

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE

4 FOR

HOUSE BILL NO. 1520

By: Dorman

5
6
7 COMMITTEE SUBSTITUTE

8 (agriculture - Oklahoma Controlled Burn Indemnity

9 Fund - codification -

10 effective date)

11
12
13
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 16-28.3 of Title 2, unless there
17 is created a duplication in numbering, reads as follows:

18 A. There is hereby created within the Oklahoma Conservation
19 Commission, the "Oklahoma Controlled Burn Indemnity Fund".

20 B. The Oklahoma Conservation Commission shall administer the
21 Oklahoma Controlled Burn Indemnity Fund. The Indemnity Fund shall
22 be established for the benefit of landowners who perform controlled
23 burns. The Indemnity Fund shall compensate landowners for losses

24

1 incurred from a fire that spreads beyond the control of the burner,
2 except for losses covered by insurance.

3 C. In order to participate in the fund, the landowner shall:

4 1. Work with the local conservation district office and the
5 Natural Resources Conservation Service of the United States
6 Department of Agriculture to develop a controlled burn plan based on
7 the United States Department of Agriculture Natural Resources
8 Conservation Service guidelines; and

9 2. At the time of filing the completed plan, provide payment of
10 One Hundred Dollars (\$100.00) to the Conservation Commission.

11 D. The Conservation Commission shall have authority to invest
12 the assessments. All proceeds of the investment shall be placed in
13 the Indemnity Fund. Fifty Thousand Dollars (\$50,000.00) from the
14 interest income for each year on the total proceeds in the Indemnity
15 Fund shall be paid to the Conservation Commission annually for the
16 development of controlled burn plans and for administration of the
17 fund. The balance of the accrued interest each year shall remain a
18 part of the Indemnity Fund.

19 E. When a loss is incurred, the landowner shall present a claim
20 to the Conservation Commission. To verify the claim, the landowner
21 shall present any evidence required by the Conservation Commission
22 including, but not limited to, evidence that the landowner strictly
23 adhered to the plan provided for in subsection C of this section.

24 All landowner claim payments shall be made by the Conservation

1 Commission from the Indemnity Fund as soon as practicable and not
2 later than one (1) year following the date of claim. The price per
3 acre of land shall be established on the day of the loss and shall
4 be for the full market value on that day.

5 F. If there is an insufficient amount of funds in the Indemnity
6 Fund to cover all claims for a certain year, payments shall be made
7 on a pro rata basis up to one hundred percent (100%) of the total
8 loss of each landowner. If payment is not received in the amount of
9 one hundred percent (100%) of total loss for a certain year, then
10 additional amounts shall be paid as funds become available in
11 succeeding years until repayment of one hundred percent (100%) of
12 total loss is attained. If, at any time, a landowner receives
13 payment totaling more than one hundred percent (100%) of total loss,
14 the excess payment shall be returned to the Indemnity Fund within
15 thirty (30) days. Upon final payment of a claim to a landowner from
16 the Indemnity Fund, the landowner shall subrogate the interest to
17 the Conservation Commission in a cause of action against any and all
18 parties, to the amount of loss that the producer was reimbursed by
19 the Indemnity Fund.

20 G. The landowner shall, within sixty (60) days of the date of
21 loss, present the claim to the Conservation Commission. Landowners
22 may submit a written request to the Conservation Commission for a
23 sixty-day extension of the filing period, if the landowner can show
24 that the landowner was not provided notification and reasonable time

1 to file a claim. If the claim of loss is not presented within the
2 time and in the manner required, the claim shall be forever barred
3 and the landowner shall forfeit all rights to remuneration or
4 payment.

5 H. If state funds are appropriated to the Indemnity Fund, the
6 Conservation Commission shall establish the rules and procedures
7 necessary to ensure that the General Revenue Fund shall be
8 reimbursed from the assessments in an amount equal to the total
9 appropriation made to the Indemnity Fund. The reimbursement shall
10 be made in a timely manner, provided the intents and purposes of
11 this section to compensate landowners for losses incurred shall not
12 be adversely affected.

13 I. The monies deposited in the Indemnity Fund shall at no time
14 become part of the general budget of any state board, commission, or
15 agency, except the Conservation Commission.

16 J. The Executive Director of the Conservation Commission shall
17 investigate all potential civil action claims against persons for
18 recovery of any losses paid by the Indemnity Fund.

19 K. No provision of this section shall preclude any landowner
20 from conducting a lawful burn without participating in the Oklahoma
21 Controlled Burn Indemnity Fund.

22 SECTION 2. This act shall become effective November 1, 2007.

23

24 51-1-7437 SAB 02/28/07