

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 3416

By Delegates Hansen, Petitto, Dean, Eldridge, and

Young

[Introduced March 17, 2025; referred to the
Committee on Energy and Public Works then
Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §22-10A-1, §22-10A-2, §22-10A-3, and §22-10A-4 all relating to the New Oil
 3 and Gas Well Plugging Assurance Act preventing a new, horizontal oil and gas wells with
 4 no bona fide future use from remaining on surface owner’s land with no funds available to
 5 plug the well and therefore possibly being orphaned on surface owner’s land with no
 6 responsible driller or operator with the resources to plug the well; and requiring single-well
 7 full-cost plugging bonds or periodic set aside of plugging money in escrow in the Office of
 8 the State Treasurer.

Be it enacted by the Legislature of West Virginia:

ARTICLE 10A. NEW OIL AND GAS WELL PLUGGING ASSURANCE ACT.

§22-10A-1. Short title.

1 This article shall be known as the New Oil and Gas Well Plugging Assurance Act.

§22-10A-2. Legislative findings and declarations.

1 (a) The Legislature declares it to be the public policy of this state and in the public interest
 2 that an oil or gas well that does not have any present or bona fide future use must be plugged in
 3 order to:

4 (1) Stop the devaluation of surface property arising from the very existence of the well
 5 together with the risks associated with unplugged wells caused by the useless and unnecessary
 6 imposition on the surface land owners;

7 (2) Clarify that any previous lease by a mineral owner is no longer held by production from
 8 that well;

9 (3) Preserve the ability to safely and economically produce from coal seams and other oil
 10 and gas bearing seams through which the well bore passed;

11 (4) Prevent it from leaking gas up into the air or into groundwater;

12 (5) Prevent it from leaking oil and other liquids out onto the surface; and

13 (6) Prevent it from leaking septic, animal waste, or other surface or near-surface pollution

14 down into groundwater;

15 (b) The Legislature finds that the previous statutory provisions for plugging assurance for
16 new wells using blanket bonds or low-dollar single-well bonds have resulted in thousands of
17 unplugged gas and oil wells in West Virginia that no longer produce and that have been orphaned
18 without a responsible operator.

19 (c) As a result, considerations of the health, property rights, environmental concerns, and
20 future developmental concerns need new and further requirements of law to prevent more new
21 wells from being orphaned.

§22-10A-3. New wells.

1 Notwithstanding any other provision of this code to the contrary, no permit may be issued
2 for a new well pursuant to §22-6A-1 et seq. of this code, if the application for the permit is filed after
3 July 1, 2026, unless the operator furnishes for each individual new well:

4 (1) A single well bond payable to the State of West Virginia conditioned on full compliance
5 with the plugging and reclamation of wells required by this code in an amount determined by the
6 Chief of the Office of Oil and Gas for a well with similar characteristics. The Department of
7 Environmental Protection has rule-making authority to determine this amount as provided in this
8 article; or

9 (2) A plugging money set aside escrow agreement with an escrow agent as provided in
10 §22-10A-4 of this code.

§22-10A-4. Plugging money set aside escrow account.

1 (a) If required to do so by this article, the operator of an oil or gas well shall establish a
2 plugging money set aside escrow account with an escrow agent, which account may include more
3 than one well in subaccounts for each well if provided in the agreement with the escrow agent.

4 (b) The escrow agent shall be a bank which is national banking association insured by the
5 federal government or with a similarly secure banking institution as determined by the State

6 Treasurer's Office.

7 (c) The funds shall be paid out of the account only on the order of the chief of the Office of
8 Oil and Gas and only to the person or entity that plugs the well or to the operator if the chief of the
9 Office of Oil and Gas certifies that the well has been plugged according to lawful requirements. If
10 the well becomes statutorily abandoned and no bona fide future use for the well has been
11 established all pursuant to §22-6-19 of this code, and if the operator has not plugged the well and
12 claimed the funds set aside for that well, then the chief of the Office of Oil and Gas may cause the
13 well to be plugged using the money set aside for that purpose for that well and order the escrow
14 agent to pay the funds to the State of West Virginia for that purpose and the escrow agent shall
15 make that payment on order of the chief.

16 (d) The rate of payment into the account or subaccounts by the operator of the well shall be
17 determined by the chief of the Office of Oil and Gas considering production and well life estimates
18 made by the chief of the Office of Oil and Gas, and considering estimated prices for the well's
19 products from recognized futures exchanges or, if no such estimates are available for all years,
20 then other estimates made by the chief of the Office of Oil and Gas, considering current plugging
21 costs, considering the estimated rate of inflation of plugging costs made by the chief of the Office
22 of Oil and Gas, considering net earnings projected by the escrow agent, and considering discount
23 rates from the projected future cost of plugging to a current relevant value estimated by the State
24 Treasurer. In lieu of the estimates of production of the chief of the Office of Oil and Gas, the chief
25 may consider production and well life estimates made by a registered professional reservoir
26 engineer which is supplied by the operator of the well or contracted by the chief. The payment
27 schedule shall require proportionately higher payments during the period of initial high production
28 and decreasing payments as production declines based on production and price estimates.
29 Earnings of the fund in excess of projected plugging and escrow costs shall be credited to future
30 payments or, if there are already sufficient funds in the account, given to the operator.

31 (e) The escrow agent shall invest the escrowed funds in each account or sub account

32 initially in a federated prime obligations fund, and shall maintain such escrow funds in market
33 money funds that are rated not less than "AAA" by a generally accepted rating agency. The
34 escrow agent shall reinvest the proceeds of these instruments as they mature in similar
35 instruments at their then-current market rates.

36 (f) The escrow agent may charge and pay to itself from the escrowed funds an escrow fee
37 which is the lesser of (1) fifteen percent of the interest earned in each month on the deposit
38 accounts holding the escrow funds, or (2) one-half of one percent of the escrow funds. Any partial
39 month shall be on a pro-rated basis.

40 (g) The escrow agent shall deduct from the accounts, and pay to the chief of the Office of
41 Oil and Gas, the costs of administering the program, all after providing notice to the operator and
42 the chief of the Office of Oil and Gas.

43 (h) The operator of the well shall report, or cause the escrow agent to report, to the chief of
44 the Office of Oil and Gas each year, in the month of the anniversary of the first production from the
45 well, a report of the funds paid to the escrow, the payments to the escrow agent and the payments
46 to the chief of the Office of Oil and Gas in a form and format proscribed by the chief.

47 (i) Failure of the operator to comply with the provisions of this article is a violation of law
48 entitling the operating bond of the operator to be forfeited, thereby requiring the operator to stop
49 production from any wells it operates.

50 (j) The State Treasurer may propose rules for legislative approval in accordance with
51 §29A-3-1 et seq. of this code to carry out duties under this article.

NOTE: The purpose of this bill is to prevent new horizontally drilled oil and gas wells that in the future have ceased production with no bona fide future use from remaining unplugged after they have not produced for a continuous period of 12 months and prevent them from becoming orphaned on a surface owner's land with no responsible driller or operator with the resources to plug the well. The bill requires new wells to either post an individual single-well, full-cost plugging bond, or in the alternative to start at the beginning of production to set aside money in an earnings bearing escrow account in a bank to pay itself to plug the well at the end of the well's life. The escrow provisions are based on West Virginia Coalbed Methane Review Board CBM pooling orders and their master escrow agreement attachments. It does not make any changes in bonding requirements for wells that have already been drilled or permitted.

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