STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 2264 By: Trebilcock of the House

and

Bingman of the Senate

COMMITTEE SUBSTITUTE

An Act relating to oil and gas; amending 52 O.S. 2011, Section 87.6, as amended by Section 1, Chapter 264, O.S.L. 2012 (52 O.S. Supp. 2012, Section 87.6), which relates to the 2011 Shale Reservoir Development Act; modifying name of act; modifying definitions; defining term; amending 52 O.S. 2011, Section 87.7, which relates to Corporation Commission jurisdiction; modifying jurisdiction relating to certain well spacing; amending 52 O.S. 2011, Section 87.8, which relates to well spacing in certain reservoirs; modifying procedures for certain multiunit horizontal wells; granting interest owners rights to elect to participate in drilling of certain wells drilled under certain pooling orders; amending 52 O.S. 2011, Section 87.1, which relates to common source of supply; updating certain reference; authorizing the Commission to protect interest owners rights in certain newly formed units; authorizing the Commission to establish spacing rules for certain gas wells; and declaring an emergency.

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

SECTION 1. AMENDATORY 52 O.S. 2011, Section 87.6, as amended by Section 1, Chapter 264, O.S.L. 2012 (52 O.S. Supp. 2012, Section 87.6), is amended to read as follows:

Section 87.6 A. Sections 87.6 through 87.9 of this title shall be known and may be cited as the "~~2011 Shale Reservoir~~ Horizontal Well Development Act".

B. As used in the ~~2011 Shale Reservoir~~ Horizontal Well Development Act:

1. "Allocation factor" means the percentage of costs, production or proceeds allocated to a unit affected by a multiunit horizontal well;

2. "Application" means a written request filed by an owner of the right to drill seeking approval to drill, complete and produce a multiunit horizontal well or to create a horizontal well unitization for a shale reservoir;

3. "Associated common source of supply" means ~~a~~ any common source of supply which is subject to a drilling and spacing unit formed by the Corporation Commission and located in all or a portion of the lands in which the completion interval of a multiunit horizontal well is located, or which is located within the boundaries of a unit created through a horizontal well unitization~~, and which is immediately adjoining the shale common source of supply in which the completion interval of the horizontal well is located~~ for a shale reservoir, and which ~~is~~ may be or was inadvertently encountered, whether on one or multiple occasions, in the drilling of the lateral of ~~such~~ a horizontal well ~~when such well is drilled out of or exits, whether on one or multiple occasions, such shale~~

~~common source of supply~~ or produced from the lateral of the horizontal well as a result of the completion of the lateral of the horizontal well. The drilling in, completion in, or production from the targeted reservoir, that includes an associated common source of supply as defined herein, in the horizontal well shall not constitute a trespass of such associated common source of supply;

4. "Commission" means the Corporation Commission;

5. "Completion interval" means, for an open hole completion in a horizontal well, the interval from the point of entry to the terminus and, for a cased and cemented completion in a horizontal well, the interval from the first perforations to the last perforations;

6. "Horizontal well" means a well drilled, completed, or recompleted with one or more laterals ~~in a shale reservoir in a manner~~ in which, for at least one lateral, the horizontal component of the completion interval ~~in the shale reservoir~~ exceeds the vertical component thereof and the horizontal component extends a minimum of one hundred fifty (150) feet in the formation;

7. "Horizontal well unitization" means a unitization for a shale reservoir created pursuant to Section 87.9 of this title;

8. "Horizontal component" means the calculated horizontal distance from the point of entry to the terminus;

9. "Lateral" means the portion of the wellbore of a horizontal well from the point of entry to the terminus;

10. "Multiunit horizontal well" means a horizontal well ~~in a shale reservoir~~ wherein the completion interval of the well is located in more than one unit formed for the same ~~shale~~ targeted reservoir, with the well being completed in and producing from such ~~shale~~ targeted reservoir in two or more of such units;

