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Chapter No. 392

14/HR12/R1649

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# ***HOUSE BILL NO. 1263***

Originated in House



Clerk

HOUSE BILL NO. 1263

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AN ACT TO AMEND SECTION 53-3-7, MISSISSIPPI CODE OF 1972, TO REVISE THE TIME PERIOD IN WHICH OPERATIONS ON AN EXISTING OR PROPOSED WELL MUST COMMENCE IN ORDER FOR AN OPERATOR OR CONSENTING OWNER TO RECEIVE ALTERNATE CHARGES UNDER A POOLING ORDER FROM THE STATE OIL AND GAS BOARD; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

**SECTION 1.** Section 53-3-7, Mississippi Code of 1972, is amended as follows:

53-3-7. (1) (a) When two (2) or more separately owned tracts of land are embraced within an established drilling unit or when there are separately owned interests in all or part of an established drilling unit the persons owning the drilling rights therein and the rights to share in the production therefrom may validly agree to integrate their interests and to develop their lands as a drilling unit. Where, however, such persons have not agreed to integrate their interests the board may, for the prevention of waste or to avoid the drilling of unnecessary wells, require such persons to integrate their interests and to develop their lands as a drilling unit. All orders requiring such pooling

shall be made after notice and hearing, and shall be upon terms and conditions that are just and reasonable, and will afford to the owner of each tract the opportunity to recover or receive his just and equitable share of the oil and gas in the pool without unnecessary expense.

The portion of the production allocated to the owner of each tract included in a drilling unit formed by a pooling order shall, when produced, be considered as if it had been produced from such tract by a well drilled thereon.

(b) Except as otherwise provided for in this section, in the event such pooling is required, the cost of development and operation of the pooled unit chargeable by the operator to the other interested owner or owners shall be limited to the actual expenditures required for such purpose not in excess of what are reasonable including a reasonable charge for supervision. In the event that the operator elects to proceed under the provisions of this subsection (1) (b), and does not elect to seek alternate charges as provided for in this section, the notice procedure followed shall be in accordance with Section 53-1-21, Mississippi Code of 1972.

(c) For the purposes of this section, as to a drilling unit, the term "nonconsenting owner" shall mean an owner of drilling rights which the owner has not agreed, in writing, to integrate in the drilling unit. The owner may own other drilling rights in the unit which the owner has agreed, in writing, to

integrate in the unit and thereby also be a "consenting owner" as to the interest which the owner has agreed to integrate in the unit.

(2) (a) In the event that one or more owners owning not less than thirty-three percent (33%) of the drilling rights in a drilling unit voluntarily consent to the drilling of a unit well thereon, and the operator has made a good faith effort to (i) negotiate with each nonconsenting owner to have said owner's interest voluntarily integrated into the unit, (ii) notify each nonconsenting owner of the names of all owners of drilling rights who have agreed to integrate any interests in the unit, (iii) ascertain the address of each nonconsenting owner, (iv) give each nonconsenting owner written notice of the proposed operation, specifying the work to be performed, the location, proposed depth, objective formation and the estimated cost of the proposed operation, and (v) offer each nonconsenting owner the opportunity to lease or farm out on reasonable terms or to participate in the cost and risk of developing and operating the unit well involved on reasonable terms, by agreeing in writing, then the operator may petition the board to allow it to charge alternate charges (alternate to and in lieu of the charges provided for in subsection (1)(b) of this section).

(b) Any such petition on which alternate charges may be ordered by the board shall include a statement which shall name all nonconsenting real parties in interest in said proposed

drilling unit, as of a date not more than ninety (90) days prior to the filing of the petition, giving each such person's name, and address if known; and if any owner's address is not known, the operator shall state in its petition that such person's address is unknown after diligent search and inquiry. Only those parties served with actual or constructive notice as set forth hereinbelow will be subject to any alternate charges allowed by the board.

