

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

**Act 1175 of the Regular Session**

*As Engrossed: H3/9/09 S3/16/09*

**A Bill**

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009

HOUSE BILL 1580

4  
5 By: Representative Lowery  
6 By: Senator G. Jeffress

7  
8  
9 **For An Act To Be Entitled**

10 AN ACT TO AMEND VARIOUS PROVISIONS PERTAINING TO  
11 THE OIL AND GAS COMMISSION'S MEETINGS; THE  
12 DIRECTOR OF PRODUCTION AND CONSERVATION;  
13 HEARINGS; ASSESSMENTS; RULES, PERMITS, PLUGGING A  
14 DRY AND ABANDONED WELL; THE ANNUAL DISTRIBUTION  
15 OF ROYALTY MONEY; AND PENALTIES FOR VIOLATIONS;  
16 AND FOR OTHER PURPOSES.

17  
18 **Subtitle**

19 TO AMEND VARIOUS PROVISIONS RELATING TO  
20 THE OIL AND GAS COMMISSION'S MEETINGS,  
21 DIRECTOR OF PRODUCTION AND CONSERVATION,  
22 HEARINGS, ASSESSMENTS, RULES, PERMITS,  
23 PLUGGING A WELL, ROYALTY PAYMENTS, AND  
24 PENALTIES FOR VIOLATIONS.

25  
26  
27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

28  
29 SECTION 1. Arkansas Code § 15-71-103(d), concerning Oil and Gas  
30 Commission meetings, is amended to read as follows:

31 (d)(1) A majority of the commission shall constitute a quorum, and a  
32 majority of those voting for and against the adoption or promulgation of any  
33 rule, regulation, or order shall be necessary for the adoption or  
34 promulgation of the rule, regulation, or order.

35 (2) However, in no event shall any rule, regulation, or order be



1 adopted or promulgated without receiving at least ~~four (4)~~ five (5)  
2 affirmative votes.

3  
4 SECTION 2. Arkansas Code § 15-71-105 is amended to read as follows:

5 15-71-105. Director of Production and Conservation.

6 (a)(1) The ~~commission~~ Oil and Gas Commission may appoint one (1)  
7 Director of Production and Conservation.

8 (2) The appointment under subdivision (a)(1) of this section is  
9 with the approval of the Governor, ~~to serve~~

10 (3) The director serves at the pleasure of the Governor at a the  
11 salary ~~as~~ set by law.

12 (b) The commission may ~~at its discretion appoint~~ authorize the  
13 director to employ other assistants, petroleum and natural gas engineers,  
14 bookkeepers, auditors, gaugers, and stenographers and other employees as  
15 necessary to properly administer and enforce the provisions of this act.

16 (c) The ~~Director of Production and Conservation~~ director shall:

17 (1) Be the ex officio secretary of the commission; ~~and~~

18 (2) Keep all minutes and records of the commission; ~~and~~

19 (3) Collect and remit to the Treasurer of State all moneys  
20 collected by the commission;

21 (4) Be the executive officer and administrator for all oil and  
22 gas activities regulated by the commission;

23 (5) Initiate and settle a civil or an administrative action to  
24 compel compliance with:

25 (A) A law administered by the commission; or

26 (B) An order, rule, or regulation issued by the  
27 commission;

28 (6) Administer the day-to-day activities of the commission,  
29 including without limitation the commission's fiscal and personnel  
30 activities; and

31 (7) Perform any other duty or act required or authorized by law  
32 or the rules, regulations, or orders of the commission.

33 ~~(d) The director shall, as secretary, give bond in the sum the~~  
34 ~~commission may direct with corporate surety to be approved by the commission,~~  
35 ~~conditioned that he will well and truly account for all funds coming into his~~  
36 ~~hands as secretary.~~

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

SECTION 3. Arkansas Code § 15-71-106 is amended to read as follows:  
15-71-106. Hearing officer.

(a) ~~The commission~~ Oil and Gas Commission may appoint one (1) hearing officer to preside at all public hearings of the commission.

(b) The hearing officer may ~~who shall be authorized to~~ administer oaths and ~~to~~ conduct hearings in conformity with the ~~rules of order or procedure in hearings or other proceedings before it under this act and to apply rules of evidence as established by law~~ laws of this state applicable to hearings and proceedings before the commission and the rules of the commission.

SECTION 4. Arkansas Code § 15-71-107(a)(2)(A)(ii), concerning the assessment applied by the Oil and Gas Commission to a barrel of oil produced and saved from a common source of supply, is amended to read as follows:

(ii) The charge that may be assessed pursuant to this subsection shall apply to each barrel of oil produced and saved, including that from common sources of supply discovered prior to January 1, 1937.

