

## CHAPTER 361

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**NATURAL RESOURCES**

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## SENATE BILL 18-230

BY SENATOR(S) Marble, Cooke, Crowder, Tate;  
also REPRESENTATIVE(S) Saine and Gray, Becker K., Kraft-Tharp, Rosenthal, Salazar, Winkler, Winter, Young, Duran.

**AN ACT**

**CONCERNING MODIFICATION OF THE LAWS GOVERNING THE ESTABLISHMENT OF DRILLING UNITS FOR OIL AND GAS WELLS, AND, IN CONNECTION THEREWITH, CLARIFYING THAT A DRILLING UNIT MAY INCLUDE MORE THAN ONE WELL, PROVIDING LIMITED IMMUNITY TO NONCONSENTING OWNERS SUBJECT TO POOLING ORDERS, ADJUSTING COST RECOVERY FROM NONCONSENTING OWNERS, AND MODIFYING THE CONDITIONS UPON WHICH A POOLING ORDER MAY BE ENTERED.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 34-60-116, **amend** (1), (3), (7), and (8) as follows:

**34-60-116. Drilling units - pooling interests.** (1) To prevent or to assist in preventing waste, to avoid the drilling of unnecessary wells, or to protect correlative rights, the commission, upon its own motion or on a proper application of an interested party, but after notice and hearing as provided in this section, ~~has the power to~~ **MAY** establish ONE OR MORE drilling units of specified and ~~approximately uniform~~ size and shape covering any pool OR PORTION OF A POOL.

(3) The order establishing ~~drilling units shall permit only one well~~ A DRILLING UNIT MAY AUTHORIZE ONE OR MORE WELLS to be drilled and produced from the common source of supply on a drilling unit. ~~and shall specify the location of the permitted well thereon, with such exception for the location of the permitted well as may be reasonably necessary for wells already drilled or where it is shown upon application, notice, and hearing, and the commission finds, that the drilling unit is located partly outside the pool or field and adjacent to a producing unit, or, for some other reason, the requirement to drill the well at the authorized location on the unit would be inequitable or unreasonable. The commission shall take such action as will offset any advantage which the person securing the exception may have over other producers by reason of the drilling of the well as an exception, and include in the~~

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*Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

order suitable provisions to prevent the production from the drilling unit of more than its just and equitable share of the oil and gas in the pool.

(7) (a) Each such pooling order shall MUST:

(I) Make provision for the drilling of a well ONE OR MORE WELLS on the drilling unit, if not already drilled, for the operation thereof OF THE WELLS, and for the payment of the reasonable actual cost thereof OF THE WELLS, including a reasonable charge for supervision and storage. Except as provided in paragraph (c) of this subsection (7) (7)(c) OF THIS SECTION, as to each nonconsenting owner who refuses to agree to bear his A proportionate share of the costs and risks of drilling and operating the well WELLS, the order shall MUST provide for reimbursement to the consenting owners who pay for the drilling and operation of the well THE COSTS of the nonconsenting owner's PROPORTIONATE share of the costs and risks of such drilling and operating out of, and only out of, production from the unit representing his THE OWNER'S interest, excluding royalty or other interest not obligated to pay any part of the cost thereof, IF AND TO THE EXTENT THAT THE ROYALTY IS CONSISTENT WITH THE LEASE TERMS PREVAILING IN THE AREA AND IS NOT DESIGNED TO AVOID THE RECOVERY OF COSTS PROVIDED FOR IN SUBSECTION (7)(b) OF THIS SECTION. In the event of any dispute as to such THE costs, the commission shall determine the proper costs as specified in paragraph (b) of this subsection (7). The order shall SUBSECTION (7)(b) OF THIS SECTION.

(II) Determine the interest of each owner in the unit and shall provide that each consenting owner is entitled to receive, subject to royalty or similar obligations, the share of the production of the well FROM THE WELLS applicable to his THE OWNER'S interest in the drilling unit WELLS and, unless he THE OWNER has agreed otherwise, his A proportionate part of the nonconsenting owner's share of such THE production until costs are recovered and that each nonconsenting owner is entitled to own and to receive the share of the production applicable to his THE OWNER'S interest in the unit after the consenting owners have recovered the nonconsenting owner's share OF THE COSTS out of production; AND

(III) SPECIFY THAT A NONCONSENTING OWNER IS IMMUNE FROM LIABILITY FOR COSTS ARISING FROM SPILLS, RELEASES, DAMAGE, OR INJURY RESULTING FROM OIL AND GAS OPERATIONS ON THE DRILLING UNIT.

