

April 8, 2003

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1218

That the Senate recede from its amendments as printed on pages 1002 and 1003 of the House Journal and pages 834 and 835 of the Senate Journal and that Engrossed House Bill No. 1218 be amended as follows:

Page 1, line 3, replace "lessees" with "owners"

Page 1, line 8, overstrike "a"

Page 1, line 9, overstrike "lessee owning" and insert immediately thereafter "the owner of"

Page 1, line 10, overstrike "lessee's" and insert immediately thereafter "owner's"

Page 1, line 12, overstrike "lessee" and insert immediately thereafter "owner" and remove the overstrike over "~~The~~" and insert immediately thereafter "recovery of a risk penalty is as follows:

a."

Page 1, line 13, replace "lessee's" with "owner's"

Page 1, line 15, overstrike "lessee's" and insert immediately thereafter "owner's"

Page 1, line 18, overstrike "No risk penalty may be assessed against an unleased"

Page 1, line 19, overstrike "mineral interest." and insert immediately thereafter:

"b. If the nonparticipating owner's interest in the spacing unit is not subject to a lease or other contract for development, the risk penalty is fifty percent of the nonparticipating owner's share of the reasonable actual costs of drilling and completing the well and may be recovered out of production from the pooled spacing unit, as provided by section 38-08-10, exclusive of any royalty provided for in subsection 1.

c. The owner paying for the nonparticipating owner's share of the drilling and operation of a well may recover from the nonparticipating owner a risk penalty for the risk involved in drilling and completing the well only if the paying owner has made an unsuccessful, good-faith attempt to have the unleased nonparticipating owner execute a lease or to have the leased nonparticipating owner join in and participate in the risk and cost of drilling the well. Before a risk penalty may be imposed, the paying owner must notify the nonparticipating owner with proof of service that the paying owner intends to impose a risk penalty and that the nonparticipating owner may object to the risk penalty by either responding in opposition to the petition for a risk penalty or if no such petition has been filed, by filing an application or request for hearing with the industrial commission."

Page 2, line 5, overstrike "lessees" and insert immediately thereafter "owners"

Page 2, line 7, replace "lessee" with "owner"

Page 2, line 8, replace "lessee" with "owner"

Page 2, line 9, replace "If the nonparticipating lessee's" with "The recovery of the risk penalty is as follows:"

a. If the nonparticipating owner's"

Page 2, line 11, replace "lessee's" with "owner's"

Page 2, after line 13, insert:

"b. If the nonparticipating owner's interest in the unit is not subject to a lease or other contract for development, the penalty is fifty percent of the nonparticipating owner's share of the unit expense and may be recovered out of production from the unit exclusive of any royalty provided for in section 38-08-09.13.

c. The owner paying for the nonparticipating owner's share of the unit expense may recover from the nonparticipating owner a risk penalty for the risk involved in the unit expense only if the paying owner has made an unsuccessful, good-faith attempt to have the unleased nonparticipating owner execute a lease or to have the leased nonparticipating owner join in and participate in the risk of the unit expense. Before a risk penalty may be imposed, the paying owner must notify the nonparticipating owner with proof of service that the paying owner intends to impose a risk penalty and that the nonparticipating owner may object to the risk penalty by either responding in opposition to the petition for a risk penalty or if no such petition has been filed, by filing an application or request for hearing with the industrial commission."

Renumber accordingly