11. "Plan of development" means the proposed plan for developing the shale reservoir unitized pursuant to Section 87.9 of this title, which plan, based upon the information and knowledge then available to the applicant, shall include:

a. a map or maps indicating the location of each existing well in the proposed unit and the anticipated location of each horizontal well proposed to be drilled in the proposed unit that is anticipated to be necessary, based upon the information and knowledge then available to the applicant, for the full and efficient development and operation of the proposed unit for the recovery of oil and gas from the shale reservoir within the proposed unit,

b. any applicable proposed allocation factor or factors for allocating the costs, production and proceeds from the proposed unit,

c. the anticipated timing and anticipated sequence of drilling of each horizontal well in the proposed unit, and

d. any other specific terms, provisions, conditions and requirements set forth in Section 87.9 of this title or determined by the Commission to be reasonably necessary or proper to effectuate or accomplish the purpose of Section 87.9 of this title;

12. "Point of entry" means the point at which the borehole of a horizontal well first intersects the top of the shale reservoir;

13. "PRSA" means the Production Revenue Standards Act;

14. "Shale reservoir" means a common source of supply which is a shale formation that is so designated by the Commission through rule or order, and ~~shall also~~ may, for good cause shown, include any associated common source of supply in relation thereto, as defined in this section;

15. "Targeted reservoir" means any common source of supply which has been determined by the Commission through rule or order as a common source of supply that is appropriately suited for development through a multiunit horizontal well, and may, for good cause shown, include any associated common source of supply in relation thereto, as defined in this section;

16. "Terminus" means the end point of the borehole of a horizontal well in the shale reservoir;

~~16.~~ 17. "Wellbore royalty interest" means, for each separate multiunit horizontal well, the sum of resulting products of each affected unit's royalty share for that unit, as defined by the PRSA,

multiplied by that unit's allocation factor for production and proceeds;

~~17.~~ 18. "Wellbore royalty proceeds" means the proceeds or other revenue derived from or attributable to any production of oil and gas from the multiunit horizontal well multiplied by the wellbore royalty interest;

~~18.~~ 19. "Unit" means a drilling and spacing unit for a single common source of supply created pursuant to Section 87.1 of this title or a horizontal well unitization created pursuant to Section 87.9 of this title;

~~19.~~ 20. "Unit's royalty contribution factor" means the royalty share for an affected unit, as defined by PRSA, multiplied by that unit's allocation factor, then divided by the total wellbore royalty interest; and

~~20.~~ 21. "Vertical component" means the calculated vertical distance from the point of entry to the terminus.

SECTION 2. AMENDATORY 52 O.S. 2011, Section 87.7, is amended to read as follows:

Section 87.7 Corporation Commission Jurisdiction.

The Corporation Commission shall have jurisdiction, upon the filing of a proper application therefor, to permit the drilling, completing and producing of a multiunit horizontal well in conformity with Section ~~4~~ 87.8 of this ~~act~~ title, or to create a horizontal well unitization for a shale reservoir in conformity with

Section ~~5~~ 87.9 of this ~~act~~ title, if the Commission finds that the multiunit horizontal well or the horizontal well unitization will prevent waste and will protect the correlative rights of the owners of oil and gas rights. Furthermore, for the planned development of a common source of supply through the use of horizontal well technology where there is currently production from the common source of supply within an existing unit or units, and the planned horizontal well or wells would extend beyond the boundaries of one or more of the existing units, an alternative to creating a new drilling and spacing unit or units, or modifying, superseding, amending or vacating the existing drilling and spacing unit or units, to accommodate the horizontal development shall be the utilization of a multiunit horizontal well or wells pursuant to Section 87.8 of this title.

SECTION 3. AMENDATORY 52 O.S. 2011, Section 87.8, is amended to read as follows:

Section 87.8 A. Under the conditions contained in this section, the Corporation Commission is authorized to allow multiunit horizontal wells in any targeted reservoir or reservoirs in order to prevent waste and protect the correlative rights of the owners of oil and gas rights.

