location of the  
11 well, (B) the name and address of the manager, operator,  
12 contractor, driller, or any other person responsible for  
13 the conduct of drilling operations, (C) the proposed depth  
14 of the well, (D) lease ownership information, and (E) such  
15 other relevant information as the Department may deem  
16 necessary or convenient to effectuate the purposes of this  
17 Act.

18 Additionally, each applicant who has not been issued a  
19 permit that is of record on the effective date of this  
20 amendatory Act of 1991, or who has not thereafter made  
21 payments of assessments under Section 19.7 of this Act for  
22 at least 2 consecutive years preceding the application,  
23 shall execute, as principal, and file with the Department a  
24 bond, executed by a surety authorized to transact business  
25 in this State, in an amount estimated to cover the cost of  
26 plugging the well and restoring the well site, but not to

1 exceed \$5000, as determined by the Department for each  
2 well, or a blanket bond in an amount not to exceed \$100,000  
3 for all wells, before drilling, deepening, converting, or  
4 operating any well for which a permit is required that has  
5 not previously been plugged and abandoned in accordance  
6 with the Act. The Department shall release the bond if the  
7 well, or all wells in the case of a blanket bond, is not  
8 completed but is plugged and the well site restored in  
9 accordance with the Department's rules or is completed in  
10 accordance with the Department's rules and the permittee  
11 pays assessments to the Department in accordance with  
12 Section 19.7 of this Act for 2 consecutive years.

13 In lieu of a surety bond, the applicant may provide  
14 cash, certificates of deposit, or irrevocable letters of  
15 credit under such terms and conditions as the Department  
16 may provide by rule.

17 The sureties on all bonds in effect on the effective  
18 date of this amendatory Act of 1991 shall remain liable as  
19 sureties in accordance with their undertakings until  
20 released by the Department from further liability under the  
21 Act. The principal on each bond in effect on the effective  
22 date of this amendatory Act of 1991 shall be released from  
23 the obligation of maintaining the bond if either the well  
24 covered by a surety bond has been plugged and the well site  
25 restored in accordance with the Department's rules or the  
26 principal of the surety has paid the initial assessment in

1           accordance with Section 19.7 and no well or well site  
2           covered by the surety bond is in violation of the Act.

3           No permit shall be issued to a corporation incorporated  
4           outside of Illinois until the corporation has been  
5           authorized to do business in Illinois.

6           No permit shall be issued to an individual,  
7           partnership, or other unincorporated entity that is not a  
8           resident of Illinois until that individual, partnership,  
9           or other unincorporated entity has irrevocably consented  
10          to be sued in Illinois.

11          (3) To require the person assigning, transferring, or  
12          selling any well for which a permit is required under this  
13          Act to notify the Department of the change of ownership.  
14          The notification shall be on a form prescribed by the  
15          Department, shall be executed by the current permittee and  
16          by the new permittee, or their authorized representatives,  
17          and shall be filed with the Department within 30 days after  
18          the effective date of the assignment, transfer or sale.  
19          Within the 30 day notification period and prior to  
20          operating the well, the new permittee shall pay the  
21          required well transfer fee and, where applicable, file with  
22          the Department the bond required under subsection (2) of  
23          this Section.

24          (4) To require the filing with the State Geological  
25          Survey of all geophysical logs, a well drilling report and  
26          drill cuttings or cores, if cores are required, within 90

1 days after drilling ceases; and to file a completion report  
2 with the Department within 30 days after the date of first  
3 production following initial drilling or any reworking, or  
4 after the plugging of the well, if a dry hole. A copy of  
5 each completion report submitted to the Department shall be  
6 delivered to the State Geological Survey. The Department  
7 and the State Geological Survey shall keep the reports  
8 confidential, if requested in writing by the permittee, for  
9 2 years after the date the permit is issued by the  
10 Department. This confidentiality requirement shall not  
11 prohibit the use of the report for research purposes,  
12 provided the State Geological Survey does not publish  
13 specific data or identify the well to which the completion  
14 report pertains.

15 (5) To prevent "blowouts", "caving" and "seepage" in  
16 the same sense that conditions indicated by such terms are  
17 generally understood in the oil and gas business.

18 (6) To prevent fires.

19 (7) To ascertain and identify the ownership of all oil  
20 and gas wells, producing leases, refineries, tanks,  
21 plants, structures, and all storage and transportation  
22 equipment and facilities.

23 (8) To regulate the use of any enhanced recovery method  
24 in oil pools and oil fields.

25 (9) To regulate or prohibit the use of vacuum.

26 (10) To regulate the spacing of wells, the issuance of

1 permits, and the establishment of drilling units.

2 (11) To regulate directional drilling of oil or gas  
3 wells.

4 (12) To regulate the plugging of wells.

5 (13) To require that wells for which no logs or  
6 unsatisfactory logs are supplied shall be completely  
7 plugged with cement from bottom to top.

