

CHAPTER 62 ADMINISTRATION OF OATHS

H. F. 69

AN ACT to amend section twelve hundred sixteen (1216), code, 1935, giving certain employees of the board of assessment and review power to administer oaths.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section twelve hundred sixteen (1216), Code, 1935, is
2 amended by adding thereto the following:
3 "7. Fieldmen, auditors and other employees of the income, corpora-
4 tion and sales tax division of the board of assessment and review, as
5 set forth in chapter three hundred twenty-nine-F one (329-F1) of the
6 Code as amended."

Approved March 23, 1939.

CHAPTER 63 OIL AND GAS WELLS

S. F. 328

AN ACT relating to oil and gas wells; protection of underground fresh water strata; offset drilling; notice to be given state geologist; plugging dry and abandoned wells; log, potential and plugging record to be filed; duty to have forfeited lease released, affidavit of non-compliance to be recorded, notice to land owner, remedies; same, action to obtain release, damages, costs and attorney's fees, attachment; extension upon contingency, affidavit; liens for labor or materials and of contractor and subcontractor, manner of perfecting liens, enforcement of liens; state or any municipality to have authority to execute leases; invalidation.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. **Protection of underground fresh water strata.** The
2 driller, owner, or operator, drilling well or wells for oil and gas pur-
3 poses, shall use such practical methods as pipe, cement, mud, or any
4 other scientific method, known or commonly used in the oil industry,
5 as will properly protect all contiguous underground fresh water strata
6 from pollution or contamination to a depth of three hundred (300)
7 feet. The provisions of this section shall not apply to hole or holes
8 core-drilled for geological purposes. It shall be the duty of any such
9 driller, owner, or operator to file with the state geologist a sworn re-
10 port, on blanks to be furnished by the state geologist, which report
11 shall contain a complete record of their compliance with this section.
12 Said report shall be filed within sixty (60) days after the completion
13 of said well.

1 SEC. 2. **Offset Drilling.** If oil or gas is discovered in paying quan-
2 tities on an adjoining leasehold, and the products therefrom are taken
3 out of the ground and marketed, and said well is within three hundred
4 thirty (330) feet of another lessor's property line, then within ninety
5 (90) days after written notice has been given lessee to the effect that
6 such oil or gas has commenced to be transported off and marketed from
7 the said adjoining premises, the lessee or lessees of the land lying
8 within three hundred thirty (330) feet of the said wells shall begin
9 to drill an offset well to each of such wells so located, so as to properly

10 protect the lessor from drainage from offsetting wells; and upon fail-
11 ure on his part to so commence said offset well, and complete same with
12 diligence, the said contract and lease shall automatically expire and
13 become null and void.

1 **SEC. 3. Notice to be given State Geologist.** Notice shall be given
2 to the State Geologist of the intention to drill, deepen, or plug any well
3 or wells drilled for oil or gas purposes, and of the exact location of
4 each and every such well. In case of drilling, notice shall be given in
5 writing at least five (5) days prior to the commencement of drilling
6 operations for oil and gas.

1 **SEC. 4. Plugging dry and abandoned wells.** Dry or abandoned
2 wells must be plugged by confining all oil, gas, or water in the strata
3 in which they occur by the use of mud-laden fluid and in addition to
4 mud-laden fluid, cement and plugs may be used, and all such wells
5 shall first be thoroughly cleaned out of the bottom of the hole and be-
6 fore the casing is removed from the hole, the hole shall be filled from
7 the bottom up to the top with mud-laden fluid of maximum density
8 and which shall weigh at least twenty-five per cent (25%) more than
9 equal volume of water; provided, the State Geologist may direct that
10 some other method shall be used. Before plugging dry and abandoned
11 wells, notice shall be given to the State Geologist and to all available
12 adjoining lease and property owners and they may be present to wit-
13 ness the plugging of these wells; but plugging shall not be delayed
14 because of the inability to deliver notices to adjoining lease and prop-
15 erty owners.