B. Ownership, Allocation of Costs, Commingled Production, and Proceeds.

The Commission shall require the allocation to each of the units affected by a multiunit horizontal well of the actual and reasonable drilling, completion and production costs associated with ~~a~~ such multiunit horizontal well ~~to each of the affected units which the well actually penetrates within the completion interval~~ and shall further require the allocation to each of the units affected by a multiunit horizontal well of the commingled production, and the proceeds from the sale thereof, from the completion interval of ~~a~~ such multiunit horizontal well, with any allocation to be in a manner that will prevent waste and protect the correlative rights of the owners of the oil and gas rights in each of the affected units ~~which the well actually penetrates within the completion interval~~.

1. The allocation factor for each affected unit shall be determined by dividing the length of the completion interval located within the affected unit by the entire length of the completion interval in the subject multiunit horizontal well. The Commission shall have the authority to adjust the allocation factors, or participation in the subject multiunit horizontal well, based upon reasonable testimony and evidence presented to the Commission, if necessary to prevent waste and adequately protect the correlative rights or vested rights, or both, of the owners of the oil and gas rights in each of the affected units.

2. Each party who participates as a working interest owner in a multiunit horizontal well shall own an undivided interest in all

portions of the wellbore of the well and in the equipment on or in the well in the same ratio that the party's allocated portion of the total costs of the well and equipment bears to the total costs of the well and equipment. The ownership of undivided interest described in this paragraph shall not affect or prejudice the ownership of oil and gas rights of the affected owners outside of the ~~shale~~ targeted reservoir for the multiunit horizontal well.

3. A multiunit horizontal well shall be treated as a well in each of the affected units and shall be subject to all of the rules otherwise applicable to any other well in any of the affected units. In allowing a multiunit horizontal well, the Commission, under Section 87.1 of ~~Title 52 of the Oklahoma Statutes~~ this title, may grant any necessary exceptions to the permitted well location tolerances in each of the affected units for the well and permit the well as an additional well in each of the affected units. When an owner has drilled or proposes to drill a multiunit horizontal well or wells and the owners of a present right to drill in any of the affected units have not agreed to pool their interests in the unit or units for the ~~affected common sources of supply~~ targeted reservoir, the Commission, under Section 87.1 of ~~Title 52 of the Oklahoma Statutes~~ this title, may, upon the filing of a proper application therefor, require the owners to pool their interests in the targeted reservoir in each affected unit on a unitwide basis as to the respective unit in regard to the development involving the

portion of the multiunit horizontal well or wells located within the affected unit. Furthermore, if the Commission has previously entered an order pooling the interests of owners in an affected unit in which a multiunit horizontal well or wells have been drilled or are proposed to be drilled, the Commission, under Section 87.1 of ~~Title 52 of the Oklahoma Statutes~~ this title, may, upon the filing of a proper application therefor, amend the pooling order to the extent necessary to have the pooling order cover the development involving the portion of the multiunit horizontal well or wells located within the affected unit. If a multiunit horizontal well is a subsequent well under a pooling order, such pooling order may provide or be amended to provide that an owner, who owns an interest in the unit or units subject to or covered by such pooling order and who has retained the present right to drill in such unit or units so as to be able to participate under such pooling order in such multiunit horizontal well as a subsequent well, shall have the right to elect not to participate in such multiunit horizontal well as a subsequent well under such pooling order and in the event of such an election not to so participate, shall relinquish such owner's right to drill in, and only in, such multiunit horizontal well, with such owner retaining the right to participate in any other subsequent well thereafter proposed under, drilled under or otherwise covered by such pooling order.