8 (14) To require a description in such form as is  
9 determined by the Department of the method of well plugging  
10 for each well, indicating the character of material used  
11 and the positions and dimensions of each plug.

12 (15) To prohibit waste, as defined in this Act.

13 (16) To require the keeping of such records, the  
14 furnishing of such relevant information and the  
15 performance of such tests as the Department may deem  
16 necessary to carry into effect the purposes of this Act.

17 (17) To regulate the disposal of salt or  
18 sulphur-bearing water and any oil field waste produced in  
19 the operation of any oil or gas well.

20 (18) To prescribe rules, conduct inspections and  
21 require compliance with health and safety standards for the  
22 protection of persons working underground in connection  
23 with any oil and gas operations. For the purposes of this  
24 paragraph, oil and gas operations include drilling or  
25 excavation, production operations, plugging or filling in  
26 and sealing, or any other work requiring the presence of

1 workers in shafts or excavations beneath the surface of the  
2 earth. Rules promulgated by the Department may include  
3 minimum qualifications of persons performing tasks  
4 affecting the health and safety of workers underground,  
5 minimum standards for the operation and maintenance of  
6 equipment, and safety procedures and precautions, and  
7 shall conform, as nearly as practicable, to corresponding  
8 qualifications, standards and procedures prescribed under  
9 The Coal Mining Act.

10 (19) To deposit the amount of any forfeited surety bond  
11 or other security in the Plugging and Restoration Fund, a  
12 special fund in the State treasury which is hereby created;  
13 to deposit into the Fund any amounts collected, reimbursed  
14 or recovered by the Department under Sections 19.5, 19.6  
15 and 19.7 of this Act; to accept, receive, and deposit into  
16 the Fund any grants, gifts or other funds which may be made  
17 available from public or private sources and all earnings  
18 received from investment of monies in the Fund; and to make  
19 expenditures from the Fund for the purposes of plugging,  
20 replugging or repairing any well, and restoring the site of  
21 any well, determined by the Department to be abandoned or  
22 ordered by the Department to be plugged, replugged,  
23 repaired or restored under Sections 8a, 19 or 19.1 of this  
24 Act, including expenses in administering the Fund.

25 (20) To determine if oil and gas leases submitted with  
26 an application for a permit or transfer of a permit for a



1 well are operative on the basis that prior oil and gas  
2 leases covering the same lands have terminated due to  
3 non-development or non-production. Department  
4 determinations under this paragraph may be based upon  
5 affidavits of non-development or non-production from  
6 knowledgeable individuals familiar with the history of  
7 development and production of oil or gas as to such lands,  
8 together with other evidence, which create a rebuttable  
9 presumption that the prior oil and gas leases have  
10 terminated and are of no further force and effect and that  
11 the submitted oil and gas leases are operative and  
12 effective. To create a rebuttable presumption, such  
13 affidavits, together with other evidence provided to or  
14 available from the Department, shall reasonably indicate  
15 that there has been no development, operations, or  
16 production of oil and gas on the lands described in the  
17 prior leases for at least 24 consecutive months subsequent  
18 to the expiration of the primary term or any extension of  
19 the primary term as set forth in the leases, or the period  
20 of time of no development or production after expiration of  
21 the primary term as provided in the leases. A court order  
22 or judgment declaring the prior leases terminated is not  
23 required for determinations under this paragraph, except  
24 in extraordinary circumstances where such determinations  
25 cannot reasonably be concluded from the affidavits or  
26 evidence submitted to or available from the Department.

1       Upon the Department's determination of a rebuttable  
2       presumption under this paragraph, the Department shall  
3       provide the current permittee with notice and a 30-day  
4       opportunity to request a hearing to rebut the presumption  
5       before a final determination on a lease is made. Upon the  
6       Department's determination of a rebuttable presumption  
7       under this paragraph, if the applicant is not requesting a  
8       transfer of any existing permit as to a well located on the  
9       lands, but is requesting a new permit, the permit shall be  
10       issued to the applicant. Any determination made by the  
11       Department under this paragraph shall not diminish the  
12       rights or obligations of any current permittee of a well  
13       that are otherwise provided by statute or regulation of the  
14       Department. Any request for a determination under this  
15       paragraph shall require the payment of a nonrefundable fee  
16       of \$1000 by the applicant. All determinations on leases by  
17       the Department under this paragraph shall be made no later  
18       than 90 days after the Department's receipt of a valid  
19       request for such determination.

20       For the purposes of this Act, the State Geological Survey  
21       shall co-operate with the Department in making available its  
22       scientific and technical information on the oil and gas  
23       resources of the State, and the Department shall in turn  
24       furnish a copy to the State Geological Survey of all drilling  
25       permits as issued, and such other drilling and operating data  
26       received or secured by the Department which are pertinent to

1 scientific research on the State's mineral resources.

2 (Source: P.A. 86-205; 86-364; 86-1177; 87-744.)

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.