

The Senate Committee on Regulated Industries and Utilities offered the following substitute to HB 205:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 4 of Title 12 of the Official Code of Georgia Annotated,
2 relating to mining and drilling, so as to regulate the exploration and extraction of gas and oil
3 in this state; to provide for definitions; to provide for authority to create an Oil and Gas
4 Board under certain circumstances; to require the promulgation of rules and regulations
5 related to drilling and extraction; to amend provisions relating to drilling permits; to increase
6 the amount of bond security for drilling operations; to provide for authority of local
7 governments; to provide for a severance tax on the extraction of oil and gas; to provide for
8 related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Article 2 of Chapter 4 of Title 12 of the Official Code of Georgia Annotated, relating to
12 mining and drilling, is amended by revising Part 2, relating to deep drilling for oil, gas, and
13 other minerals, as follows:

14 "Part 2

15 12-4-40.

16 This part shall be known and may be cited as the 'Oil and Gas and Deep Drilling Act
17 of 1975.'

18 12-4-41.

19 The General Assembly finds and declares that its duty to protect the health, safety, and
20 welfare of the citizens of this state requires that adequate protection of underground fresh
21 water supplies be assured in any drilling operation which may penetrate through any
22 stratum which contains fresh water. This duty further requires that adequate protection be
23 assured in any drilling or the use of such drilled wells in certain other environmentally

24 sensitive areas or in other circumstances where the result of such drilling and use may
 25 endanger the health, safety, and welfare of the citizens of this state. It is not the policy of
 26 the General Assembly to regulate the drilling of shallow exploration or engineering holes
 27 except in such environmentally sensitive areas as defined in this part. The General
 28 Assembly further finds and declares that, ~~with the current energy shortage which this state
 29 and nation face, it must encourage~~ oil and gas exploration to identify new sources of
 30 energy, ~~but not~~ should not occur at the expense of our important natural resources such as
 31 residential, municipal, and industrial supplies of fresh water. The General Assembly
 32 further finds and declares that it should continue to encourage oil and gas exploration. The
 33 General Assembly further finds and declares that with an increase in oil exploration, it must
 34 provide assurances to persons engaging in such exploration that adequate safeguards
 35 regarding results of exploration will remain privileged information for a specified time.
 36 The General Assembly further finds and declares that it is in the public interest to obtain,
 37 protect, and disseminate all possible geologic information associated with drilling
 38 operations in order to further the purposes of future energy related research.

39 12-4-42.

40 As used in this part, the term:

41 (1) 'Board' means the Board of Natural Resources.

42 (1.1) 'Director' means the director of the Environmental Protection Division of the
 43 Department of Natural Resources.

44 (2) 'Drilling' means the boring of a hole in the earth by remote mechanical means and all
 45 associated activities, including but not limited to casing, perforating, plugging,
 46 cementing, and capping.

47 (3) 'Environmentally sensitive area of the coastal zone' means that area of the coastal
 48 zone where salt-water-bearing strata overlie the fresh-water aquifer system.

49 (4) 'Field' means the general area which is underlaid or appears to be underlaid by at least
 50 one pool. This term shall include the underground reservoir or reservoirs containing
 51 crude petroleum oil or natural gas, or both. The words 'field' and 'pool' mean the same
 52 thing when only one underground reservoir is involved; however, 'field,' unlike 'pool,'
 53 may relate to two or more pools.

54 (5) 'Gas' means all natural gas, including casing-head gas, and all other hydrocarbons not
 55 defined as oil in paragraph (10) of this Code section.

56 (5.1) 'Hydraulic fracturing' means those operations conducted in an individual well bore
 57 designed to increase the flow of hydrocarbons from the rock formation to such well bore
 58 through modification of the permeability of reservoir rock by fracturing it through
 59 application of fluids under pressure.

