

SHORT TITLE: Contracts; creating the Oklahoma Oilfield Anti-Indemnity Act; declaring certain contract provisions to be void; codification; effective date.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 1297

By: Henry

AS INTRODUCED

An Act relating to contracts; creating the Oklahoma Oilfield Anti-Indemnity Act; providing short title; defining terms; declaring certain contract provisions to be void; stating scope of act; preserving rights of certain persons to enter into certain contracts; stating application of act and exempting certain contracts; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 431 of Title 15, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 3 of this act shall be known and may be cited as the "Oklahoma Oilfield Anti-Indemnity Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 431.1 of Title 15, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Oilfield Anti-Indemnity Act:

1. "Agreement", as it pertains to a well for oil, gas, or water, or drilling for minerals which occur in a solid, liquid, gaseous, or other state, as used in this section, means any agreement or understanding, written or oral, concerning any operations related to the exploration, development, production, or transportation of oil, gas, or water, or drilling for minerals which occur in a solid, liquid, gaseous, or other state, including, but not limited to, drilling, deepening, reworking, repairing,

improving, testing, treating, performing, acidizing, logging, conditioning, altering, plugging, or otherwise rendering services in or in connection with any well drilled for the purpose of producing or excavating, constructing, improving, or otherwise rendering services in connection with any mine shaft, drift, or other structure intended for use in the exploration for or production of any mineral, or an agreement to perform any portion of any such work or services or any act collateral thereto, including the furnishing or rental of equipment, incidental transportation, or other goods and service furnished in connection with any such service or operation;

2. "Farmout agreement" means any agreement in which the holder of the operating rights to explore for and produce minerals, the assignor, agrees that it will, upon completion of the conditions of the agreement, assign to another, the assignee, all or a portion of a mineral lease or of operating rights;

3. "Operating agreement" means any agreement entered into by or among the owners of mineral rights for the joint exploration, development, operation, or production of minerals; and

4. "Wild well" means any well from which the escape of salt water, oil, or gas is unintended and cannot be controlled by the equipment used in normal drilling practices.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 431.2 of Title 15, unless there is created a duplication in numbering, reads as follows:

A. Any provision contained in, collateral to, or affecting an agreement pertaining to a well for oil, gas, or water, or drilling for minerals which occur in a solid, liquid, gaseous, or other state, is void and unenforceable to the extent that it purports to or does provide for defense or indemnity, or either, to the

indemnatee against loss or liability for damage arising out of or resulting from death or bodily injury to persons, which is caused by or results from the sole or concurrent negligence or fault of the indemnatee, or an agent, employee, or an independent contractor who is directly responsible to the indemnatee.

B. 1. The provisions of this act do not affect the validity of any insurance contract, except as otherwise provided in this act, or any benefit conferred by the workers' compensation laws of this state, and do not deprive a full owner or usufructuary of a surface estate of the right to secure an indemnity from any lessee, operator, contractor, or other person conducting operations for the exploration or production of minerals on the owner's land.

2. Any language in this act to the contrary notwithstanding, nothing in this act shall affect the validity of an operating agreement or farmout agreement to the extent that the operating agreement or farmout agreement purports to provide for defense or indemnity as described in subsection A of this section. This exception shall not extend to any party who physically performs any activities pursuant to any agreement as defined in Section 2 of this act.

C. This act shall have no application to public utilities, the forestry industry, or companies who drill with the Frasch process, so long as the work being performed is not any of the operations, services, or activities listed in paragraph 1 of Section 2 of this act, except to the extent those services or activities include drilling through the Frasch process.

D. The provisions of this act do not apply to loss or liability for damages, or any other expenses, arising out of or resulting from:

1. Bodily injury or death to persons arising out of or resulting from radioactivity;

2. Bodily injury or death to persons arising out of or resulting from the retainment of oil spills and clean-up and removal of structural waste subsequent to a wild well, failure of incidental piping or valves and separators between the well head and the pipelines or failure of pipelines, so as to protect the safety of the general public and the environment; or

3. Bodily injury or death arising out of or resulting from performance of services to control a wild well so as to protect the safety of the general public or to prevent depletion of vital natural resources.

E. Any provision in any agreement arising out of the operations, services, or activities listed in paragraph 1 of Section 2 of this act which requires waivers of subrogation, additional name insured endorsements, or any other form of insurance protection which would frustrate or circumvent the prohibitions of this act, shall be null and void.

F. The provisions of this act shall not deprive a person who has transferred land, with a reservation of mineral rights, of the right to secure an indemnity from any lessee, operator, contractor, or other person conducting operations for the exploration or production of minerals in connection with the reserved mineral rights; provided, the person does not retain a working interest or an overriding royalty interest convertible to a working interest in any production obtained through activities as described in paragraph 1 of Section 2 of this act.

G. This act shall apply to certain provisions contained in, collateral to, or affecting agreements in connection with the activities listed in paragraph 1 of Section 2 of this act which are

designed to provide indemnity to the indemnitee for all work performed between the indemnitor and the indemnitee in the future. This specifically includes what is commonly referred to in the oil industry as master or general service agreements or blanket contracts in whatever form and by whatever name. The provisions of this act shall not apply to a contract providing indemnity to the indemnitee when the contract was executed before the effective date of this act and which contract governs a specific terminable performance of a specific job or activity listed in paragraph 1 of Section 2 of this act.

SECTION 4. This act shall become effective November 1, 1996.

45-2-2208

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