

The Legislature  
of the  
State of New Mexico

52nd Legislature, 1st Session

LAWS 2015

CHAPTER 79

HOUSE ENERGY, ENVIRONMENT AND NATURAL RESOURCES

COMMITTEE SUBSTITUTE FOR HOUSE BILL 383,

as amended, with emergency clause

Introduced by

**EMERGENCY  
CLAUSE**



# CHAPTER 79

## AN ACT

RELATING TO OIL AND GAS; AMENDING A SECTION OF THE OIL AND GAS ACT TO PROVIDE FOR BLANKET FINANCIAL ASSURANCE ON ANY WELL HELD IN TEMPORARILY ABANDONED STATUS FOR MORE THAN TWO YEARS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 70-2-14 NMSA 1978 (being Laws 1977, Chapter 237, Section 3, as amended) is amended to read:

"70-2-14. REQUIREMENT FOR FINANCIAL ASSURANCE.--

A. Each person, firm, corporation or association who operates any oil, gas or service well within the state shall, as a condition precedent to drilling or producing the well, furnish financial assurance in the form of an irrevocable letter of credit or a cash or surety bond or a well-specific plugging insurance policy pursuant to the provisions of this section to the oil conservation division of the energy, minerals and natural resources department running to the benefit of the state and conditioned that the well be plugged and abandoned in compliance with the rules of the oil conservation division. The oil conservation division shall establish categories of financial assurance after notice and hearing. Such categories shall include a blanket plugging financial assurance in an amount not to exceed fifty thousand dollars (\$50,000), except for a blanket plugging financial

1 assurance for temporarily abandoned status wells, which shall  
2 be set by rule at amounts greater than fifty thousand dollars  
3 (\$50,000), and one-well plugging financial assurance in  
4 amounts determined sufficient to reasonably pay the cost of  
5 plugging the wells covered by the financial assurance. In  
6 establishing categories of financial assurance, the oil  
7 conservation division shall consider the depth of the well  
8 involved, the length of time since the well was produced, the  
9 cost of plugging similar wells and such other factors as the  
10 oil conservation division deems relevant. The oil  
11 conservation division shall require a one-well financial  
12 assurance on any well that has been held in a temporarily  
13 abandoned status for more than two years or, at the election  
14 of the operator, may allow an operator to increase its blanket  
15 plugging financial assurance to cover wells held in  
16 temporarily abandoned status. All financial assurance shall  
17 remain in force until released by the oil conservation  
18 division. The oil conservation division shall release  
19 financial assurance when it is satisfied the conditions of the  
20 financial assurance have been fully performed.

21 B. If any of the requirements of the Oil and Gas  
22 Act or the rules promulgated pursuant to that act have not  
23 been complied with, the oil conservation division, after  
24 notice and hearing, may order any well plugged and abandoned  
25 by the operator or surety or both in accordance with division



1 rules. If the order is not complied with in the time period  
2 set out in the order, the financial assurance shall be  
3 forfeited.

4 C. When any financial assurance is forfeited  
5 pursuant to the provisions of the Oil and Gas Act or rules  
6 promulgated pursuant to that act, the director of the oil  
7 conservation division shall give notice to the attorney  
8 general, who shall collect the forfeiture without delay.

9 D. All forfeitures shall be deposited in the state  
10 treasury in the oil and gas reclamation fund.

11 E. When the financial assurance proves  
12 insufficient to cover the cost of plugging oil and gas wells  
13 on land other than federal land and funds must be expended  
14 from the oil and gas reclamation fund to meet the additional  
15 expenses, the oil conservation division is authorized to bring  
16 suit against the operator in the district court of the county  
17 in which the well is located for indemnification for all costs  
18 incurred by the oil conservation division in plugging the  
19 well. All funds collected pursuant to a judgment in a suit  
20 for indemnification brought under the provisions of this  
21 section shall be deposited in the oil and gas reclamation  
22 fund.

23 F. An operator required to file financial  
24 assurance for a well pursuant to this section is considered to  
25 have met that requirement if the operator obtains a plugging

1 insurance policy that includes the specific well and that:

2 (1) is approved by the office of  
3 superintendent of insurance;

4 (2) names the state of New Mexico as owner  
5 of the policy and contingent beneficiary;

6 (3) names a primary beneficiary who agrees  
7 to plug the specified wellbore;

8 (4) is fully prepaid and cannot be canceled  
9 or surrendered;

10 (5) provides that the policy continues in  
11 effect until the specified wellbore has been plugged;

12 (6) provides that benefits will be paid  
13 when, but not before, the specified wellbore has been plugged  
14 in accordance with rules of the oil conservation division in  
15 effect at the time of plugging; and

16 (7) provides benefits that are not less than  
17 an amount equal to the one-well financial assurance required  
18 by oil conservation division rules.

19 G. If, subsequent to an operator obtaining an  
20 insurance policy as provided in this section, the one-well  
21 financial assurance requirement applicable to the operator's  
22 well is increased, either because the well is deepened or the  
23 rules of the oil conservation division are amended, the  
24 operator is considered to have met the revised requirement if:

25 (1) the existing policy benefit equals or


1 exceeds the revised requirement;


2 (2) the operator obtains an amendment  
3 increasing the policy benefit by the amount of the increase in  
4 the applicable financial assurance requirement; or

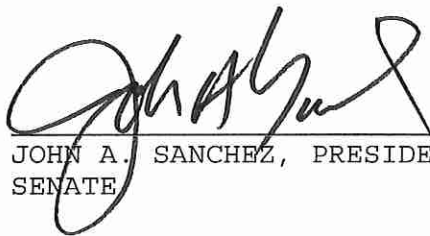
5 (3) the operator obtains financial assurance  
6 equal to the amount, if any, by which the revised requirement  
7 exceeds the policy benefit."

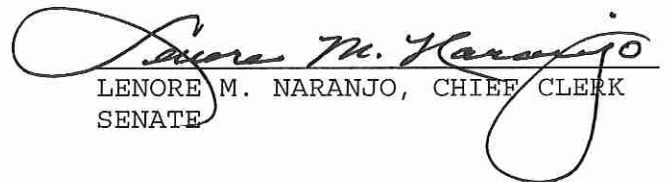
8 **SECTION 2. EMERGENCY.**--It is necessary for the public  
9 peace, health and safety that this act take effect  
10 immediately. \_\_\_\_\_

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DON TRIPP, SPEAKER  
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HOUSE OF REPRESENTATIVES

  
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SENATE

Approved by me this 8<sup>th</sup> day of April, 2015

  
SUSANA MARTINEZ, GOVERNOR  
STATE OF NEW MEXICO