- 60 (6) 'Illegal mineral' means any mineral, including oil or gas, which has been produced
61 within the State of Georgia in violation of this part, any rule or regulation adopted and
62 promulgated pursuant to this part, or any order issued under this part.
- 63 (7) 'Illegal product' means any product of oil, gas, or other mineral, any part of which
64 was processed or derived, in whole or in part, from an illegal mineral.
- 65 (8) 'Mineral' means any naturally occurring substance found in the earth which has
66 commercial value. This term shall include oil and gas, as defined in this Code section,
67 but shall not include fresh water.
- 68 (9) 'Mineral product' means any commodity made from any mineral.
- 69 (10) 'Oil' means crude petroleum oil and other hydrocarbons, regardless of gravity, which
70 are produced at the well in liquid form by ordinary production methods and which are not
71 the result of condensation of gas after it leaves the reservoir.
- 72 (11) 'Owner' means the person who has the right to drill into and produce from any pool
73 and to appropriate the production either for himself or herself and another, or himself or
74 herself and others.
- 75 (12) 'Person' means any natural person, corporation, joint venture, association,
76 partnership, receiver, trustee, guardian, executor, administrator, fiduciary or
77 representative of any kind, all agencies or instrumentalities of the state, and all county or
78 municipal governments or any authority.
- 79 (13) 'Pool' means an underground reservoir containing a common accumulation of crude
80 petroleum oil or natural gas, or both. Each zone of a general structure which is
81 completely separated from any other zone in the structure is covered by the term 'pool'
82 as used in this part.
- 83 (14) 'Producer' means the owner of a well or wells capable of producing oil or gas, or
84 both.
- 85 (15) 'Tender' means a permit or certificate of clearance for the transportation of minerals,
86 including oil and gas, or mineral products produced under this part, approved and issued
87 or registered under the authority of the board.
- 88 (16) 'Unitization agreement' means a voluntary agreement between operators to create
89 operation units.
- 90 (17) 'Waste,' in addition to its ordinary meaning, means 'physical waste' as that term is
91 generally understood in the oil and gas industry. The term shall also include, but not be
92 limited to:
- 93 (A) The inefficient, excessive, or improper use or dissipation of reservoir energy and
94 the locating, spacing, drilling, equipping, operating, or producing of any oil or gas well
95 or wells in a manner which results, or tends to result, in a reduction in the quantity of
96 oil or gas ultimately to be recovered from any pool in this state;

- 97 (B) The inefficient storing of oil and the locating, spacing, drilling, equipping,
 98 operating, or producing of any oil or gas well or wells in a manner causing, or tending
 99 to cause, unnecessary or excessive surface loss or destruction of oil or gas;
- 100 (C) Abuse of the correlative rights and opportunities of each owner of gas or oil in a
 101 common reservoir due to nonuniform, disproportionate, and unratable withdrawals
 102 causing undue drainage between tracts of lands;
- 103 (D) The production of oil or gas in such a manner as to cause unnecessary water
 104 channeling or zoning;
- 105 (E) The operation of any oil well or wells with an inefficient gas-oil ratio;
- 106 (F) The drowning with water of any stratum or part thereof capable of producing gas
 107 or oil, except where approval for such a project has been granted by the department;
- 108 (G) Underground waste, however caused and whether or not defined, as the same
 109 relates to any activity regulated by this part;
- 110 (H) The creation of unnecessary fire hazards as the same relates to any activity
 111 regulated by this part;
- 112 (I) The escape into the open air, from a well producing both oil and gas, of gas in
 113 excess of the amount which is necessary in the efficient drilling or operation of the
 114 well; and
- 115 (J) Permitting gas produced from a gas well to escape into the air, except for testing
 116 purposes.
- 117 (18) 'Well' means any boring drilled in the search for or the production of oil, gas, or
 118 other minerals or water.

119 12-4-43.