1 **SEC. 5. Log, potential and plugging record to be filed.** The owner
2 or operator shall, upon the completion of any well, drilled for oil or gas
3 purposes, file with the State Geologist a complete record or log of the
4 same, duly signed and sworn to, upon the blanks to be furnished by the
5 State Geologist; and upon plugging any well for any cause whatsoever,
6 a complete record of the plugging thereof shall be made out and fully
7 verified on blanks to be furnished by the State Geologist; and producers
8 shall also report in writing, separately, the potential of any producing
9 well, within ten (10) days from the completion of its initial potential
10 test.

1 **SEC. 6. Duty to have forfeited lease released; affidavit of non-com-**
2 **pliance to be recorded; notice to land owner; remedies.** When any oil
3 or gas lease, heretofore, or hereafter, given on land situated in Iowa
4 and recorded, shall become forfeited by failure of lessee to comply
5 with its provisions or of the Iowa law, it shall be the duty of lessee,
6 within sixty (60) days after date of forfeiture of any such lease, to
7 have such lease surrendered in writing, duly acknowledged and placed
8 on record in the county where the leased land is situated, or lease may
9 be released by a marginal release on margin of record thereof, without
10 cost to owner of land described therein. If said lessee shall fail to
11 execute and record a release of such recorded lease within the time pro-
12 vided for, then the owner of the land may execute and file with the
13 recorder of the county or counties in which such forfeited lease has
14 been recorded an affidavit of noncompliance in substantially the fol-
15 lowing form:

16 AFFIDAVIT OF NON-COMPLIANCE

17 STATE OF IOWA :
18 : SS.
19 COUNTY OF :
20 , being first duly sworn, upon his oath
21 deposes and says that he is as referred to in an oil
22 and gas mining lease dated the day of , 19 ,
23 and which lease is recorded in Volume , Page , of
24 the County Records of County, ,
25 and which said lease covers the following described lands:

27
28 And further, deponent says that on the day of
29 , 19....., under the terms of said lease, there
30 should have been paid to him or deposited to his credit in the
31 Bank of the sum of Dollars (\$.....), the
32 payment of which was necessary in order to keep the above described
33 lease in force and effect. Deponent hereby swears the above payment
34 has never been made to him or his representatives, in money or other-
35 wise, nor has same been deposited to his credit in the above bank.

37 And further, deponent says that there has been no drilling or development of any nature or kind whatsoever done on the land covered by
38 the lease referred to herein, as called for under the terms of said lease.
39

41 Subscribed and sworn to before me, a Notary Public in and for.....
42 County, Iowa, this..... day of
43 , 19.....
44

45
46 My commission expires Notary Public

47 **Affidavit of the Banker**

48 STATE OF.....;

49 :
:

50 COUNTY OF.....: 51 I,, (Cashier) (President) of the
52 Bank of....., being first duly
53 sworn, upon my oath hereby declare that there has not been deposited
54 to the credit of..... in the.....
55 Bank of....., by.....
56 or any other party, any sum of money

57 whatsoever, in payment of rental under the terms of said oil and gas
58 mining lease herein referred to.

60
61 (Cashier) (President) of.....Bank
62 Subscribed and sworn to before me, a Notary Public in and for said
63 County and State on the day of 19

..... County and State on the _____ day of _____, 19_____
64
65 Notary Public

66 My commission expires.....

67 If the lessee shall, within thirty (30) days after the filing of such
68 affidavit, give notice in writing to the county recorder of the county
69 where said land is located that said lease has not been forfeited and
70 that said lessee still claims that said lease is in full force and effect,
71 then the said affidavit shall not be recorded but the county recorder
72 shall notify the owner of the land of the action of the lessee, and the
73 owner of the land shall be entitled to the remedies provided by this Act
74 for the cancellation of such disputed lease. If the lessee shall not notify
75 the county recorder as above provided, then the county recorder shall
76 record said affidavit, and thereafter the record of the said lease shall
77 not be notice to the public of the existence of said lease or of any in-
78 terest therein or rights thereunder, and said record shall not be
79 received in evidence in any court of the State on behalf of the lessee
80 against the lessor, and said lease shall stand forfeited.

