

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

COMMITTEE SUBSTITUTE
FOR

SENATE BILL 468

By: Marlatt

COMMITTEE SUBSTITUTE

An Act relating to oil and gas; providing definitions; establishing right to compensation for certain taking of interest from a local government regulatory restriction; setting amount of compensation; stating intent regarding other private property compensation laws; requiring certain notification by an owner; requiring certain hearing; stating purpose of the hearing; setting time period for setting the hearing; providing for issuance of a preliminary value determination within certain time period; allowing an owner to challenge the determination; prohibiting a local government to challenge the determination; allowing a local government to proceed with the regulatory restriction upon tendering the amount of the value determination; including certain fees and costs; precluding implementation upon failure to tender amount of value determination; authorizing a local government to appeal under certain conditions; providing for application of law; providing for codification; and declaring an emergency.

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 137.1 of Title 52, unless there is created a duplication in numbering, reads as follows:

1 As used in this act:

2 1. "Local government" means a county or a municipality
3 incorporated in accordance with the laws of the state; and

4 2. "Owner" means the person who has the right to drill into and
5 produce from a pool and to appropriate the oil or gas produced
6 therefrom either for the owner or others or for the owner and
7 others, including the owner of a well capable of producing oil or
8 gas or both.

9 SECTION 2. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 137.2 of Title 52, unless there
11 is created a duplication in numbering, reads as follows:

12 Whenever a local government adopts or implements an ordinance,
13 resolution, rule, regulation or other form of official policy
14 concerning mineral extraction operations that has the effect of
15 reducing the fair market value of the mineral interest of the owner
16 by at least sixty percent (60%), the interest of the owner is deemed
17 to have been taken for a public use. In such circumstances, the
18 owner has the right to obtain compensation from the local government
19 for the full diminution in the fair market value of the mineral
20 interest caused by the regulatory impairment by the local
21 government.

22 SECTION 3. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 137.3 of Title 52, unless there
24 is created a duplication in numbering, reads as follows:

1 A. Except as otherwise provided for in this act, this act is
2 intended to supplement and is not intended to displace or supersede
3 existing rights, powers, and responsibilities provided by law for
4 the payment of compensation where private property is taken for a
5 public use.

6 B. On or after the effective date of this act, not less than
7 sixty-three (63) days before an owner intends to undertake new
8 mineral extraction operations within the territorial boundaries of a
9 local government, the owner shall notify the local government in
10 writing of the intent of the owner to undertake such operations.

11 C. 1. Upon receiving the notice specified in subsection B of
12 this section, if the local government intends to adopt or implement
13 an ordinance, resolution, rule, regulation or other form of official
14 policy concerning mineral extraction operations that has the likely
15 effect of reducing the fair market value of the mineral interest of
16 the owner by at least sixty percent (60%), the matter shall be set
17 for a hearing before a board of county commissioners, the governing
18 body of a municipality or a jury in accordance with existing
19 procedures for resolving claims for compensation where private
20 property is taken for a public use. Any owner with a potential
21 claim in the matter may elect to have the matter resolved by a state
22 district court with appropriate jurisdiction if the owner does not
23 want to have the matter resolved by a board of county commissioners,
24 the government body of a municipality or a jury. The purpose of the

1 hearing shall be to make a preliminary value determination of the
2 interest of the owner.

3 2. The hearing as set forth in paragraph 1 of this subsection
4 shall be set not less than seven (7) days following service of
5 notice as set forth in subsection B of this section. The local
6 government shall notify the owners in writing with a potential claim
7 in the matter of the hearing. Any owner may be heard at the hearing
8 on the determination of value.

9 D. Not less than ten (10) days following the hearing referenced
10 in subsection C of this section, the board of county commissioners,
11 governing board of the municipality, jury or district court, as
12 applicable, shall issue a preliminary value determination of the
13 interest of the owner that has been affected as a result of the
14 regulatory impairment. The owner may challenge the preliminary
15 value determination on the basis that the award is too low, but the
16 local government shall not challenge the preliminary value
17 determination on the basis that the award is too high.

18 E. The local government may proceed with implementing the
19 ordinance, resolution, rule, regulation or other form of official
20 policy concerning mineral extraction operations that constitutes the
21 regulatory impairment if it tenders the full amount of the
22 preliminary value determination to the owner within seven (7)
23 business days after the hearing. The amount tendered shall also
24 include the reasonable attorney fees and costs incurred by the

1 owner. If the local government fails to tender the full amount by
2 the date specified in this subsection, the local government shall be
3 precluded from implementing the ordinance, resolution, rule,
4 regulation or other form of official policy.

5 F. The local government may appeal the preliminary value
6 determination if it posts a bond for the full amount of the award or
7 makes a deposit with a financial institution in the full amount of
8 the award in escrow in an interest-bearing account.

9 SECTION 4. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 137.4 of Title 52, unless there
11 is created a duplication in numbering, reads as follows:

12 The provisions of this act shall apply to any ordinance,
13 resolution, rule, regulation or other form of official policy
14 concerning mineral extraction operations adopted or implemented by a
15 local government on or after the effective date of this act.

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

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