

H. B. 4349

(By Delegate Manypenny)

[Introduced January 30, 2012; referred to the
Committee on the Judiciary then Finance.]

**FISCAL
NOTE**

A BILL to amend and reenact §22-6A-15 of the Code of West Virginia, 1931, as amended, relating to a requirement that operators post a bond for performance and recompense of landowners for each well for the life of the well and until all performance requirements and obligations to landowners have been satisfied.

Be it enacted by the Legislature of West Virginia:

That §22-6A-15 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 6A. NATURAL GAS HORIZONTAL WELL CONTROL ACT.

§22-6A-15. Performance and recompense bonds; corporate surety or other security.

(a) No permit may be issued pursuant to this article unless a bond as described in subsection (d) of this section which is required for ~~a particular activity~~ particular activities and obligations by this article is or has been furnished as provided in

1 this section.

2 (b) A separate bond as described in subsection (d) of this
3 section ~~may~~ shall be furnished for each horizontal well drilled.
4 Each of these bonds shall be in the sum of \$50,000 payable to the
5 State of West Virginia, conditioned on full compliance with all
6 laws, rules relating to the drilling, redrilling, deepening, casing
7 and stimulating of horizontal wells; ~~and~~ to the plugging of
8 horizontal wells when these become low or nonproducing or when
9 production ceases; to the abandonment and reclamation of horizontal
10 wells; compensation to landowners under article six-b of this
11 chapter; completion of a permanent water supply under section
12 eighteen of this article; and for furnishing reports and
13 information required by the secretary.

14 ~~(c) When an operator makes or has made application for permits~~
15 ~~to drill or stimulate a number of horizontal wells, the operator~~
16 ~~may, in lieu of furnishing a separate bond, furnish a blanket bond~~
17 ~~in the sum of \$250,000 payable to the State of West Virginia, and~~
18 ~~conditioned as provided in subsection (b) of this section.~~

19 ~~(d)~~ (c) The form of the bond required by this article shall be
20 approved by the secretary and may include, at the option of the
21 operator, surety bonding, collateral bonding, including cash and
22 securities, letters of credit, establishment of an escrow account,
23 self-bonding or a combination of these methods. If collateral
24 bonding is used, the operator may elect to deposit cash, or

1 collateral securities or certificates as follows: Bonds of the
2 United States or its possessions, of the federal land bank, or of
3 the homeowners' loan corporation; full faith and credit general
4 obligation bonds of the State of West Virginia or other states or
5 of any county, district or municipality of the State of West
6 Virginia or other states; or certificates of deposit in a bank in
7 this state, which certificates shall be in favor of the department.
8 The cash deposit or market value of the securities or certificates
9 shall be equal to or greater than the amount of the bond. The
10 secretary shall, upon receipt of any deposit of cash, securities or
11 certificates, promptly place the same with the Treasurer of the
12 State of West Virginia whose duty it is to receive and hold them in
13 the name of the state in trust for the ~~purpose of which the deposit~~
14 ~~is made when the permit is issued.~~ life of the well and until the
15 operator has discharged all obligations including those owed to
16 landowners. The operator is entitled to all interest and income
17 earned on the collateral securities filed by the operator. The
18 operator making the deposit is entitled from time to time to
19 receive from the State Treasurer, upon the written approval of the
20 secretary, the whole or any portion of any cash, securities or
21 certificates so deposited, upon depositing with the State Treasurer
22 in lieu thereof, cash or other securities or certificates of the
23 classes herein specified having value equal to or greater than the
24 amount of the bond.

1 ~~(e)~~ (d) When an operator has furnished a separate bond from a
2 corporate bonding or surety company to drill, fracture or stimulate
3 a horizontal well and the well produces oil or gas or both, its
4 operator may deposit with the secretary cash from the sale of the
5 oil or gas or both until the total deposited is \$50,000. When the
6 sum of the cash deposited is \$50,000, the separate bond for the
7 well shall be released by the secretary. Upon receipt of that cash,
8 the secretary shall immediately deliver that amount to the State
9 Treasurer, who shall hold the cash in the name of the state in
10 trust for the ~~purpose for which the bond was furnished and the~~
11 ~~deposit was made.~~ life of the well and until the operator has
12 discharged all obligations including those owed to landowners. The
13 operator is entitled to all interest and income which may be earned
14 on the cash deposited so long as the operator is in full compliance
15 with all laws and rules relating to the drilling, redrilling,
16 deepening, casing, plugging of all wells including low and non
17 producing wells, abandonment and reclamation of the well for which
18 the cash was deposited, has compensated landowners under six-b of
19 this chapter, has satisfied its obligations under section eighteen
20 of this article and so long as the operator has furnished all
21 reports and information required by the secretary and any
22 litigation which has commenced under section eighteen of this
23 article has reached final disposition. The secretary may establish
24 procedures under which an operator may substitute a new bond for an