SECTION 5. Arkansas Code § 15-71-107(b)(2)(A)(ii), concerning the assessment applied by the Oil and Gas Commission to each one thousand cubic feet of natural gas (1,000 *cf*) produced and saved from a common source of supply, is amended to read as follows:

(ii) The charge that may be assessed pursuant to this subsection shall apply to each one thousand ~~(1,000)~~ cubic feet of natural gas (1,000 cf) produced and saved, including that from common sources of supply discovered prior to January 1, 1937.

SECTION 6. Arkansas Code § 15-71-108 is amended to read as follows:  
15-71-108. Purchaser to deduct and remit assessment to commission -  
Remission by producer.

(a) ~~Any~~ A person purchasing oil ~~or gas~~ in this state at the well, or a person selling gas at the first point of sale under ~~any~~ a contract or agreement requiring payments for production to the respective owners thereof, in respect of which production any sums assessed under the provisions of §

1 15-71-107 are payable to the ~~commission~~ Oil and Gas Commission, is  
2 authorized, empowered, and required to deduct from any sum so payable to ~~any~~  
3 ~~such a~~ a person the amount due the commission by virtue of the assessment and  
4 remit that sum to the commission.

5 (b) ~~Further, any~~ A person taking oil or gas from ~~any a~~ a well in this  
6 state for use or resale, in respect of which production any sums assessed  
7 under the provisions of § 15-71-107 are payable to the commission, shall  
8 remit any sum so due to the commission in accordance with ~~those rules and~~  
9 ~~regulations of the commission which may be adopted in regard thereto~~ the  
10 commission's rules.

11  
12 SECTION 7. Arkansas Code § 15-71-110(a)(1), concerning the powers and  
13 duties of the Oil and Gas Commission, is amended to read as follows:

14 (a)(1) The Oil and Gas Commission shall have jurisdiction of and  
15 authority over all persons and property necessary to administer and enforce  
16 effectively the provisions of this act and all other statutory authority of  
17 the Oil and Gas Commission relating to the exploration, production, and  
18 conservation of oil and gas.

19  
20 SECTION 8. Arkansas Code § 15-71-110(d)(18), concerning the Oil and  
21 Gas Commission's rules for the administration of the Natural Gas Pipeline  
22 Safety Act of 1968, is amended to read as follows:

23 (18) To administer and enforce any applicable provisions of the  
24 Natural Gas Pipeline Safety Act of 1968, Pub. L. No. 90-481, and to  
25 specifically empower the commission to submit any satisfactory certification  
26 required by the Natural Gas Pipeline Safety Act of 1968, Pub. L. No. 90-481,  
27 in connection with:

28 (A) A any production process or production facility as  
29 defined in this section; or

30 (B) A natural gas pipeline or associated facility whose:

31 (i) Owner is not affiliated with an Arkansas natural  
32 gas public utility; and

33 (ii) The majority owner is either a production  
34 company or an affiliate of a production company; and

35  
36 SECTION 9. Arkansas Code § 15-71-110(d)(19), concerning the Oil and

1 Gas Commission's authority to make rules, is amended to add an additional  
2 subdivision to read as follows:

3 (19) To require any owner or operator to provide a meter reading  
4 or report of the amount of natural gas sold or to allow the commission to  
5 obtain a meter reading of the amount of natural gas sold.

6  
7 SECTION 10. Arkansas Code § 15-71-111(a)-(c), concerning Oil and Gas  
8 Commission hearings, is amended to read as follows:

9 (a)(1) The Oil and Gas Commission ~~commission~~ shall prescribe its rules  
10 of order or procedure in hearings or other proceedings before ~~it~~ the  
11 commission ~~under this act, but in all hearings the rules of evidence as~~  
12 ~~established by law shall be applied. However, the erroneous ruling by the~~  
13 ~~commission on the admissibility of evidence shall not of itself invalidate~~  
14 ~~any rule, regulation, or order.~~

15 (2) The commission's rules of order and procedure shall be  
16 adopted in accordance with the law of this state.

17 (3) The commission shall comply with the laws of this state and  
18 the commission's rules that are applicable to the commission's hearings and  
19 proceedings.

20 (b)(1) No rule, regulation, or order, including change, renewal, or  
21 extension thereof, ~~shall~~, in the absence of an emergency, shall be made by  
22 the commission under the provisions of this act except after a public hearing  
23 upon at least ~~seven (7)~~ ten (10) days' notice given in the manner and form as  
24 may be prescribed by the commission.