120 For the purpose of this part:

- 121 (1) The board shall have the authority to make such inquiries as it may deem necessary
 122 into any matter over which it has jurisdiction;
- 123 (2) The board shall have the jurisdiction of and authority over the drilling of and
 124 subsequent use of any well for the exploration or production of oil and gas; any well for
 125 the exploration or production of any other mineral drilled to a depth greater than 1,800
 126 feet; any well for the exploration or production of any mineral located in the
 127 environmentally sensitive area of the coastal zone and which is drilled to a depth
 128 sufficient to penetrate the fresh-water aquifer system; any underground storage well with
 129 the exception of those wells covered by Article 3 of Chapter 4 of Title 46; any well for
 130 the underground disposal of waste materials; any well for the production of fresh water
 131 drilled to a depth greater than 1,800 feet; and any well for the exploration or production
 132 of brine or salt water;

133 (3) The board shall have the authority to regulate the spacing of wells and the production
 134 of all oil and gas and the production of any other minerals produced through a well or
 135 bore hole in liquid or slurry form to a depth greater than 1,800 feet or located in the
 136 environmentally sensitive area; provided, however, that this authority does not extend to
 137 the drilling of wells for the production of fresh water used for drinking, residential,
 138 industrial, or agricultural purposes, except as provided for in paragraph (2) of this Code
 139 section;

140 (4) The board shall have the power to adopt and promulgate rules and regulations
 141 necessary to effectuate the purposes of this part;

142 (5) The board may delegate to the director the administrative duties and powers,
 143 including, without limitation, the power to consider and issue permits to drill wells and
 144 to establish drilling and operation units, created under the authority of this part; and

145 (6) Upon receipt of at least 12 applications during a calendar year for any permit to drill
 146 any well for the exploration or production of oil or gas, the board may delegate to the
 147 director the authority to create an Oil and Gas Board to review and issue permits and
 148 regulate drilling activity. Any such Oil and Gas Board shall consist of the state geologist
 149 and three other members appointed by the Governor.

150 12-4-44.

151 (a) The board shall have the authority to adopt and promulgate rules and regulations
 152 dealing with the control of matters over which it has jurisdiction under this part. Such rules
 153 and regulations shall include, but shall not be limited to, rules and regulations for the
 154 following purposes:

155 (1) To require the drilling, casing, and plugging of wells regulated under this part to be
 156 done in such a manner as to prevent the escape of oil or gas out of one stratum into
 157 another stratum; to prevent the pollution of fresh ~~water supplies~~ surface water and ground
 158 water supplies by oil, gas, salt water, or other contaminants; and to require reasonable
 159 bonds;

160 (2) To require the making of reports showing the location of all wells regulated under
 161 this part, including the filing of drill cutting samples, cores, and copies of all logs, and to
 162 further require that the operator submit the name classification used for each of the
 163 subsurface formations penetrated and the depth at which each such formation was
 164 penetrated;

165 (3) To prevent the drowning by water of any stratum or part thereof capable of producing
 166 oil or gas in paying quantities and to prevent the premature and irregular encroachment
 167 of water which reduces the total ultimate recovery of oil or gas from any pool;

- 168 (4) To require the operation of wells regulated under this part with efficient gas-oil ratios
169 and to fix such ratios;
- 170 (5) To prevent 'blowouts,' 'caving,' and 'seepage' in the sense that conditions indicated
171 by such terms are generally understood in the oil and gas business;
- 172 (6) To prevent fires, waste, and spillage as same relates to any activity regulated by the
173 provisions of this part;
- 174 (7) To identify the ownership of all oil or gas wells, producing leases, refineries, tanks,
175 plants, structures, and all storage and transportation equipment and facilities;
- 176 (8) To regulate the 'shooting,' perforating, fracturing, hydraulic fracturing, and chemical
177 treatment of wells;
- 178 (9) To regulate secondary recovery methods, including, but not limited to, the
179 introduction of gas, oil, water, or other substances into producing formations;
- 180 (10) To limit and prorate the production of oil or gas, or both, from any pool or field for
181 the prevention of waste as defined in Code Section 12-4-42;
- 182 (11) To require, either generally or in or from particular areas, certificates of clearance
183 or tenders in connection with the transportation of oil or gas produced in Georgia;
- 184 (12) To regulate the spacing of wells and to establish drilling units;
- 185 (13) To prevent, insofar as is practical, avoidable drainage from each developed unit
186 which is not equalized by counterdrainage;
- 187 (14) To establish procedures for the plugging and abandonment of wells regulated under
188 this part and to establish procedures for the restoration and reclamation of well sites;
- 189 (15) To require that accurate records be kept on forms to be prescribed by the director,
190 which records shall be reported to the director within the time specified in such rules and
191 regulations; reports shall include such information as the director may prescribe,
192 including, but not limited to, information concerning cuttings, subsurface samples, and
193 lithologic and geophysical logs;
- 194 (16) To require that geologic and testing information obtained from a well regulated
195 under this part be held in confidence by the director for a period of at least six months
196 from the time of drilling to total depth, or, if the director approves, a longer period, if the
197 operator makes a written request for the same stating the length of the extension desired
198 and the reasons therefor; provided, however, that the guarantee of confidentiality
199 provided for in this paragraph shall in no way impair the ability of the board or the
200 director to enforce this part;
- 201 (17) To regulate the issuance, denial, and revocation of permits and to regulate bonds
202 required under this part, except as to persons provided for in paragraph (18) of this Code
203 section;