(c) Upon the filing of a petition on which alternate charges may be ordered, the petitioner shall have prepared, and furnish to the board with said petition, a notice to each and all nonconsenting real parties in interest whose address is unknown, whether such person be a resident of the State of Mississippi or not, which the board shall have published, noticing each such person to appear before a regular meeting of the board sufficiently distant in time to allow thirty (30) days to elapse between the date of the last publication of said notice as hereinafter provided, and the date of the regular meeting of the board to which each such person is noticed. Said notice shall also notice all unknown heirs or devisees of deceased owners, if any there be, and all unknown persons owning drilling rights in said proposed drilling unit. The notice shall be substantially in the following form, to wit:

NOTICE TO APPEAR BEFORE THE STATE OIL AND GAS BOARD

You are noticed to appear before the State Oil and Gas Board at its regular \_\_\_\_ term, being on the \_\_ day of \_\_\_\_, 20\_\_ to show cause if you can why the petition of \_\_\_\_\_

\_\_\_\_\_  
(Operator)

being Petition No. \_\_\_\_\_ in said board and seeking to force to integrate and pool all interests in (description of Unit by legal description) \_\_\_\_\_ should not be granted.

To \_\_\_\_\_ (inserting the name of such person or persons, whose address is unknown), and all such unknown heirs or devisees and all such unknown owners, whose names and addresses remain unknown after diligent search and inquiry.

Said meeting of said board shall be held at \_\_\_\_\_ (the then hearing room of said Oil and Gas Board) on the above date at \_\_\_\_\_.

(the time)

This \_\_\_\_\_ day of \_\_\_\_\_, A.D. \_\_\_\_\_.

\_\_\_\_\_  
Supervisor

(d) The publication of notice to nonconsenting real parties in interest whose address is unknown after diligent search and inquiry shall be made once in each week during three (3) successive weeks in a public newspaper of the county or counties in which the proposed drilling unit is located, if there be such a

newspaper. If there is not such a county newspaper, then the said publication of notice shall be published in a newspaper having general circulation in the State of Mississippi. The period of publication shall be deemed to be completed at the end of twenty-one (21) days from the date of the first publication, provided there have been three (3) publications made as hereinabove required.

(e) Upon the filing of a petition on which alternate charges may be ordered, the petitioner shall also have prepared, and shall furnish to the board, a notice which shall be substantially in the form set out above, to each nonconsenting real party in interest whose address is known, together with addressed and stamped envelopes, and the board shall mail each notice by certified mail, return receipt requested, sufficiently distant in time to allow thirty (30) days to elapse between the date of the mailing of said notice and the date of the regular meeting of the board at which said petition will be first scheduled to be heard.

(f) Petitioner shall also advance to the board at the time of the filing of said petition the cost of publication and mailing of notices as set out above which shall be established by the board. Said costs of publication and mailing of notices shall be considered as part of the costs of operation which are chargeable to the nonconsenting owner's nonconsenting share of production as set forth in paragraph (g) of this subsection (2).

(g) In the event a pooling order is issued by the board, and any nonconsenting owner does not subsequently agree in writing as provided for herein, and if the operations on the existing or proposed well which are described in the pooling order are actually commenced within one \* \* \* (1) year after the pooling order is issued by the board, and thereafter with due diligence and without undue delay, the existing or proposed well is actually completed as a well capable of producing oil, gas and/or other minerals in quantities sufficient to yield a return in excess of monthly operating costs, then, subject to the limitations set out in this section, the operator and/or the appropriate consenting owners shall be entitled to receive as alternate charges (alternate to and in lieu of the charges provided for in subsection (1) (b) of this section; provided, however, that in no event shall the operator and/or the appropriate consenting owners be entitled to recover less than such charges provided in subsection (1) (b) of this section) the share of production from the well attributable to the nonconsenting owner's nonconsenting interests in the unit established or subsequently reformed for production therefrom, until the point in time when the proceeds from the sale of such share, calculated at the well, or the market value thereof if such share is not sold, after deducting production and excise taxes, which operator will pay or cause to be paid, and the payment required by this paragraph (g) shall equal the sum of:

(i) One hundred percent (100%) of the nonconsenting owner's nonconsenting share of the cost of any newly acquired surface equipment beyond the wellhead connections including, but not limited to, stock tanks, separators, treaters, pumping equipment and piping; and

(ii) Two hundred fifty percent (250%) of that portion of the costs and expenses of the operations provided for in the pooling order, and two hundred fifty percent (250%) of that portion of the cost of newly acquired equipment in the well, including wellhead connections, which would have been chargeable to the nonconsenting owner's nonconsenting share thereof; provided, however, when a mineral interest that is severed from the surface estate is owned by a nonconsenting owner or when a mineral interest is subject to an oil and gas lease that is owned by a nonconsenting owner, the payment under this subparagraph (ii) shall be three hundred percent (300%); and

(iii) One hundred percent (100%) of the nonconsenting owner's nonconsenting share of the cost of operation of the well commencing with first production and continuing to such point in time.

