

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1821

6 By: Trebilcock

7 COMMITTEE SUBSTITUTE

8 An Act relating to energy; creating the Oil and Gas
9 Exploration Rights Act of 2011; providing
10 definitions; prohibiting the diminishment of
11 exploration rights under a wind or solar energy
12 agreement; providing for a prior written consent
13 exception; making rights under a wind or solar energy
14 agreement subordinate to exploration rights;
15 prohibiting the taking of exploration rights by
16 eminent domain; making certain rights cumulative;
17 requiring certain construction of certain rights;
18 providing for codification; and declaring an
19 emergency.

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

21 SECTION 1. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 801 of Title 52, unless there is
23 created a duplication in numbering, reads as follows:

24 This act shall be known and may be cited as the "Oil and Gas
Exploration Rights Act of 2011".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 802 of Title 52, unless there is
3 created a duplication in numbering, reads as follows:

4 As used in the Oil and Gas Exploration Rights Act of 2011:

5 1. "Act" means the Oil and Gas Exploration Rights Act of 2011;

6 2. "Operator" means a person engaged in the severance of oil or
7 gas for that person alone, for other persons only, or for that
8 person and others;

9 3. "Owner" means a person owning a right to explore for and
10 produce oil and gas, whether the right is derived from ownership of
11 oil and gas, from an oil and gas lease or from a force-pooling order
12 issued by the Corporation Commission. An owner shall also include
13 an operator;

14 4. "Person" means any individual, executor, administrator,
15 estate, agent, trust, trustee, institution, receiver, business
16 trust, firm, corporation, partnership, limited liability company,
17 cooperative, joint venture, governmental entity or agency,
18 association or any other group or combination acting as a unit;

19 5. "Exploration rights" means, as to any lands within the State
20 of Oklahoma, a right, title or interest of an owner, whether legal
21 or equitable, and whether the right, title or interest is derived
22 from ownership of oil and gas, from an oil and gas lease or from a
23 force-pooling order issued by the Corporation Commission, to explore
24 for and produce oil and gas, including, without limitation, the

1 right to enter upon and make use of the surface estate in connection
2 with exploring for and producing oil and gas, whether for that owner
3 alone, for other owners only, or for that owner and others; and

4 6. "Wind or solar energy agreement" means the same as defined
5 in Section 820.1 of Title 60 of the Oklahoma Statutes.

6 SECTION 3. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 803 of Title 52, unless there is
8 created a duplication in numbering, reads as follows:

9 A. Exploration rights shall not be diminished, abrogated or
10 interfered with in any respect by a wind or solar energy agreement
11 except with the prior written consent of the owner of exploration
12 rights, which consent may be granted or withheld for any reason or
13 for no reason. Any consent shall apply only to the exploration
14 rights of the owner giving the consent, and to the successors and
15 assigns of the owner if so provided in the instrument of consent.
16 Any consent shall apply only to the specific wind or solar energy
17 agreement which is the subject of the consent. Any consent shall be
18 evidenced in a written instrument in recordable form and shall be
19 recorded in the records of the county clerk of the county in which
20 the affected property is located. Within thirty (30) days of the
21 expiration of the wind or solar energy agreement which is the
22 subject of the consent, the person granting the consent shall cause
23 to be recorded in the records of the county clerk of the county in

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1 which the affected property is located a notice of termination of
2 consent.

3 B. Any rights derived from a wind or solar energy agreement
4 shall be subordinate in all respects to exploration rights except to
5 the extent consent is otherwise given in accordance with this
6 section.

7 SECTION 4. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 804 of Title 52, unless there is
9 created a duplication in numbering, reads as follows:

10 Notwithstanding any other provision of law to the contrary,
11 whether expressed or by implication, exploration rights shall not be
12 taken by eminent domain proceedings other than pursuant to law
13 specifically enacted for that purpose and specifically granting the
14 power of eminent domain as to exploration rights. The power of
15 eminent domain as to exploration rights shall not be granted or
16 bestowed by implication under any other law, rule, order or
17 regulation.

18 SECTION 5. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 805 of Title 52, unless there is
20 created a duplication in numbering, reads as follows:

21 The provisions of the Oil and Gas Exploration Rights Act of 2011
22 and the rights granted under the act are intended to be cumulative
23 with all other rights an owner may otherwise have at law or in
24 equity. To the extent that there is a conflict between the

1 provisions of the act and any other rights an owner has at law or in
2 equity, then the rights of the owner are to be liberally construed
3 to the end that those rights which afford the owner the most
4 comprehensive protection to secure the exercise of the exploration
5 rights of the owner shall be given preference.

6 SECTION 6. It being immediately necessary for the preservation
7 of the public peace, health and safety, an emergency is hereby
8 declared to exist, by reason whereof this act shall take effect and
9 be in full force from and after its passage and approval.

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