204 (18) To regulate the issuance of permits to persons who have been found to have violated
 205 any provision of this part, any rule or regulation adopted and promulgated pursuant to this
 206 part, or any order or permit issued under this part, and to establish the amount of bond for
 207 such persons;

208 (19) To regulate the cooperative development or operation of all or part of an oil or gas
 209 pool as a unit;

210 (20) To require that certain geophysical logging and other tests be conducted to ensure
 211 that the requirements of paragraphs (1), (8), and (14) of this Code section are met; and

212 (21) To regulate the underground storage or disposal of substances other than those
 213 substances covered by the provisions of Article 3 of Chapter 4 of Title 46.

214 (b) On or before July 1, 2018, the board shall adopt regulations governing hydraulic
 215 fracturing operations. Such regulations shall include, at a minimum:

216 (1) Provisions for public notice of any application for any permit for any hydraulic
 217 fracturing well, such notice to be given before any decision on the permit application.

218 The contents of such public notice shall include, at a minimum:

219 (A) The name, address, and telephone number of the division contact where further
 220 information can be obtained;

221 (B) The name and address of the applicant;

222 (C) The location of the well proposed to be fractured and the route of any directional
 223 borehole to the end point of such borehole;

224 (D) A brief description of the project, including information regarding the sources of
 225 water to be used as base fluid and estimated amounts and methods of wastewater
 226 disposal; and

227 (E) A brief description of the public comment period and procedures the director will
 228 follow to determine whether to issue the permit;

229 (2) Provisions for the identification of groundwater sources within one-half mile of any
 230 proposed wellhead and within one-half mile along the route of any directional borehole
 231 to the end point of such borehole, and for groundwater quality monitoring before, during,
 232 and after drilling operations;

233 (3) Provisions providing for the mandatory disclosure of the contents of fluids used in
 234 hydraulic fracturing projects to the director and to the commissioner of public health, and
 235 a fair process for the disclosure of fracturing fluids to facilitate transparency, while
 236 protecting valuable trade secrets and allowing well owners, operators, and service
 237 companies to protect their right to obtain an advantage over competitors;

238 (4) Provisions for the safe disposal of all hydraulic fracturing fluids; and

239 (5) Provisions for the restoration and reclamation of abandoned well sites, storage
 240 facility sites, pits, and access roads.

241 12-4-45.

242 (a) In regard to the establishment of drilling units and operation units, the allocation of
243 production, the integration of separately owned tracts of land, and agreements in the
244 interest of conservation, the board, in addition to the jurisdiction, authority, or powers
245 granted elsewhere in this part, shall have the specific powers with respect to the exploration
246 or production of oil or gas enumerated below.