Whenever a drilling unit established by a pooling order issued by the board under subsection (2) of this section is to be reformed or altered by the board for good cause, after notice and hearing, then the interest of any nonconsenting owner listed in the pooling order who received notice of the application to reform

or alter the unit and had not agreed in writing as provided for herein shall remain subject to the charges set forth in this subsection (2)(g) with respect to its interest in the reformed or altered unit. If there is any nonconsenting owner within a proposed reformed or altered unit who has not been previously provided the information and offers set forth in subparagraphs (ii) through (v) of subsection (2)(a) of this section which was sent to the owners, and if the applicant for an order of reformation or alteration of such unit provides to the nonconsenting owner the information and offers set forth in subparagraphs (ii) through (v) of subsection (2)(a) of this section at the same time and in the same manner as such nonconsenting owners receive notice of the application to reform or alter the drilling unit, then the interest of any nonconsenting owner listed in the pooling order for the reformed or altered unit who does not agree in writing as provided for herein shall be subject to the charges set forth in this subsection (2)(g) with respect to its interest in the reformed or altered unit.

Whenever any one (1) operator has filed for alternate charges on two (2) drilling units, which units are direct, partially direct or diagonal offsets one to the other, such operator may not file a petition for alternate charges, as distinguished from the charges provided by subsection (1)(b), as to any additional units which are direct, partially direct or diagonal offsets to the said first two (2) units of that operator until said operator has

drilled, tested and completed the first two (2) such wells, as wells capable of production or completed as dry holes or either, and has filed completion reports on said first two (2) wells with the board, or the permits for such well or wells have expired if one or both of them be not drilled.

The pooling order if issued shall provide that each nonconsenting owner shall be afforded the opportunity to participate in the development and operation of the well in the pooled unit as to all or any part of said owner's interest on the same costs basis as the consenting owners by agreeing in writing to pay that part of the costs of such development and operation chargeable to said nonconsenting owner's interest, or to enter into such other written agreement with the operator as the parties may contract, provided such acceptance in writing is filed with the board within twenty (20) days after the pooling order is filed for record with the board.

The pooling order shall provide that the well be drilled on a competitive contract, arms length, basis; provided, however, that the operator may employ its own tools or those of affiliates, but charges therefor shall not exceed the prevailing rates in the area.

(h) Within sixty (60) days after the completion of any operation on which alternate charges have been ordered, the operator shall furnish any nonconsenting owner who may request same an inventory of the equipment in and connected to the well,

and an itemized statement of the cost of drilling, deepening, plugging back, testing, completing and equipping the well for production; or, at its option, the operator, in lieu of an itemized statement of such costs of operation, may submit detailed monthly statements of said costs. Each month thereafter, during the time the operator and/or consenting parties are being reimbursed, the operator shall furnish any nonconsenting owner who may request same with an itemized statement of all costs and liabilities incurred in the operation of the well, together with a statement of the quantity of oil and gas produced from it and the amount of proceeds realized from the sale of the well's production during the preceding month. Any amount realized from the sale or other disposition of equipment acquired in connection with any such operation which would have been owned by a nonconsenting owner had it participated therein as to its nonconsenting interest shall be credited against the total unreturned costs of the work done and of the equipment purchased in determining when the interest of such nonconsenting owner shall be owned by said nonconsenting owner as above provided; and if there is a credit balance, it shall be paid to such nonconsenting owner. From the point in time provided for in paragraph (g) of this subsection (2), each nonconsenting owner shall own the same interest in such well, the material and equipment in or pertaining thereto, and the production therefrom as such nonconsenting owner would have been entitled to had it participated in the drilling, reworking,

deepening and/or plugging back of said well. Thereafter, except as otherwise provided in this section, the operator shall be entitled to charge each nonconsenting owner such nonconsenting owner's proportionate part of all reasonable costs incurred by the operator in operating the unit well and the unit, including a reasonable charge for supervision, and in the event such nonconsenting owner fails to pay such proportionate share of such costs within thirty (30) days after receipt by the nonconsenting owner of a valid invoice, the operator shall be entitled to receive such nonconsenting owner's share of production until such time as such unpaid share of costs shall have been recovered by the operator.