(b) Upon the determination of the commission, proper costs recovered by the consenting owners of a drilling unit from the nonconsenting owner's share of production from such a unit shall be as follows:

(I) One hundred percent of the nonconsenting owner's share of the cost of surface equipment beyond the wellhead connections, including but not limited to, stock tanks, separators, treaters, pumping equipment, and piping, plus one hundred percent of the nonconsenting owner's share of the cost of operation of the well OR WELLS commencing with first production and continuing until the consenting owners have recovered such costs. It is the intent that the nonconsenting owner's share of these costs of equipment and operation will be that interest which THAT would have been chargeable to the nonconsenting owner had he THE OWNER initially agreed to pay his THE OWNER'S share of the costs of the well OR WELLS from the beginning of the operation.

(II) Two hundred percent of that portion of the costs and expenses of staking, well site preparation, obtaining rights-of-way, rigging up, drilling, reworking, deepening or plugging back, testing, and completing the well, after deducting any cash contributions received by the consenting owners, and two hundred percent of that portion of the cost of equipment in the well, including the wellhead connections.

(c) A nonconsenting owner of a tract in a drilling unit ~~which~~ THAT is not subject to any lease or other contract for the development thereof for oil and gas shall be deemed to have a landowner's proportionate royalty of twelve and one-half percent until such time as the consenting owners recover, only out of the nonconsenting owner's proportionate seven-eighths share of production, the costs specified in ~~paragraph (b) of this subsection (7)~~ (7)(b) OF THIS SECTION. After recovery of ~~such~~ THE costs, the nonconsenting owner ~~shall then own~~ OWNS his OR HER FULL proportionate ~~eight-eighths~~ share of the ~~well~~ WELLS, surface facilities, and production and then ~~be~~ IS liable for further costs as if ~~he~~ THE OWNER had originally agreed to drilling of the ~~well~~ WELLS.

(d) (I) ~~No~~ AN order pooling an unleased nonconsenting mineral owner shall NOT be entered by the commission under ~~the provisions of~~ subsection (6) of this section over protest of ~~such~~ THE owner ~~until~~ UNLESS the commission ~~shall have~~ HAS received evidence that ~~such~~ THE unleased mineral owner ~~shall have~~ HAS been tendered, NO LESS THAN SIXTY DAYS BEFORE THE HEARING, a reasonable offer to lease upon terms no less favorable than those currently prevailing in the area at the time application for ~~such~~ THE order is made and that such unleased mineral owner ~~shall have~~ HAS been furnished in writing ~~such~~ THE owner's share of the estimated drilling and completion cost of the ~~well~~ WELLS, the location and objective depth of the ~~well~~ WELLS, and the estimated spud date for the ~~well~~ WELLS or range of time within which spudding is to occur. THE OFFER MUST INCLUDE A COPY OF OR LINK TO A BROCHURE SUPPLIED BY THE COMMISSION THAT CLEARLY AND CONCISELY DESCRIBES THE POOLING PROCEDURES SPECIFIED IN THIS SECTION AND THE MINERAL OWNER'S OPTIONS PURSUANT TO THOSE PROCEDURES.

(II) During the period of cost recovery provided in this subsection (7), the commission ~~shall retain~~ RETAINS jurisdiction to determine the reasonableness of costs of operation of the ~~well~~ WELLS attributable to the interest of ~~such~~ THE nonconsenting owner.

(8) The operator of a ~~well~~ WELLS under a pooling order in which there is a nonconsenting owner shall furnish the nonconsenting owner with a monthly statement of all costs incurred, together with the quantity of oil or gas produced, and the amount of proceeds realized from the sale of production during the preceding month. If the consenting owners recover the costs specified in subsection (7) of this section, the nonconsenting owner shall own the same interest in the ~~well~~ WELLS and the production therefrom, and be liable for the further costs of the operation, as if ~~he~~ THE OWNER had participated in the initial drilling ~~operation~~ OPERATIONS.

**SECTION 2. Effective date - applicability.** This act takes effect July 1, 2018, and applies to conduct occurring on or after said date.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 2018