

786

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to establishing a fund for the natural gas and oil producing industry to make financial security affordable for natural gas and oil producers who own, operate, maintain and plug natural gas and oil wells

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The environmental conservation law is amended by adding a
2 new section 23-0315 to read as follows:
3 S 23-0315. FINANCIAL SECURITY FUND.
4 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE COMMISSIONER OF
5 TAXATION AND FINANCE AND COMPTROLLER ARE HEREBY DIRECTED AND AUTHORIZED
6 TO ESTABLISH A NATURAL GAS AND OIL WELL SECURITY FUND (HEREINAFTER
7 REFERRED TO IN THIS SECTION AS THE "FUND") TO ENABLE ELIGIBLE NATURAL
8 GAS AND OIL PRODUCERS TO MEET THE FINANCIAL SECURITY REQUIREMENTS OF
9 THIS CHAPTER FOR THE PERMITTING, OPERATION, MAINTENANCE AND PLUGGING OF
10 NATURAL GAS AND OIL WELLS. THE FUND SHALL BE ADMINISTERED BY THE COMMIS-
11 SIONER IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION. IN LIEU OF THE
12 FINANCIAL SECURITY REQUIREMENTS ESTABLISHED BY THE COMMISSIONER OR THIS
13 CHAPTER, A NATURAL GAS OR OIL PRODUCER MAY SATISFY THE FINANCIAL SECURI-
14 TY REQUIREMENTS FOR NATURAL GAS OR OIL WELL PLUGGING AND ABANDONMENT BY
15 PARTICIPATION IN THE NATURAL GAS AND OIL WELL SECURITY FUND.
16 2. (A) A NATURAL GAS PRODUCER WHO IS THE OWNER AND/OR OPERATOR OF ANY
17 NATURAL GAS WELL DRILLED TO A COMPLETION DEPTH OF NO MORE THAN SIX THOU-
18 SAND FEET THAT HAS BEEN REGISTERED WITH AND PERMITTED BY THE DEPARTMENT
19 SHALL BE ELIGIBLE TO PARTICIPATE IN THE FUND.
20 (B) AN OIL PRODUCER WHO IS THE OWNER AND/OR OPERATOR OF ANY OIL WELL
21 DRILLED TO A COMPLETION DEPTH OF NO MORE THAN SIX THOUSAND FEET THAT HAS

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 BEEN REGISTERED WITH AND PERMITTED BY THE DEPARTMENT SHALL BE ELIGIBLE
2 TO PARTICIPATE IN THE FUND.

3 (C) THE RATE OF PAYMENT INTO THE FUND SHALL BE TEN DOLLARS PER WELL
4 PER YEAR.

5 (D) THE COMMISSIONER SHALL DEPOSIT ALL MONIES RECEIVED FROM NATURAL
6 GAS AND OIL PRODUCERS FOR THIS FUND AND ALL FUNDS SO RECEIVED AND DEPOS-
7 ITED IN SUCH FUND SHALL NOT BE DEEMED TO BE STATE FUNDS. THE COMP-
8 TROLLER SHALL BE EMPOWERED TO INVEST SUCH FUNDS PURSUANT TO SECTION
9 NINETY-EIGHT-A OF THE STATE FINANCE LAW CONSISTENT WITH THE PURPOSES OF
10 THIS SECTION. THE COMMISSIONER IS HEREBY AUTHORIZED TO DRAW UPON SUCH
11 FUNDS, IN HIS OR HER DISCRETION, TO PURCHASE CREDIT INSURANCE FOR THE
12 BENEFIT OF THE FUND. THE COMMISSIONER SHALL MAKE AN ANNUAL REPORT OF THE
13 RECEIPTS TO AND DISBURSEMENTS FROM THE FUND, INCLUDING THE COST OF
14 ADMINISTRATION OF THE FUND, WHICH REPORT SHALL BE MADE AVAILABLE TO EACH
15 ELIGIBLE NATURAL GAS AND OIL PRODUCER AND TO ANY OTHER PERSON HAVING AN
16 INTEREST IN THE FUND. A COPY OF SUCH REPORT SHALL BE FORWARDED TO THE
17 DIRECTOR OF THE DIVISION OF THE BUDGET, THE CHAIRPERSON OF THE SENATE
18 FINANCE COMMITTEE AND THE CHAIRPERSON OF THE ASSEMBLY WAYS AND MEANS
19 COMMITTEE.

20 (E) WHEN THE FUND HAS ACCUMULATED FIFTY THOUSAND DOLLARS OR SUCH
21 GREATER OR LESSER AMOUNT WHICH SHALL BE SUFFICIENT TO COVER THE COST OF
22 PLUGGING UP TO FIVE WELLS PER YEAR, CALCULATED UPON THE BASIS OF THE
23 AVERAGE COST OF PLUGGING WELLS TYPICALLY COVERED BY THE FUND DURING THE
24 PRECEDING CALENDAR YEAR, AS THE COMMISSIONER MAY DETERMINE IS SUFFICIENT
25 TO PROTECT THE PLUGGING REQUIREMENTS OF PRODUCERS, HE OR SHE SHALL
26 ADMINISTER THE FUND IN THE MANNER PRESCRIBED IN THIS SECTION.

27 (F) IF A NATURAL GAS OR OIL PRODUCER PARTICIPATING IN THE FUND ELECTS
28 TO TERMINATE HIS OR HER PARTICIPATION THEREIN, HE OR SHE SHALL GIVE
29 NOTICE IN WRITING TO THE COMMISSIONER SIX MONTHS PRIOR TO THE WITHDRAWAL
30 AND HE OR SHE SHALL FILE A SURETY BOND OR OTHER SECURITY NINETY DAYS
31 BEFORE THE WITHDRAWAL DATE. UPON BEING SATISFIED THAT THE NATURAL GAS OR
32 OIL PRODUCER IS NOT IN DEFAULT IN ANY PLUGGING OR GAS OR OIL WELL PERMIT
33 REQUIREMENTS, THE COMMISSIONER SHALL AUTHORIZE THE COMPTROLLER TO PAY TO
34 SUCH PRODUCER HIS OR HER PRO RATA SHARE WITHIN THIRTY DAYS.

35 (G) ANY NATURAL GAS OR OIL PRODUCER WHO FIRST ELECTS TO PARTICIPATE IN
36 THE FUND SHALL MAKE AN INITIAL PAYMENT TO THE FUND OF FIVE HUNDRED
37 DOLLARS. UPON THE PAYMENT OF THE INITIAL DEPOSIT INTO THE FUND, AS
38 REQUIRED HEREIN, A PRODUCER ELECTING TO PARTICIPATE IN THE FUND MAY
39 APPLY TO THE COMMISSIONER FOR TERMINATION OR ADJUSTMENT OF AN EXISTING
40 BOND OR EXISTING ALTERNATIVE SECURITY REQUIREMENT FILED WITH THE COMMIS-
41 SIONER.

42 3. THE COMMISSIONER, AFTER NOTICE AND PUBLIC HEARING, IS AUTHORIZED TO
43 ADOPT, AMEND, REPEAL AND ENFORCE SUCH RULES AND REGULATIONS THAT THE
44 COMMISSIONER DEEMS NECESSARY TO CARRY OUT THE PROVISIONS AND INTENT OF
45 THIS FUND.

46 S 2. This act shall take effect immediately.