

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 3609

By: O'Donnell

6 AS INTRODUCED

7 An Act relating to oil and gas; amending Section 2,  
8 Chapter 201, O.S.L. 2012 (52 O.S. Supp. 2019, Section  
9 902), which relates to construction of oil and gas  
10 contracts, statutes, and governmental orders;  
11 requiring oil and gas operators to take preventative  
12 actions to mitigate potential damages during certain  
13 operations; and providing an effective date.

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

15 SECTION 1. AMENDATORY Section 2, Chapter 201, O.S.L.  
16 2012 (52 O.S. Supp. 2019, Section 902), is amended to read as  
17 follows:

18 Section 902. The sanctity of private agreements, and the  
19 consistent and predictable application and interpretation of  
20 statutes, governmental orders and common law, being essential to the  
21 oil and gas industry, the following are declared to be paramount  
22 rules of construction to be applied by the courts of this state in  
23 the construction of private agreements, statutes and governmental  
24 orders relating to the exploration for, operations for, producing

1 of, or marketing oil or gas, or disbursing proceeds of production of  
2 oil or gas:

3 1. A person is bound as a reasonably prudent operator to  
4 operate the well on behalf of all owners in the well and perform any  
5 duties owed to any person under a private agreement, statute,  
6 governmental order or common law relating to the exploration for,  
7 operations for, producing of, or marketing oil or gas, or disbursing  
8 proceeds of production of oil or gas, and performance of the duties  
9 described herein is that performance which an operator acting  
10 reasonably would have undertaken given the circumstances at the  
11 time, without being required to subordinate its own business  
12 interests, but with due regard to the interests of all affected  
13 parties, including the operator; ~~and~~

14 2. A person is bound as a reasonably prudent operator upon  
15 timely receiving notice of hydraulic fracturing operations under OAC  
16 165:10-3-10, to take reasonable actions, prior to commencement of  
17 such hydraulic fracturing operations, to prevent the producing well  
18 from causing pollution and to prevent or mitigate potential damage  
19 to the producing well during such hydraulic fracturing operations.  
20 Evidence of such protective actions may include the shut-in of such  
21 producing well during such hydraulic fracturing operations,  
22 sufficient tank storage on location to handle increased water  
23 production that may occur during such hydraulic fracturing  
24

1 operations, or other reasonable protective measures as determined  
2 and demonstrated by the operator; and

3 3. There shall not be implied in the duties in ~~paragraph~~  
4 paragraphs 1 and 2 of this section or otherwise any fiduciary duty,  
5 quasi-fiduciary duty or other similar special relationship in any  
6 private agreement, statute or governmental order or common law  
7 relating to the exploration for, operations for, producing of, or  
8 marketing oil or gas, or disbursing proceeds of production of oil or  
9 gas.

10 Nothing in this section shall either prohibit the parties to a  
11 private agreement from expressly agreeing in writing otherwise or  
12 prohibit the Legislature from expressly providing otherwise in any  
13 statute subsequently enacted or prohibit any governmental order from  
14 expressly providing otherwise to the extent within the power or  
15 authority of the issuer of such order. However, the provisions of  
16 paragraph 2 of this section shall not apply to Sections 287.1  
17 through 287.15 of Title 52 of the Oklahoma Statutes and nothing in  
18 this act shall be interpreted to relieve an operator or owner from  
19 any obligation or duty set forth expressly in the Production Revenue  
20 Standards Act or the Natural Gas Market Sharing Act; provided the  
21 performance of such obligations or duties shall be subject to the  
22 same reasonably prudent operator standard set forth in paragraph 1  
23 of this section.

SECTION 2. This act shall become effective November 1, 2020.

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