4. The application shall include:

a. the approximate anticipated location of the proposed multiunit horizontal well or wells,

b. a map or maps indicating the location of each currently existing well in each affected unit which is the subject of the application and the anticipated location of each multiunit horizontal well currently proposed to be drilled in each affected unit as a result of the application and any other horizontal well not included in the current application, but anticipated to be necessary, based upon the information and knowledge then available to the applicant, for the full and efficient development and operations of the ~~shale~~ targeted reservoir within the affected units if the well or wells are approved by the Commission upon the filing of a proper application at a future date, and

c. any applicable proposed allocation factor or factors for allocating the costs, production and proceeds from each proposed multiunit horizontal well under the application.

5. Production from the completion interval of the ~~shale~~ targeted reservoir from each of the affected units in which a multiunit horizontal well is completed may be commingled in the wellbore of the well and produced to the surface. The commingled

production from a multiunit horizontal well shall be allocated to each of the affected units based upon the allocation factors approved by the Commission.

6. In granting an application for a multiunit horizontal well or wells, the Commission shall find, based on the testimony and evidence presented, that given the information and knowledge then available, the proposed multiunit horizontal well or wells will prevent waste, protect correlative rights and likely will aid in the full and efficient development of each of the affected units.

7. The wellbore royalty proceeds for a multiunit horizontal well shall be allocated to each affected unit by multiplying the royalty contribution factor of the unit by the wellbore royalty proceeds, with the resulting product being the royalty proceeds for that unit. Each royalty interest owner in an affected unit shall be entitled to receive the owner's proportionate royalty share of the allocated royalty proceeds for that unit.

8. The multiunit horizontal well shall be subject to the provisions of the Product Revenue Standards Act (PRSA). The operator of the multiunit horizontal well shall be the designated royalty distributor pursuant to the PRSA for the multiunit horizontal well, unless there is a diversity of operators in the affected units from which the multiunit horizontal well is producing and another operator in each of the affected units agrees to perform separately the PRSA royalty distribution functions for the unit.

C. Application, Notice and Retained Jurisdiction.

Application for approval of a multiunit horizontal well shall be in a form prescribed by the Commission. The application, and the notice of hearing on the application, shall be served no less than fifteen (15) days prior to the date of the hearing, by regular mail, upon each person or governmental entity having the right to share in production from each of the affected units covered by the application, as well as other persons or governmental entities required by the rules of the Commission. Upon approval of a multiunit horizontal well, the Commission shall retain jurisdiction over the well. The retained jurisdiction of the Commission set forth herein shall neither preclude nor impair the right of any affected party to obtain through the district courts of this state any remedy or relief available at law or in equity for injuries caused by any action or inaction of the applicant, operator or any other affected party.

SECTION 4. AMENDATORY 52 O.S. 2011, Section 87.1, is amended to read as follows:

Section 87.1 Whenever the production from any common source of supply of oil or natural gas in this state can be obtained only under conditions constituting waste or drainage not compensated by counterdrainage, then any person having the right to drill into and produce from such common source of supply may, except as otherwise authorized or in this section provided, take therefrom only such

proportion of the oil or natural gas that may be produced therefrom without waste or without such drainage as the productive capacity of the well or wells of any such person considered with the acreage properly assignable to each such well bears to the total productive capacities of the wells in such common source of supply considered with the acreage properly assignable to each well therein.

(a) To prevent or to assist in preventing the various types of waste of oil or gas prohibited by statute, or any wastes, or to protect or assist in protecting the correlative rights of interested parties, the Corporation Commission, upon a proper application and notice given as hereinafter provided, and after a hearing as provided in the notice, shall have the power to establish well spacing and drilling units of specified and approximately uniform size and shape covering any common source of supply, or prospective common source of supply, of oil or gas within the State of Oklahoma; provided, that the Commission may authorize the drilling of an additional well or wells on any spacing and drilling unit or units or any portion or portions thereof or may establish, reestablish, or reform well spacing and drilling units of different sizes and shapes when the Commission determines that a common source of supply contains predominantly oil underlying an area or areas and contains predominantly gas underlying a different area or areas; provided further that the units in the predominantly oil area or areas shall be of approximately uniform size and shape, and the units in the

