

1 ENGROSSED HOUSE
2 BILL NO. 2915

By: Richardson of the House

3 and

4 Justice of the Senate
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7 An Act relating to property; creating the Groundwater
8 Severance Restriction Act; stating intent to restrict
9 the permanent severing of groundwater from the land
10 for certain purposes; limiting certain leasing
11 arrangements; stating exception; defining term;
12 restricting location of certain wells; providing for
13 determination of distance; authorizing alternative
14 setback provisions; specifying wells included in
15 restrictions; defining terms; stating impact of
16 certain agreement; stipulating that certain
17 agreements shall run with the land until terminated;
18 requiring certain instrument to be in writing and to
19 be filed with a certain county clerk; specifying
20 information to be included in the instrument;
21 prohibiting severance of any resource associated with
22 groundwater from the surface estate; providing for
23 codification; and providing an effective date.
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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 60.1 of Title 60, unless there
is created a duplication in numbering, reads as follows:

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

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

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

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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.

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 320.3 of Title 52, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Except as otherwise provided for in this section, an
5 underground injection well, disposal well, or commercial disposal
6 well drilled or converted on or after the effective date of this act
7 which will be in operation for more than six (6) months shall not be
8 located within one-half (1/2) mile from a residential development.

9 B. The distance between a residential development and an
10 underground injection well, disposal well, or commercial disposal
11 well shall be measured from the closest corner of the walls of the
12 closest occupied residence in the residential development to the
13 wellbore of the well.

14 C. The provisions of this section shall not prohibit an
15 operator of an underground injection well, disposal well, or
16 commercial disposal well and the owner of an occupied residence from
17 agreeing in writing to setback provisions with distances different
18 from those set forth in this section.

19 D. The provisions of this section shall apply to any
20 underground injection well, disposal well, or commercial disposal
21 well drilled or converted on or after July 1, 2012, and to any well
22 for which an application was submitted to the Corporation Commission
23 before July 1, 2012, but for which a permit is issued after July 1,
24 2012.