1 existing bond or provide a new bond under certain circumstances
2 specified in a legislative rule promulgated in accordance with
3 chapter twenty-nine-a of this code.

4 ~~(f)~~ (e) Any separate bond furnished for a particular well
5 prior to the effective date of this article continues to be valid
6 for all work on the well permitted prior to the effective date of
7 this article; but no permit may be issued on such a particular well
8 without a bond complying with the provisions of this section. Any
9 blanket bond furnished prior to the effective date of this article
10 shall be replaced with a new blanket bond conforming to the
11 requirements of this section, at which time the prior bond is
12 discharged by operation of law; and if the secretary determines
13 that any operator has not furnished a new blanket bond, the
14 secretary shall notify the operator by registered mail or by any
15 method of delivery that requires a receipt or signature
16 confirmation of the requirement for a new blanket bond, and failure
17 to submit a new blanket bond within sixty days after receipt of the
18 notice from the secretary works a forfeiture under subsection (i)
19 of this section of the blanket bond furnished prior to the
20 effective date of this article.

21 ~~(g)~~ (f) Any such bond shall remain in force until released by
22 the secretary, and the secretary shall release the same upon
23 satisfaction that the conditions thereof have been fully performed,
24 that landowners have been fully compensated for loss under article

1 six-b of this chapter, that the operator has satisfied his or hers
2 obligations under section eighteen of this article and that any
3 litigation under section eighteen of this article has reached final
4 disposition. Upon the release of that bond, any cash or collateral
5 securities deposited shall be returned by the secretary to the
6 operator who deposited it.

7 ~~(h)~~ (g) (1) Whenever the right to operate a well is assigned
8 or otherwise transferred, the assignor or transferor shall notify
9 the department of the name and address of the assignee or
10 transferee by registered mail or by any method of delivery that
11 requires a receipt or signature confirmation not later than thirty
12 days after the date of the assignment or transfer. No assignment or
13 transfer by the owner relieves the assignor or transferor of the
14 obligations and liabilities unless and until the assignee or
15 transferee files with the department the well name and the permit
16 number of the subject well, the county and district in which the
17 subject well is located, the names and addresses of the assignor or
18 transferor, and assignee or transferee, a copy of the instrument of
19 assignment or transfer accompanied by the applicable bond, cash,
20 collateral security or other forms of security described in this
21 section, and the name and address of the assignee's or transferee's
22 designated agent if the assignee or transferee would be required to
23 designate an agent under this article if the assignee or transferee
24 were an applicant for a permit under this article. Every well

1 operator required to designate an agent under this section shall,
2 within five days after the termination of the designation, notify
3 the department of the termination and designate a new agent.

4 (2) Upon compliance with the requirements of this section by
5 the assignor or transferor and assignee or transferee, the
6 secretary shall release the assignor or transferor from all duties
7 and requirements of this article and shall give written notice of
8 release to the assignor or transferor of any bond and return to the
9 assignor or transferor any cash or collateral securities deposited
10 pursuant to this section.

11 ~~(i)~~ (h) If any of the requirements of this article or rules
12 promulgated pursuant thereto or the orders of the secretary has not
13 been complied with within the time limit set by any notice of
14 violation issued pursuant to this article, the performance bond
15 shall then be forfeited.

16 ~~(j)~~ (i) When any bond is forfeited pursuant to the provisions
17 of this article or rules promulgated pursuant thereto, the
18 secretary shall collect the forfeiture without delay.

19 ~~(k)~~ (j) All forfeitures shall be deposited in the Treasury of
20 the State of West Virginia in the Oil and Gas Reclamation Fund as
21 defined in section twenty-nine, article six of this chapter.

NOTE: The purpose of this bill is to require operators to post a bond for each well and to condition the release of the bond both upon performance factors and recompense to landowners for loss of property and contamination or diminution of water supply.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.