predominantly gas area or areas shall be of approximately uniform size and shape, except that the units in the gas area or areas may be of nonuniform size and shape when they adjoin the units in the oil area or areas; provided further that the drilling pattern for such nonuniform units need not be uniform, and provided further that the Commission shall adjust the allowable production within the common source of supply, or any part thereof, and take such other action as may be necessary to protect the rights of interested parties. Any order issued pursuant to the provisions hereof may be entered after a hearing upon the petition of any person owning an interest in the minerals in lands embraced within such common source of supply, or the right to drill a well for oil or gas on the lands embraced within such common source of supply, or on the petition of the Conservation Officer of the State of Oklahoma. When such a petition is filed with the Commission, the Commission shall give at least fifteen (15) days' notice of the hearing to be held upon such petition by one publication, at least fifteen (15) days prior to the hearing, in some newspaper of general circulation published in Oklahoma County, and by one publication, at least fifteen (15) days prior to the date of the hearing, in some newspaper published in the county, or in each county, if there be more than one, in which the lands embraced within the application are situated. Except as to the notice of hearing on such a petition, the procedural

requirements of Section 86.1 et seq. of this title shall govern all proceedings and hearings provided for by this section.

(b) In case of a spacing unit of one hundred sixty (160) acres or more, no oil and/or gas leasehold interest outside the spacing unit involved may be held by production from the spacing unit more than ninety (90) days beyond expiration of the primary term of the lease.

(c) In establishing a well spacing or drilling unit for a common source of supply thereunder, the acreage to be embraced within each unit may include acreage from more than one governmental section, but shall not exceed six hundred forty (640) acres for a gas well plus ten percent (10%) tolerance, unless the unit is a governmental section and the governmental section contains more than six hundred forty (640) acres in which case the unit may comprise the entire section. Provided, however, fractional sections along the state boundary line and within the townships along the boundary where the survey west of the Indian Meridian meets the survey east of the Cimarron Meridian may be spaced with adjoining section unit, and the shape thereof shall be determined by the Commission from the evidence introduced at the hearing, and the following facts, among other things, shall be material: (1) The lands embraced in the actual or prospective common source of supply; (2) the plan of well spacing then being employed or contemplated in the source of supply; (3) the depth at which production from the common source of supply

has been or is expected to be found; (4) the nature and character of the producing or prospective producing formation or formations; and (5) any other available geological or scientific data pertaining to the actual or prospective source of supply which may be of probative value to the Commission in determining the proper spacing and well drilling unit therefor, with due and relative allowance for the correlative rights and obligations of the producers and royalty owners interested therein.

The order establishing such spacing or drilling units shall set forth: (1) the outside boundaries of the surface area included in such order; (2) the size, form, and shape of the spacing or drilling units so established; (3) the drilling pattern for the area, which shall be uniform except as hereinbefore provided; and (4) the location of the permitted well on each such spacing or drilling unit. To such order shall be attached a plat upon which shall be indicated the foregoing information. Subject to other provisions of Section 86.1 et seq. of this title, the order establishing such spacing or drilling units shall direct that no more than one well shall thereafter be produced from the common source of supply on any unit so established, and that the well permitted on that unit shall be drilled at the location thereon as prescribed by the Commission, with such exception as may be reasonably necessary where it is shown, upon application, notice and hearing in conformity with the procedural requirements of Section 86.1 et seq. of this title, and

the Commission finds that any such spacing unit is located on the edge of a pool and adjacent to a producing unit, or for some other reason that to require the drilling of a well at the prescribed location on such spacing unit would be inequitable or unreasonable. Whenever such an exception is granted, the Commission shall adjust the allowable production for the spacing unit and take such other action as may be necessary to protect the rights of interested parties.

Any well spacing or drilling unit for a common source of supply thereunder which exceeds six hundred forty (640) acres for a gas well plus ten percent (10%) tolerance or exceeds the total amount of acreage contained in a governmental section, and is not in production or in the process of drilling development on ~~the effective date of this act~~ March 26, 1980, shall be de-spaced. However, fractional sections along the state boundary line and within the townships along the boundary where the survey west of the Indian Meridian meets the survey east of the Cimarron Meridian may be spaced with adjoining section unit, and the shape thereof shall be determined by the Commission.

