

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 SENATE BILL 1211

By: Branan

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5
6 AS INTRODUCED

7 An Act relating to oil and gas; amending 52 O.S.
8 2011, Section 318.23, as last amended by Section 3,
9 Chapter 229, O.S.L. 2012 (52 O.S. Supp. 2013, Section
10 318.23), which relates to seismic exploration;
11 modifying certain time period required for certain
12 notice; and declaring an emergency.

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

14 SECTION 1. AMENDATORY 52 O.S. 2011, Section 318.23, as
15 last amended by Section 3, Chapter 229, O.S.L. 2012 (52 O.S. Supp.
16 2013, Section 318.23), is amended to read as follows:

17 Section 318.23. A. It shall be unlawful for any person, firm,
18 corporation or entity to conduct any seismic test hole blasting
19 within two hundred (200) feet of any habitable dwelling, building or
20 water well without written permission from the owner of the
21 property.

22 B. The surface owner shall be entitled to reasonable damages
23 that have been or will be sustained to the surface estate by reason
24 of the operator's seismic exploration.

1 C. At least ~~fifteen (15)~~ twenty (20) days prior to commencement
2 of seismic exploration, the operator shall provide the notice to the
3 surface owner required by Section 318.22 of this title, and, in the
4 absence of an agreement between the surface owner and the operator
5 as to seismic exploration, operator and surface owner shall make a
6 good-faith effort to resolve any reasonable damage issues raised by
7 the surface owner by reason of operator's seismic exploration.

8 D. The surface owner may accept the offer in the notice
9 required by Section 318.22 of this title by accepting the offer in
10 writing to the operator within ~~fifteen (15)~~ twenty (20) days of the
11 postmark of the notice. By the timely acceptance of such offer, the
12 surface owner shall be deemed to have accepted and agreed to such
13 offer as full consideration for all reasonable damages by reason of
14 the operator's seismic exploration and the operator may commence
15 seismic operations. The operator shall, upon receipt of the surface
16 owner's timely acceptance of the offer in the notice, remit the
17 appropriate consideration to the surface owner. The surface owner's
18 acceptance of such offer and consideration shall not prohibit the
19 surface owner from attempting to recover damages which are
20 unreasonable and caused by reason of the operator's seismic
21 exploration on the surface estate of the surface owner.

22 E. If prior to the expiration of the fifteen-day notice period
23 set forth in Section 318.22 of this title, the surface owner rejects
24 the amount tendered with the notice required by Section 318.22 of

1 this title in writing to the operator, or the surface owner fails to
2 make a timely acceptance of the offer contained in the notice, then
3 the surface owner will be deemed to have rejected the offer tendered
4 with the notice, and the operator may enter the property and
5 commence seismic operations.

6 F. Within ninety (90) days of the last mailing of the notice
7 described herein, the applicant shall file an affidavit setting out
8 that mailing of the notice has occurred in compliance with Section
9 318.22 of this title, and specifically listing the surface owners
10 which were not locatable at the addresses required. Further, in the
11 event that any surface owner is not locatable at the addresses, then
12 such surface owner will be deemed as having rejected the offer
13 provided in the notice required under Section 318.22 of this title.

14 G. If the surface owner has properly rejected or has been
15 deemed to have rejected the amount tendered with the notice required
16 by Section 318.22 of this title, the surface owner may initiate an
17 action pursuant to The Small Claims Procedure Act or a civil action
18 pursuant to the Oklahoma Pleading Code, as appropriate, to recover
19 the reasonable damages, if any, actually sustained by reason of the
20 operator's seismic exploration. Venue for such action shall
21 properly be in the county where the surface estate is located.

22 H. If an action to recover the reasonable damages is commenced
23 pursuant to subsection G of this section and a judgment is entered
24 in the action for the surface owner for reasonable damages by reason

1 of the operator's seismic exploration in an amount in excess of the
2 amount set forth in the notice required by Section 318.22 of this
3 title, the surface owner shall be considered the prevailing party;
4 if the judgment entered for reasonable damages by reason of the
5 operator's seismic exploration is for an amount equal to or less
6 than the amount set forth in the notice required by Section 318.22
7 of this title, the operator shall be considered the prevailing
8 party. The prevailing party in any court proceeding brought
9 pursuant to this section shall be entitled to recover the costs of
10 the suit, including but not limited to reasonable attorney and
11 expert witness fees and litigation expenses. If the action should
12 be dismissed other than by way of settlement prior to the entry of
13 judgment, then the surface owner shall forfeit its right to receive
14 any consideration for all reasonable damages by reason of the
15 operator's seismic exploration.

16 I. Nothing in the Seismic Exploration Regulation Act shall
17 modify or restrict an operator's right to enter a surface estate and
18 conduct seismic exploration thereon pursuant to the operator's right
19 to conduct seismic exploration. Additionally, nothing in the
20 response or deemed response of a surface owner to any notice
21 required by Section 318.22 of this title shall restrict or otherwise
22 affect an operator's right to enter a surface estate and conduct
23 seismic operations thereon.

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1 SECTION 2. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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