1 SEC. 7. Same; action to obtain release; damages, costs and at-
2 torney's fees; attachment. Should the owner of such lease neglect or
3 refuse to execute a release as provided by this Act, or contend lease is
4 in full force and effect, then the owner of the leased premises may sue
5 in any court of competent jurisdiction to obtain such release, and he
6 may also recover in such action the sum of one hundred dollars
7 (\$100.00) as damages, and all costs, together with a reasonable at-
8 torney's fee for preparing and prosecuting the suit, and he may also
9 recover any additional damages that the evidence in the case will war-
10 rant. In all such actions, writs of attachment may issue as in other
11 cases.

1 SEC. 8. Extension upon contingency, affidavit. If a recorded lease
2 contains the statement of any contingency upon the happening of which
3 the term of any such lease may be extended, the owner of said lease may
4 at any time before the expiration of the definite term of said lease file
5 with said county recorder an affidavit setting forth the description of
6 the lease, that the affiant is the owner thereof and the facts showing
7 that the required contingency has happened, or the record of such
8 lease shall not impart notice to the public of the continuance of said
9 lease. This affidavit shall be recorded in full by the county recorder
10 and such record together with that of the lease shall be due notice to
11 the public of the existence and continuing validity of said lease, until
12 the same shall be forfeited, cancelled, set aside, or surrendered accord-
13 ing to law.

1 SEC. 9. Liens for labor or materials and of contractor and subcon-
2 tractor; manner of perfecting liens, enforcement of liens. Provisions
3 of Chapter four hundred fifty-one (451) of the Code, 1935, as to
4 mechanic's liens and/or labor and materials furnished for improve-
5 ments on real estate and of contractors and subcontractors, shall apply
6 to labor and materials furnished for gas and/or oil wells, or pipe lines,
7 and such liens shall not attach on the real estate, but shall attach to
8 the whole of the lease held, and upon the gas and/or oil wells, buildings
9 and appurtenances and pipe lines for which said labor or materials
10 were furnished, and shall be perfected and enforced as provided by
11 said chapter.

1 SEC. 10. **State or any municipality to have authority to execute
2 leases.** The state or any municipality is hereby authorized to enter
3 into a gas or oil lease upon such terms as may be agreed upon, subject
4 to the approval of the district court of the county in which the land is
5 located, upon filing an application in the district court of such county
6 and by giving notice to the public by publishing a notice of the said
7 application for four (4) weeks in the newspaper designated for legal
8 publications in said county stating the time and place where said
9 application will come on for hearing and that objections thereto will
10 be heard at such time.

1 SEC. 11. **Invalidation.** If any section, subsection, paragraph or
2 provision of this Act shall be held to be invalid by any court for any
3 reason, it shall be presumed that this Act would have been passed by
4 the legislature without such invalid section, subsection, paragraph or
5 provision, and such finding shall not in any way affect the remainder
6 of this Act.

Approved April 24, 1939.

CHAPTER 64
UNEMPLOYMENT COMPENSATION

S. F. 101

AN ACT to amend the law as it appears in chapter one hundred two (102), Acts of the Forty-seventh General Assembly of Iowa, relating to unemployment compensation; to specify and define certain disqualifications for unemployment benefits; to designate and describe employees engaged in their respective customary self-employments; and to repeal all acts, or parts of acts, in conflict herewith.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. That the law as it appears in the first twenty-two (22)
2 lines of section five (5), chapter one hundred two (102), Acts of the
3 Forty-Seventh General Assembly of Iowa, be and the same is hereby
4 repealed, and that the following lines be enacted in lieu thereof:

5 “SEC. 5. An individual shall be disqualified for benefits:

6 5(a). If he has left his work voluntarily without good cause attrib-
7 utable to his employer, if so found by the commission.

8 5(b). If the commission shall find that he has been discharged for
9 misconduct in connection with his employment, his weekly benefits
10 shall then be paid by the commission into the Unemployment Compen-
11 sation Fund for the week in which he was discharged and for not less
12 than the two nor more than the nine (9) weeks which immediately fol-
13 low such week (in addition to the waiting period), as determined by
14 the commission in each case according to the circumstances and seri-
15 ousness of the misconduct. The balance of such weekly benefit shall
16 be paid to him.

17 5(c). If the commission finds that he has failed, without good
18 cause, either to apply for available, suitable work when so directed by
19 the employment office or the commission or to accept suitable work
20 when offered him, or to return to his customary self-employment, if
21 any.”