

LEGISLATIVE BILL 447

Approved by the Governor March 3, 1978

Introduced by Clark, 47

AN ACT to amend section 57-909, Reissue Revised Statutes of Nebraska, 1943, relating to oil and gas; to revise cost and expense recovery figures to be included in pooling orders; to repeal the original section; and to declare an emergency. Be it enacted by the people of the State of Nebraska,

Section 1. That section 57-909, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

57-909. (1) When two or more separately-owned tracts are embraced within a spacing unit, or when there are separately-owned interests in all or part of the spacing unit, then the owners and royalty owners thereof may pool their interests for the development and operation of the spacing unit. In the absence of voluntary pooling, the commission, upon the application of any interested person, or upon its own motion, shall be empowered to enter an order pooling all interests in the spacing unit for the development and operation thereof. Each such pooling order shall be made only after notice and hearing, and shall be upon terms and conditions that are just and reasonable, and that afford to the owner of each tract or interest in the spacing unit the opportunity to recover or receive, without unnecessary expense, his just and equitable share. Operations incident to the drilling of a well upon any portion of a spacing unit covered by a pooling order shall be deemed, for all purposes, the conduct of such operations upon each separately-owned tract in the drilling unit by the several owners thereof. That portion of the production allocated to each tract included in a spacing unit covered by a pooling order shall, when produced, be deemed for all purposes to have been produced from such tract by a well drilled thereon.

(2) Each such pooling order shall make provision for the drilling and operation of the authorized well on the spacing unit, and for the payment of the reasonable actual cost thereof, including a reasonable charge for supervision. As to each owner who refuses to agree upon the terms for drilling and operating the well, the order shall provide for reimbursement for his share of the costs out of, and only out of, production from the unit

representing his interest, excluding royalty or other interest not obligated to pay any part of the cost thereof. In the event of any dispute as to such cost, the commission shall determine the proper cost. The order shall determine the interest of each owner in the unit, and may provide in substance, that, as to each owner who agrees with the person or persons drilling and operating the well for the payment by the owner of his share of the costs, such owner, unless he has agreed otherwise, shall be entitled to receive, subject to royalty or similar obligations, the share of the production of the well applicable to the tract of the consenting owner; and as to each owner who does not agree, he shall be entitled to receive from the person or persons drilling and operating said well on the unit his share of the production applicable to his interest, after he has recovered the share of the cost of drilling and operating applicable to such nonconsenting owner's interest plus a reasonable charge for supervision and storage, plus a reasonable rate of interest on the unpaid balance two hundred per cent of that portion of the costs and expenses of staking, well site preparation, drilling, reworking, deepening or plugging back, testing, completing, and other intangible expenses approved by the commission chargeable to each owner who does not agree, and one hundred per cent of all equipment including wellhead connections, casing, tubing, packers, and other downhole equipment and surface equipment, including but not limited to stock tanks, separators, treaters, pumping equipment, and piping, plus one hundred per cent of the nonconsenting owner's share of the cost of operation and a reasonable rate of interest on the unpaid balance. For the purpose of this section, the owner or owners of oil and gas rights in and under an unleased tract of land shall be regarded as a lessee to the extent of a seven-eighths interest in and to such rights and a lessor to the extent of the remaining one-eighth interest therein.

(3) A certified copy of the order may be filed for record with the county clerk or register of deeds of the county, as the case may be, where the property involved is located, which recording shall constitute constructive notice thereof. The county clerk, or register of deeds, as the case may be, shall record the same in the real property records of the county and shall index the same against the property affected.

Sec. 2. That original section 57-909, Reissue Revised Statutes of Nebraska, 1943, is repealed.

Sec. 3. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.