25 (2) The public hearing shall be held at the time, place, and in  
26 the manner prescribed by the commission.

27 (3) Any person having any interest in the subject matter of the  
28 hearing shall be entitled to be heard.

29 (c)(1) In the event an emergency is found to exist by the commission  
30 which in its judgment requires the making, changing, renewal, or extension of  
31 a rule, regulation, or order without first having a hearing, the emergency  
32 rule, regulation, or order shall have the same validity as if a hearing with  
33 respect to that rule, regulation, or order had been held after due notice.

34 (2) The emergency rule, regulation, or order permitted by this  
35 ~~section shall remain in force no longer than ten (10) days from its effective~~  
36 ~~date~~ subsection is effective until the date of the next regular commission

1 hearing set to be held after the emergency rule, regulation, or order was  
2 issued.

3           (3) In any event, it shall expire when the rule, regulation, or  
4 order made after due notice and hearing with respect to the subject matter of  
5 the emergency rule, regulation, or order becomes effective.

6  
7           SECTION 11. Arkansas Code § 15-71-114(d)(1), concerning the penalty  
8 for conducting a field seismic operation without full compliance with this  
9 section or the Oil and Gas Commission's rules, is amended to read as follows:

10           (d)(1) Any person who conducts any field seismic operation in the  
11 state without having obtained a permit under this section or without having  
12 fully complied with the provisions of this section or any rules and  
13 regulations adopted by the commission ~~pursuant to~~ under this section ~~shall be~~  
14 is subject to a fine civil penalty of ~~one thousand dollars (\$1,000)~~ two  
15 thousand five hundred dollars (\$2,500) for each day the operation continues.

16  
17           SECTION 12. Arkansas Code § 15-72-202 is amended to read as follows:  
18 15-72-202. Penalties for violation of certain sections.

19           (a)~~(1)~~(A) Any person, firm, or corporation violating ~~§§~~ § 15-72-206,  
20 §15-72-208(a), ~~and~~ § 15-72-217, § 15-72-208(b), § 15-72-210, or § 15-72-211  
21 is ~~shall be~~ subject to a ~~fine of not less than one hundred dollars (\$100) nor~~  
22 ~~more than one thousand dollars (\$1,000)~~ civil penalty for each violation not  
23 to exceed two thousand five hundred dollars (\$2,500) to be assessed by the  
24 Oil and Gas Commission.

25           ~~(B)~~(b) If the fine civil penalty is not recovered by the  
26 commission within the time frame specified by the commission, the ~~fine civil~~  
27 penalty and a reasonable attorney's fee to be fixed by the court may be  
28 recovered in an action brought by the commission in the name of the state.

29           ~~(2)~~(c) The ~~proceeds of fines~~ civil penalty and attorney's fees  
30 collected shall be turned into the general road fund of the county where a  
31 leak is located, to be used on the roads, bridges, and highways of the  
32 county, in the discretion of the county court.

33           ~~(b)(1)(A)~~ Any person, firm, or corporation violating ~~§§~~ 15-72-208(b)  
34 and (c), 15-72-210, and 15-72-211 shall be subject to a ~~fine of not less than~~  
35 ~~one hundred dollars (\$100) nor more than one thousand dollars (\$1,000)~~ to be  
36 ~~assessed by the commission.~~

1                   ~~(B) If the fine is not recovered by the commission within~~  
2 ~~the time frame specified by the commission, the fine and a reasonable~~  
3 ~~attorney's fee to be fixed by the court may be recovered in an action brought~~  
4 ~~by the commission in the name of the state.~~

5                   ~~(2) The proceeds of fines and attorney's fees collected shall be~~  
6 ~~turned into the general fund of the county where the leak is located, to be~~  
7 ~~used on the roads, bridges, or highways of that county, in the discretion of~~  
8 ~~the county court.~~

9  
10           SECTION 13. Arkansas Code § 15-72-204 is amended to read as follows:

11           15-72-204. Prerequisite for drilling permit – Operator's proof of  
12 financial responsibility.

13           (a) Before the Oil and Gas Commission issues a permit to drill, an  
14 operator who is ~~Every operator, as defined by this act,~~ doing business in  
15 this state, and is not subject to the provisions of § 15-71-116 shall file  
16 proof of financial responsibility with the ~~Oil and Gas Commission before a~~  
17 ~~permit to drill is issued by the Oil and Gas Commission for any drilling~~  
18 ~~operation to be undertaken by the operator~~ commission.

