HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

HOUSE BILL 2915 By: Richardson of the House

and

Justice of the Senate

AS INTRODUCED

An Act relating to property; creating the Groundwater Severance Restriction Act; stating intent to restrict the permanent severing of groundwater from the land for certain purposes; limiting certain leasing arrangements; stating exception; defining terms; stating impact of certain agreement; stipulating that certain agreements shall run with the land until terminated; requiring certain instrument to be in writing and to be filed with a certain county clerk; specifying information to be included in the instrument; prohibiting severance of any resource associated with groundwater from the surface estate; 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 60.1 of Title 60, unless there is created a duplication in numbering, reads as follows:

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

C. For the purposes of this act, a "commercial water operation or system agreement" means a lease agreement, whether or not stated in the form of a restriction, covenant, or condition, in any deed, water easement, water option or lease securing land for the study or capturing and transfer of groundwater, or any other instrument executed by or on behalf of any owner of land for the purpose of allowing another party to study the potential for, or to develop, a commercial water operation or system. A commercial water operation or system agreement shall in no way be deemed to contravene, supersede, amend, modify or alter the existing powers, requirements,

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limitations or other provisions of statutory or common law pertaining to groundwater or stream water operations.

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

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

1. The names of the parties;

2. A legal description of the real property involved;

3. The nature of the interest created;

4. The consideration paid for the transfer;

5. A description of the improvements the developer intends to make on the real property; and

6. The terms or conditions, if any, under which the interest may be revised or terminated.

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

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

COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE, WILDLIFE AND ENVIRONMENT, dated 02/15/2012 - DO PASS, As Coauthored.

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