

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 1325

By: Crain and Fields of the
Senate

6 and

7 Richardson of the House

8
9 COMMITTEE SUBSTITUTE

10 An Act relating to property; creating the Groundwater
11 Severance Restriction Act; stating intent to restrict
12 the permanent severing of groundwater from the land
13 for certain purposes; limiting certain leasing
14 arrangements; stating exception; defining terms;
15 stating impact of certain agreement; stipulating that
16 certain agreements shall run with the land until
17 terminated; requiring certain instrument to be in
writing and to be filed with a certain county clerk;
18 specifying information to be included in the
19 instrument; prohibiting severance of any resource
20 associated with groundwater from the surface estate;
providing for codification; and providing an
effective date.

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

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 60.1 of Title 60, unless there
24 is created a duplication in numbering, reads as follows:

1 A. This act shall be known and may be cited as the "Groundwater
2 Severance Restriction Act".

3 B. It is the intent of this act to restrict the permanent
4 severing of groundwater under any real property located in this
5 state for the purpose of capturing and transferring the groundwater
6 for use in a commercial water operation or system. Leasing
7 agreements for development of a commercial water operation or
8 systems may be made only with the legally authorized owner of the
9 surface estate pursuant to the provisions and restrictions provided
10 by this act or otherwise provided by law. The provisions of this
11 act shall not apply to any property owner utilizing groundwater
12 operations or systems for domestic use only.

13 C. For the purposes of this act, a "commercial water operation
14 or system agreement" means a lease agreement, whether or not stated
15 in the form of a restriction, covenant, or condition, in any deed,
16 water easement, water option or lease securing land for the study or
17 capturing and transfer of groundwater, or any other instrument
18 executed by or on behalf of any owner of land for the purpose of
19 allowing another party to study the potential for, or to develop, a
20 commercial water operation or system. A commercial water operation
21 or system agreement shall in no way be deemed to contravene,
22 supersede, amend, modify or alter the existing powers, requirements,
23 limitations or other provisions of statutory or common law
24 pertaining to groundwater or stream water operations.

1 D. A commercial water operation or system agreement shall run
2 with the land benefitted and burdened and shall terminate upon the
3 conditions stated in the agreement.

4 E. An instrument entered into subsequent to the effective date
5 of this act, that creates a land right or an option to secure a land
6 right in real property for a commercial water operation or system,
7 shall be created in writing, and the instrument, or related
8 memorandum of easement or an abstract, shall be filed, duly
9 recorded, and indexed in the office of the county clerk in the
10 county in which the real property subject to the instrument is
11 located. The instrument, but not the related memorandum of easement
12 or abstract, shall include but not be limited to:

- 13 1. The names of the parties;
- 14 2. A legal description of the real property involved;
- 15 3. The nature of the interest created;
- 16 4. The consideration paid for the transfer;
- 17 5. A description of the improvements the developer intends to
18 make on the real property; and
- 19 6. The terms or conditions, if any, under which the interest
20 may be revised or terminated.

21 F. No interest in any resource located on a tract of land and
22 solely associated with the groundwater may be severed from the
23 surface estate except that such rights may be leased for a definite
24 term pursuant to the provisions of this act.

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SECTION 2. This act shall become effective November 1, 2012.

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