19           (b) Before the commission transfers a well and issues a producer's  
20 certificate of compliance and authorization to transport oil or gas, a ~~Any~~  
21 ~~person who acquires~~ acquires the right of an operator of ~~any~~ an existing well  
22 ~~or wells~~ and is not subject to the provisions of § 15-71-116 shall ~~likewise~~  
23 ~~be required to~~ file proof of financial responsibility with the ~~Oil and Gas~~  
24 ~~Commission before a producer's certificate of compliance and authorization to~~  
25 ~~transport oil or gas therefrom is issued~~ commission.

26  
27           SECTION 14. Arkansas Code § 15-72-217(b)(2), concerning the plugging  
28 of a dry or abandoned well under an Oil and Gas Commission order, is amended  
29 to read as follows:

30           (2)(A) If the well operator fails to obey the order within  
31 ~~thirty (30) days after the date of order~~ the time set by the order, ~~then any~~  
32 ~~person authorized by~~ the commission may:

33                   (i) Authorize a person to enter upon the land on  
34 which the well is located and plug, replug, or repair the well, as may be  
35 reasonably required to remedy the condition; or

36                   (ii)(a) Transfer the well, the well-site equipment,

1 or any hydrocarbons from the well that are stored on the well site.

2 (b) Well-site equipment includes without  
3 limitation an associated tank battery and production facility equipment.

4 (B) Any proceeds received from the transfer of a well,  
5 well-site equipment, or hydrocarbons from the well under subdivision  
6 (b)(2)(A) of this section shall be deposited in the Abandoned and Orphaned  
7 Well Plugging fund.

8  
9 SECTION 15. Arkansas Code § 15-72-302(c)(1), concerning the exception  
10 to the drilling site requirement, is amended to read as follows:

11 (c)(1) Each well permitted to be drilled upon any drilling unit shall  
12 be drilled at a location that is in compliance with rules adopted by the  
13 commission, with such exception as may be reasonably necessary where it is  
14 shown, after notice and ~~upon~~ an opportunity for a hearing, and the commission  
15 finds that a well drilled at a different location is likely to prevent waste  
16 or protect correlative rights of owners within the unit, or both.

17  
18 SECTION 16. Arkansas Code § 15-72-305(a)(5), concerning the annual  
19 distribution of royalty money in an aggregate amount of one hundred dollars  
20 (\$100) or less, is amended to read as follows:

21 (5)(A) On or before the thirtieth day of the next calendar month  
22 following its receipt of the royalty moneys as provided above, the operator  
23 shall distribute the moneys to all royalty owners as provided in this  
24 subsection. The distribution may be made annually for the aggregate of up to  
25 twelve (12) months of accumulated royalty moneys where the aggregate amount  
26 due any royalty owner is ~~twenty-five dollars (\$25.00)~~ one hundred dollars  
27 (\$100) or less. The payment shall be made in a form evidencing the  
28 following:

29  
30 SECTION 17. Arkansas Code § 15-74-604(b), concerning an operator's  
31 remittance annually of royalties in an aggregate amount of one hundred  
32 dollars (\$100) or less, is amended to read as follows:

33 (b) In the event the operator under an oil or gas lease fails to pay  
34 oil or gas royalties to the mineral owner or his assignee within one hundred  
35 eighty (180) days after oil or gas produced under the lease is marketed, the  
36 unpaid royalties shall bear interest thereafter at the rate of twelve percent



1 (12%) per annum until paid. Provided, that the operator may remit annually to  
 2 a person entitled to royalties the aggregate of up to twelve (12) months of  
 3 monthly royalties where the aggregate amount owed is ~~twenty-five dollars~~  
 4 ~~(\$25.00)~~ one hundred dollars (\$100) or less. This subchapter shall not apply  
 5 when mineral owners or their assignees elect to take their proportionate  
 6 share of production in kind or in the event of unmarketability of title which  
 7 would affect substantially the making of the royalty payments.

8  
 9 SECTION 18. Arkansas Code § 18-28-402(d), concerning the civil penalty  
 10 for a violation of this section's provisions regarding the escrow account for  
 11 mineral proceeds, is amended to read as follows:

12 (d) Any holder of mineral proceeds who violates this section ~~shall be~~  
 13 ~~guilty of a violation and upon conviction shall be~~ is subject to a ~~fine~~ civil  
 14 penalty not to exceed ~~one thousand dollars (\$1,000)~~ two thousand five hundred  
 15 dollars (\$2,500) for each violation.

16  
 17 /s/ Lowery

18  
 19 **APPROVED: 4/7/2009**