HOUSE BILL NO. 289

INTRODUCED BY G. OBLANDER, G. NIKOLAKAKOS, K. ZOLNIKOV, L. BREWSTER, B. PHALEN, L. DEMING, N. DURAM

A BILL FOR AN ACT ENTITLED: “AN ACT REVISING NOTICE REQUIREMENTS FOR AN OWNER'S SHARE OF COSTS TO DEVELOP AN OIL OR GAS WELL; AND AMENDING SECTION 82-11-202, MCA.”

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

Section 1. Section 82-11-202, MCA, is amended to read:

"**82-11-202. Pooling of interest within spacing unit.** (1) (a) When two or more separately owned tracts are embraced within a temporary or permanent spacing unit or when there are separately owned interests in all or a part of the spacing unit, then the persons owning those interests may pool their interests for the development and operation of the spacing unit.

(b) The board, upon the application of an interested person, may enter an order pooling all interests in the permanent spacing unit for the development and operation of the permanent spacing unit and the allocation of production if the applicant has made an unsuccessful, good faith attempt to voluntarily pool the interests within the permanent spacing unit. The applicant must be a person who owns an interest in the oil or gas underlying the permanent spacing unit or who has drilled a well, proposes to drill a well, or proposes to conduct other operations on a well, including recompleting, deepening, or stimulation. The pooling order must be made after a <u>board</u> hearing and must be upon terms and conditions that are just and reasonable and that afford to the owner of each tract or interest in the permanent spacing unit the opportunity to recover or receive without unnecessary expense a just and equitable share of the oil or gas produced and saved from the spacing unit. Operations incident to the drilling of a well upon any portion of a permanent spacing unit covered by a pooling order are considered, for all purposes, the conduct of the operations upon each separately owned tract in the spacing unit by the several owners of the tracts. That portion of the production allocated to each tract included in a permanent spacing unit covered by a pooling order must when produced be considered for all purposes to have been produced from the tract by a well drilled on the tract.

(2) (a) As to each owner who refuses to pay the owner's share of the costs of development or other operations referred to in subsection (1), the order must provide for payment of the owner's share of the cost out of and only out of production from the well allocable to the owner's interest in the permanent spacing unit, excluding royalty or other interest not obligated to pay any part of the cost and excluding the royalty provided for in subsection (2)(c). If a well has not been drilled prior to the hearing on the application, the pooling order must provide for the drilling and operating of a well on the permanent spacing unit and for the payment of the cost of the well, which may include a reasonable charge for supervision, handling, and storage. If a dispute arises as to the cost, the board by subsequent order, after notice and hearing, shall determine the proper cost. The order may provide in substance that the owners who agree to share in the cost of drilling and operating the well are, unless they agree otherwise, entitled to receive, subject to royalty or similar obligations, all of the production of the well until they have recovered all of the costs out of the production. After all costs of drilling and operation are recovered, all of the owners in the permanent spacing unit are entitled to receive their respective shares of the production of the well as their interest may appear after deducting their respective shares of current operating costs.

(b) If a well has been drilled prior to the hearing on the application and an owner, after written demand, has failed or refused to pay the owner's share of the costs of development or other operations referred to in subsection (1) or if a well has not been drilled prior to the hearing on the application and an owner refuses to agree to pay the owner's share of drilling and completion costs, in addition to the costs under subsection (2)(a), the order must include as costs:

(i) 100% of the refusing owner's share of the cost of newly acquired surface equipment beyond the wellhead connections, including but not limited to stock tanks, separators, treaters, pumping equipment, and piping, plus 100% of the refusing owner's share of the cost of operation of the well commencing with first production and continuing until the agreeing owners have recovered the costs; and

(ii) 200% of the refusing owner's share of the costs and expenses of staking, well site preparation, obtaining rights-of-way, rigging up, drilling, reworking, deepening or plugging back, testing, and completing the well, after deducting any cash contributions received from the refusing owners by the agreeing owners, and 200% of that portion of the cost of equipment in the well, including the wellhead connections.

(c) A refusing owner of an oil and gas interest in a spacing unit that is not subject to any lease or other contract for development of oil and gas is considered to own a landowner royalty equal to one-eighth of the owner's proportionate share of production from the well until such time as the consenting owners recover the costs specified in subsection (2)(b). Any interest in production from the spacing unit to which the interest of the refusing owner may be subject must be deducted from the royalty considered to be owned by the refusing owner. After costs have been recovered by the agreeing owners, the refusing owner owns the refusing owner's proportionate share of the well, surface facilities, and production and is liable for further costs as if the refusing owner had originally agreed to drilling of the well.

(d) The operator of a well under a pooling order in which there is a refusing owner shall upon demand furnish the refusing owner with a monthly statement of all costs incurred, together with the quantity of oil or gas produced and the amount of proceeds realized from the sale of production during the preceding month.

(e) If an owner of an oil and gas interest in a temporary spacing unit refuses to agree to pay the owner's share of the costs of drilling and operating a well drilled within the unit and an application is filed for pooling of the interests in the well in a permanent spacing unit, the board shall, upon hearing the application for pooling of the interests for the well, order that the parties who agreed to share in the cost of drilling and operating the well prior to commencement of the drilling operation recover out of the refusing owner's share of the costs as provided in subsections (2)(a) and (2)(b).

(3) (a) An owner is presumed to have refused to pay the owner's share of costs if ~~prior to the spud date of the well,~~ the owner fails to pay or agree in writing to promptly pay ~~the~~ their share of the costs after notice by the well operator of either:

(i) ~~acknowledged~~ an acknowledgment in writing by the owner ~~as received~~; or

(ii) ~~sent at least 30 days prior to the spud date of the well to the owner~~ by certified mail to the owner, addressed to the owner's address of record in the office of the clerk and recorder of the county where the well is to be drilled or to the owner's address on file with the board.

(b) The notice must:

(i) allow the owner 30 days to elect to pay the owner's share of costs; and

(ii) set forth the location of the well, the projected depth and target formations, the anticipated costs of drilling and completing the well, and the anticipated or actual spud date of the well."

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