(d) The Commission shall have jurisdiction upon the filing of a proper application therefor, and upon notice given as provided in subsection (a) of this section, to decrease the size of the well spacing units or to permit additional wells to be drilled within the established units, or to increase the size or modify the shape of

the well spacing units, upon proper proof at such hearing that such modification or extension of the order establishing drilling or spacing units will prevent or assist in preventing the various types of wastes prohibited by statute, or any of the wastes, or will protect or assist in protecting the correlative rights of persons interested in the common source of supply, or upon the filing of a proper application therefor to enlarge the area covered by the spacing order, if such proof discloses that the development or the trend of development indicates that such common source of supply underlies an area not covered by the spacing order and such proof discloses that the applicant is an owner within the area or within a drilling and spacing unit contiguous to the area covered by the application. <u>If the Commission modifies, supersedes, amends or vacates the existing drilling and spacing unit or units, or creates a new drilling and spacing unit or units, for a common source of supply covering the same lands where there is currently, or has been, production from the common source of supply within a previously existing unit or units, the Commission shall have the authority to take such other action and to make such orders as may be necessary to protect the correlative rights or vested rights, or both, of interested parties within the previously existing unit or units, as well as the newly formed unit or units.</u> Except in the instance of reservoir dewatering as described herein, the Commission shall not establish well spacing units of more than forty (40) acres

in size covering common sources of supply of oil, the top of which lies less than four thousand (4,000) feet below the surface as determined by the original or discovery well in the common source of supply, and the Commission shall not establish well spacing units of more than eighty (80) acres in size covering common sources of supply of oil, the top of which lies less than nine thousand nine hundred ninety (9,990) feet and more than four thousand (4,000) feet below the surface as determined by the original or discovery well in the common source of supply. In the instance of reservoir dewatering to extract oil from reservoirs having initial water saturations at or above fifty percent (50%), the Commission may establish drilling and spacing units not to exceed six hundred forty (640) acres in size.

(e) The drilling of any well or wells into any common source of supply for the purpose of producing oil or gas therefrom, after a spacing order has been entered by the Commission covering such common source of supply, at a location other than that fixed by the order is hereby prohibited. The drilling of any well or wells into a common source of supply, covered by a pending spacing application, at a location other than that approved by a special order of the Commission authorizing the drilling of such well is hereby prohibited. The operation of any well drilled in violation of any spacing so entered is also hereby prohibited. When two or more separately owned tracts of land are embraced within an established

spacing unit, or where there are undivided interests separately owned, or both such separately owned tracts and undivided interests embraced within such established spacing unit, the owners thereof may validly pool their interests and develop their lands as a unit. Where, however, such owners have not agreed to pool their interests and where one such separate owner has drilled or proposes to drill a well on the unit to the common source of supply, the Commission, to avoid the drilling of unnecessary wells, or to protect correlative rights, shall, upon a proper application therefor and a hearing thereon, require such owners to pool and develop their lands in the spacing unit as a unit. The applicant shall give all the owners whose addresses are known or could be known through the exercise of due diligence at least fifteen (15) days' notice by mail, return receipt requested. The applicant shall also give notice by one publication, at least fifteen (15) days prior to the hearing, in some newspaper of general circulation published in Oklahoma County, and by one publication, at least fifteen (15) days prior to the date of the hearing, in some newspaper published in the county, or in each county, if there be more than one, in which the lands embraced within the spacing unit are situated. The applicant shall file proof of publication and an affidavit of mailing with the Commission prior to the hearing. All orders requiring such pooling shall be made after notice and hearing, and shall be upon such terms and conditions as are just and reasonable and will afford to the owner

