



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3540

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. Authorizes the Department of Natural Resources to determine if oil and gas leases submitted with an application for a permit or transfer of a permit for a well are operative on the basis that prior oil and gas leases covering the same lands have terminated due to non-development or non-production. Requires that the determinations be based upon affidavits of non-development or non-production from knowledgeable individuals familiar with the history of development and production of oil or gas as to such lands, together with other evidence, which create a rebuttable presumption that the prior oil and gas leases have terminated and are of no further force and effect and that the submitted oil and gas leases are operative and effective. Provides that a court order or judgment declaring the prior leases terminated is not required for such determinations, except in extraordinary circumstances where the determinations cannot reasonably be concluded from the affidavits or evidence submitted to or available from 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. 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. Provides that any request for a determination shall require the payment of a nonrefundable fee. Requires all determinations on leases by the Department be made no later than 90 days after the Department's receipt of a valid request for the determination. Effective immediately.

LRB099 11197 AMC 31723 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 shall 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 or production of oil and
16 gas on the lands described in the prior leases for at least
17 24 consecutive months subsequent to the expiration of the
18 primary term or any extension of the primary term as set
19 forth in the leases. A court order or judgment declaring
20 the prior leases terminated is not required for
21 determinations under this paragraph, except in
22 extraordinary circumstances where such determinations
23 cannot reasonably be concluded from the affidavits or
24 evidence submitted to or available from the Department.
25 Upon the Department's determination of a rebuttable
26 presumption under this paragraph, the Department shall

1 provide the current permittee with notice and a 30-day
2 opportunity to request a hearing to rebut the presumption
3 before a final determination on a lease is made. Any
4 determination made by the Department under this paragraph
5 shall not diminish the rights or obligations of any current
6 permittee of a well that are otherwise provided by statute
7 or regulation of the Department. Any request for a
8 determination under this paragraph shall require the
9 payment of a nonrefundable fee of \$1,000 by the applicant.
10 All determinations on leases by the Department under this
11 paragraph shall be made no later than 90 days after the
12 Department's receipt of a valid request for such
13 determination.

14 For the purposes of this Act, the State Geological Survey
15 shall co-operate with the Department in making available its
16 scientific and technical information on the oil and gas
17 resources of the State, and the Department shall in turn
18 furnish a copy to the State Geological Survey of all drilling
19 permits as issued, and such other drilling and operating data
20 received or secured by the Department which are pertinent to
21 scientific research on the State's mineral resources.

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

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.