(i) In the event that a leased interest is subject to an order of pooling and integration, and the operator and/or the appropriate consenting owners are entitled to alternate charges as provided by paragraph (g) of this subsection (2), and if there be no reasonable question as to good and merchantable title to the royalty interest, the lessor of said lease shall be paid, by the operator or purchaser of production, the proceeds attributable to said lessor's contracted royalty, not to exceed an amount of three-sixteenths (3/16) of the proceeds attributable to the nonconsenting owner's proportionate share of production. Nothing herein contained shall affect or diminish in any way the responsibility of the nonconsenting owner to account for the payment of any royalty or other payment, not paid as herein

provided, which may burden or be attributable to the interest owned by such nonconsenting owner.

(3) When production of oil or gas is not secured in paying quantities as a result of such integration or pooling of interests, there shall be no charge payable by the nonconsenting owner or owners as to such owner's nonconsenting interest.

(4) In the event of any dispute relative to costs, the board shall determine the proper costs, after due notice to all interested parties and a hearing thereon. Appeals may be taken from such determination as from any other order of the board.

(5) The State Oil and Gas Board shall in all instances where a unit has been formed out of lands or areas of more than one (1) ownership, require the operator when so requested by an owner, to deliver to such owner or his assigns his proportionate share of the production from the well common to such drilling unit; but where necessary, such owner receiving same shall provide at his own expense proper receptacles for the receipt or storage of such oil, gas or distillate.

(6) Should the persons owning the drilling or other rights in separate tracts embraced within a drilling unit fail to agree upon the integration of the tracts and the drilling of a well on the unit, and should it be established that the board is without authority to require integration as provided in this section, then, subject to all other applicable provisions of this chapter, and of Chapter 1 of this title, the owner of each tract embraced

within the drilling unit may drill on his tract; but the allowable production from such tract shall be such proportion of the allowable production for the full drilling unit as the area of such separately owned tract bears to the full drilling unit.

(7) The State Oil and Gas Board in order to prevent waste and avoid the drilling of unnecessary wells may permit (i) the cycling of gas in any pool or portion thereof or (ii) the introduction of gas or other substance into an oil or gas reservoir for the purpose of repressuring such reservoir, maintaining pressure or carrying on secondary recovery operations. The board shall permit the pooling or integration of separate tracts or separately owned interests when reasonably necessary in connection with such operations.

(8) Agreements made in the interests of conservation of oil or gas, or both, or for the prevention of waste, between and among owners or operators, or both, owning separate holdings in the same field or pool or in any area that appears from geologic or other data to be underlaid by a common accumulation of oil or gas, or both, and agreements between and among such owners or operators, or both, and royalty owners therein, for the purpose of bringing about the development and operation of the field, pool or area, or any part thereof, as a unit, and for establishing and carrying out a plan for the cooperative development and operation thereof, when such agreements are approved by the board, are hereby authorized and shall not be held or construed to violate any of the statutes

of this state relating to trusts, monopolies or contracts and combinations in restraint of trade.

**SECTION 2.** This act shall take effect and be in force from and after July 1, 2014.

PASSED BY THE HOUSE OF REPRESENTATIVES  
February 6, 2014



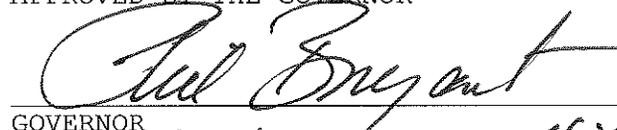
SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE  
March 5, 2014



PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR



GOVERNOR

3/17/2014

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