

SENATE BILL No. 319

By Committee on Commerce

1-28

1 AN ACT concerning surface owners' property rights protection; amending
2 K.S.A. 2013 Supp. 55-151 and repealing the existing section.

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4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 2013 Supp. 55-151 is hereby amended to read as
6 follows: 55-151. (a) Prior to the drilling of any well, every operator shall
7 file an application of intent to drill with the commission. Such application
8 shall include such information as required by the commission, including
9 the name and address of the surface owner, and shall be on a form
10 prescribed by the commission. Such application shall also include: (1)
11 Non-binding preliminary estimates of the location of roads of ingress or
12 egress, any tank battery and any pipeline or electrical line; (2) *a map*
13 *showing the location and relative distances of all proposed wells,*
14 *structures on the surface property involved, and water wells on the surface*
15 *property involved; and (3) proof of right to enter on the surface property*
16 *where the proposed wells are to be drilled, including, but not limited to, a*
17 *copy of the mineral and oil lease. The commission shall, upon receipt of*
18 *such application, send a copy of such application to the named surface*
19 *owner, as well as the contact information, including name, address, phone*
20 *number, fax or email address, for a designated representative of the*
21 *applicant. The commission need not send such information if the operator*
22 *verifies that the application filed with the commission has been delivered*
23 *to the surface owner.*

24 (b) No change in the use of a well *or commencement of drilling* shall
25 be made without express approval of the commission. The state
26 corporation commission shall have the authority to adopt rules and
27 regulations to fix, charge and collect a fee for an application of intent to
28 drill a well, except that such fee for an application of intent to drill a well
29 shall not exceed \$300. No drilling shall be commenced until the authorized
30 agents of the commission have approved the application. *In determining*
31 *whether to approve the application, the agent shall consider all relevant*
32 *rules and regulations adopted by the commission in addition to: (1)*
33 *Whether the operator has provided proof of right to enter the surface*
34 *property, and, if the operator intends to conduct exploration for oil or gas,*
35 *whether the operator has provided proof that the oil and gas lease is still*
36 *viable. A determination of viability shall include, but not be limited to,*

1 *consideration of the history of production of oil or gas on the property and*
2 *whether such production has been continuous; and*

3 *(2) the right of the surface owner and occupants of buildings in*
4 *proximity to the oil or gas well to quiet enjoyment of their property,*
5 *including, but not limited to, consideration of the proximity of wells to*
6 *occupied buildings and other structures, the surface owner's use of the*
7 *surface owner's property, water wells used by the surface owner, and the*
8 *rules and regulations adopted pursuant to subsections (c) and (d). The*
9 *agent, in-giving determining whether to give approval, shall determine that*
10 *the proposed construction of the well will protect all usable waters. If*
11 *approved, such approval shall include the amount of pipe necessary to*
12 *protect all usable water, plugging requirements upon abandonment and*
13 *such other requirements deemed appropriate by the commission. The*
14 *commission may refuse to process any application submitted pursuant to*
15 *this section unless the applicant has been in compliance with all rules and*
16 *regulations adopted pursuant to this act.*

17 *(c) The commission shall adopt rules and regulations applicable to*
18 *oil or gas wells within 1,000 feet of an occupied building to ensure safety*
19 *and protection of affected persons and property and to ensure the rights of*
20 *surface owners using such buildings are not abridged. Such rules and*
21 *regulations shall include, but not be limited to:*

22 *(1) Special procedures to be used by owners or operators of an oil or*
23 *gas well in proximity to occupied buildings that will: (A) Capture gases*
24 *emitted during the drilling, completion and operation of the well to protect*
25 *occupants of nearby occupied buildings from emissions and reduce odors;*
26 *(B) limit noise, dust and light emitted during the drilling, completion and*
27 *operation of the well to maximum levels to be established by the*
28 *commission; and (C) protect the property on which the well is drilled from*
29 *spills;*

30 *(2) a requirement that the operator provide notice to any person*
31 *whose residence or place of business is located within 1,000 feet of the*
32 *proposed oil or gas well and hold at least one meeting with any person*
33 *whose residence or place of business is located within 1,000 feet of the*
34 *proposed oil or gas well and who requests a meeting with the owner or*
35 *operator;*

36 *(3) a minimum setback of an oil or gas well from an occupied*
37 *building; and*

38 *(4) insurance, bonding and indemnification requirements.*

39 *The commission may cooperate with the department of health and*
40 *environment in establishing these rules and regulations.*

41 *(d) (1) Notwithstanding any other provisions of this section, no well*
42 *shall be drilled within 500 feet of any structure constructed prior to the*
43 *drilling activity that required a permit from a municipal authority to erect,*

1 without consent of the surface owner. No more than one well may be
2 drilled within a ten-acre area without consent of the surface owner or
3 owners.

4 (2) *If consent is not obtained from the surface owner and the lack of*
5 *consent would deprive the owner of the oil and gas rights of the right to*
6 *produce or share in the oil or gas underlying the surface tract, the well*
7 *operator may be granted a variance from the distance restriction upon*
8 *submission of a plan identifying the additional measures, facilities or*
9 *practices as prescribed by the commission to be employed during well site*
10 *construction, drilling and operations. The variance shall include*
11 *additional terms and conditions required by the commission to ensure*
12 *safety and protection of affected persons and property, including*
13 *insurance, bonding, indemnification and technical requirements. If the*
14 *variance will affect an occupied building, the variance shall include*
15 *additional terms and conditions required by the commission pursuant to*
16 *subsection (c).*

17 (3) *Nothing in this section shall alter or abridge the terms of any*
18 *contract entered into prior to the effective date of this act.*

19 (e) The commission shall make available to the secretary of the
20 department of health and environment information related to all
21 notifications of intents to drill. The commission shall make available to the
22 clerk of any county in which a well will be drilled information related to
23 the intent to drill for such well.

24 (f) *An application of intent to drill may be set for hearing by the*
25 *commission.*

26 (g) *The commission shall adopt rules and regulations to carry out the*
27 *provisions of this act.*

28 Sec. 2. K.S.A. 2013 Supp. 55-151 is hereby repealed.

29 Sec. 3. This act shall take effect and be in force from and after its
30 publication in the statute book.