of such tract in the unit the opportunity to recover or receive without unnecessary expense the owner's just and fair share of the oil and gas. The portion of the production allocated to the owner of each tract or interests included in a well spacing unit formed by a pooling order shall, when produced, be considered as if produced by such owner from the separately owned tract or interest by a well drilled thereon. Such pooling order of the Commission shall make definite provisions for the payment of cost of the development and operation, which shall be limited to the actual expenditures required for such purpose not in excess of what are reasonable, including a reasonable charge for supervision. In the event of any dispute relative to such costs, the Commission shall determine the proper costs after due notice to interested parties and a hearing thereon. The operator of such unit, in addition to any other right provided by the pooling order or orders of the Commission, shall have a lien on the mineral leasehold estate or rights owned by the other owners therein and upon their shares of the production from such unit to the extent that costs incurred in the development and operation upon the unit are a charge against such interest by order of the Commission or by operation of law. Such liens shall be separable as to each separate owner within such unit, and shall remain liens until the owner or owners drilling or operating the well have been paid the amount due under the terms of the pooling order. The Commission is specifically authorized to provide that

the owner or owners drilling, or paying for the drilling, or for the operation of a well for the benefit of all shall be entitled to production from such well which would be received by the owner or owners for whose benefit the well was drilled or operated, after payment of royalty, until the owner or owners drilling or operating the well have been paid the amount due under the terms of the pooling order or order settling such dispute. No part of the production or proceeds accruing to any owner of a separate interest in such unit shall be applied toward payment of any cost properly chargeable to any other interest in the unit.

For the purpose of this section, the owner or owners of oil and gas rights in and under an unleased tract of land shall be regarded as a lessee to the extent of a seven-eighths (7/8) interest in and to the rights and a lessor to the extent of the remaining one-eighth (1/8) interest therein, unless and until the owner or owners make an election or are deemed to make an election not to participate under a pooling order issued by the Commission, at which time each such owner shall be considered a lessor, subject to the judicially recognized implied covenant to market found to exist by the courts of this state in oil and gas leases covering lands located in this state, to the extent of the full royalty percentage elected under the pooling order. Should the owners of separate tracts or interests embraced within a spacing unit fail to agree upon a pooling of their interests and the drilling of a well on the unit,

and should it be established by final, unappealable judgment of a court of competent jurisdiction that the Commission is without authority to require pooling as provided for herein, then, subject to all other applicable provisions of this act, the owner of each tract or interest embraced within a spacing unit may drill on his or her separately owned tract, and the allowable production therefrom shall be that portion of the allowable for the full spacing unit as the area of such separately owned tract bears to the full spacing unit.

In the event a producing well or wells are completed upon a unit where there are, or may thereafter be, two or more separately owned tracts, each royalty interest owner shall share in all production from the well or wells drilled within the unit, or in the gas well rental provided for in the lease covering such separately owned tract or interest in lieu of the customary fixed royalty, to the extent of such royalty interest owner's interest in the unit. Each royalty interest owner's interest in the unit shall be defined as the percentage of royalty owned in each separate tract by the royalty owner, multiplied by the proportion that the acreage in each separately owned tract or interest bears to the entire acreage of the unit.

(f) Notwithstanding any provision of this section to the contrary, the Corporation Commission shall have jurisdiction upon the filing of a proper application therefor, and upon notice given

as provided in subsection (a) of this section, to establish spacing rules for horizontally drilled oil or gas wells whereby horizontally drilled oil or gas wells may have well spacing units established of up to six hundred forty (640) acres plus tolerances and variances as allowed for gas wells pursuant to subsection (c) of this section. For purposes of this subsection a "horizontally drilled oil or gas well" shall mean an oil or gas well drilled, completed or recompleted in a manner in which the horizontal component of the completion interval in the geological formation exceeds the vertical component thereof and which horizontal component extends a minimum of one hundred fifty (150) feet in the formation. The Corporation Commission shall promulgate rules necessary for the proper administration of this subsection.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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