

3410

2009-2010 Regular Sessions

I N S E N A T E

March 18, 2009

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

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

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

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

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

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

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

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

44 S 2. This act shall take effect immediately.