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HOUSE BILL NO. 2627

Offered January 21, 1999

A BILL to amend and reenact § 45.1-361.40 of the Code of Virginia and to amend the Code of Virginia by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.11, relating to orphaned wells.

Patron—Kilgore

Referred to Committee on Mining and Mineral Resources

Be it enacted by the General Assembly of Virginia:

1. That § 45.1-361.40 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 13 of Chapter 3 of Title 58.1 a section numbered 58.1-439.11, as follows:

§ 45.1-361.40. Orphaned Well Fund; orphaned wells.

A. The Orphaned Well Fund is hereby established as a non-lapsing revolving fund to be administered by the Department pursuant to the provisions of this section. The Orphaned Well Fund shall consist of such moneys as are appropriated to it by the General Assembly. Interest earned on the Orphaned Well Fund shall be credited to the Orphaned Well Fund. The Orphaned Well Fund shall be established on the books of the Comptroller and any funds remaining in it at the end of the biennium shall not revert to the general fund but shall remain in the Orphaned Well Fund. In the event of a discontinuance of the Orphaned Well Fund, any amounts remaining in it shall be placed in the Gas and Oil Plugging Restoration Fund. Moneys from the Orphaned Well Fund shall be used only for purposes of restoration and plugging of orphaned wells.

B. The Director shall conduct a survey to determine the condition and location of orphaned wells in the Commonwealth. He shall establish priorities for the plugging and restoration of the identified orphaned wells. The plugging and restoration of orphan well sites which pose an imminent danger to public safety shall have the highest priority.

C. In performing his duties under this section, the Director shall make every reasonable effort to identify and obtain the permission of a surface owner prior to entering onto the surface owner's land. In all cases, the Director shall, as soon as practicable, cause to be published in a newspaper of general circulation in the county or city wherein an orphaned well is located a notice of the proposed plugging and restoration work to be conducted on the property.

D. Each operator who applies for a new permit for any activity other than geophysical operations shall pay a fifty dollar surcharge per permit into the Orphaned Well Fund. Such surcharge shall continue until the Director determines all orphaned wells in the Commonwealth are properly plugged and their sites are properly stabilized.

E. Any operator desiring to investigate the redevelopment of an orphaned well may obtain a permit to do so under Article 3 (§ 45.1-361.27 et seq.) of this chapter. The permit shall allow the operator to conduct an investigation to determine if the orphaned well is capable of producing marketable quantities of gas or oil. Any permit obtained under this subsection shall be exempt from any fees or surcharges required by §§ 45.1-361.29, 45.1-361.32 or this section. An operator obtaining a permit as provided in this subsection shall be required to comply with the provisions of § 45.1-361.31. Upon completion or cessation of its investigations, the operator either shall redevelop the orphaned well by providing notice as required in § 45.1-361.30 and complying with the provisions of Article 2 (§ 45.1-361.13 et seq.) of this chapter, or shall plug the orphaned well by immediately complying with the provisions of § 45.1-361.34. Any permit issued under this subsection to authorize exploratory operations shall be considered an exploratory well under the provisions § 45.1-361.6. Any permit issued under this subsection shall state that, prior to the commencement of an investigation, the well shall have been determined to be an orphaned well. An operator's gross receipts from the sale of gas or oil from a well permitted as provided in this section shall be exempt from taxes authorized pursuant to §§ 58.1-3712, 58.1-3712.1, 58.1-3713 and 58.1-3713.4 for a period of five years from the date of permit issuance.

§ 58.1-439.11 Tax credit for investigation, redevelopment and plugging of orphaned wells.

A. For taxable years beginning on and after January 1, 1999, a taxpayer who investigates, redevelops or plugs an orphaned well under a permit issued pursuant to § 45.1-361.40 shall be allowed a credit against the taxes imposed pursuant to Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) of this chapter in an amount equal to 100 percent of the taxpayer's costs incurred in investigating, redeveloping or plugging an orphaned well as defined in § 45.1-361.1.

B. The Director of the Department of Mines, Minerals and Energy shall certify the nature and extent

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60 of investigation, redevelopment or plugging activities before the taxpayer shall be entitled to the tax
61 credit under this section. The taxpayer shall also submit with his income tax return such receipts,
62 invoices and other documentation as may be necessary to confirm the taxpayer's statement of his costs
63 incurred, with the income tax return to verify such costs.

64 C. The amount of the tax credit allowed pursuant to this section shall not exceed the tax imposed for
65 such taxable year, but may be carried over for the next four taxable years.

66 D. For the purposes of this section, the amount of any credit attributable to the investigation,
67 redevelopment or plugging of an orphaned well by a partnership or electing small business corporation
68 (S corporation) shall be allocated to the individual partners or shareholders in proportion to their
69 ownership or interest in the partnership or S corporation.