247 (1) **Drilling units.** For the prevention of waste and to avoid the augmenting and
248 accumulation of risk arising from the drilling of an excessive number of wells, the board
249 shall, after due investigation and a hearing, have full power and authority to establish
250 such drilling unit or units as may, in its discretion, seem most reasonable and practicable.
251 The board shall have control of the allocation of production over such units and shall,
252 after investigation and hearing, set up, establish, and allocate to each unit its just and
253 equitable share of production, and shall make such orders, rules, and regulations as will
254 give to each producer the opportunity to use his or her just and equitable share of the
255 reservoir energy of any pool. The board shall have power after notice and hearing to
256 review and approve, or disapprove, agreements made among owners or operators, or
257 among owners and operators in the interest of conservation of oil or gas or both or for the
258 prevention of waste. When two or more separately owned tracts of land are embraced
259 within an established drilling unit, the owners thereof may validly agree to integrate their
260 interests and to develop their lands as a drilling unit. Where, however, such owners have
261 not agreed to integrate their interests, the board may, for the prevention of waste or to
262 avoid the drilling of unnecessary wells, after notice and hearing, require such owners to
263 do so and to develop their lands as a drilling unit. Should the owners of separate tracts
264 embraced within a drilling unit fail to agree upon the integration of the tracts and the
265 drilling of a well on the unit, and should it be established that the board is without
266 authority to require integration as provided for above, then subject to all other applicable
267 provisions of this part, the owner of each tract embraced within the drilling unit may drill
268 on his or her tract, but the allowable production from said tract shall be such proportion
269 of the allowable production for the full drilling unit as the area of such separately owned
270 tracts bears to the full drilling unit.

271 (2) **Operation units.**

272 (A) For the prevention of waste and to assure the ultimate recovery of gas or oil, the
273 board may hold a hearing to consider the need for the operation as a unit of an entire
274 field, or of any pool or any portion thereof, or combination of pools, within a field, for
275 the production of oil or gas or both and other minerals which may be associated and
276 produced therewith by additional recovery methods.

277 (B) At the conclusion of the hearing the board shall issue an order requiring unit
278 operation if it finds that:

279 (i) Unit operation of the field, or of any pool or of any portion or combinations
280 thereof within the field, is reasonably necessary to prevent waste as defined in Code
281 Section 12-4-42 or to increase the ultimate recovery of oil or gas by additional
282 recovery methods; and

283 (ii) The estimated additional cost incident to the conduct of such operation will not
284 exceed the value of the estimated additional recovery of oil or gas; provided,
285 however, that the board shall be authorized to prohibit the production of gas or oil by
286 any recovery method if it has determined that such recovery method will result in
287 waste or reduce the ultimate recovery of gas or oil from any field or pool or portion
288 or combination thereof.

289 (C) The phrase 'additional recovery methods' as used in this Code section shall include,
290 but shall not be limited to, the maintenance or partial maintenance of reservoir
291 pressures by any method recognized by the industry and approved by the board;
292 recycling; flooding a pool or pools, or parts thereof, with air, gas, water, liquid
293 hydrocarbons or any other substance, or any combination or combinations thereof; or
294 any other secondary method of producing hydrocarbons recognized by the industry and
295 approved by the board.

296 (D) The order provided for in subparagraph (B) of this paragraph shall be fair and
297 reasonable under all the circumstances, shall protect the rights of interested parties, and
298 shall include:

299 (i) A description of the area embraced, termed the unit area; and a description of the
300 affected pool or pools, or portions thereof, which lie within the unit area;

301 (ii) A statement of the nature of the operations contemplated;

302 (iii) A method of allocation among the separately owned tracts in the unit area of all
303 the oil or gas or both produced from the unit pool within the unit area and not required
304 in the conduct of such operation or unavoidably lost, such method of allocation to be
305 on a formula that is fair and equitable and will protect the correlative rights of all
306 interested parties;

307 (iv) A provision for adjustment among the owners of the unit area (not including
308 royalty owners) of their respective investments in wells, tanks, pumps, machinery,
309 materials, equipment, and other things and services of value attributable to the unit
310 operations. The amount to be charged unit operations for any such item shall be
311 determined by the owners of the unit area (not including royalty owners); provided,
312 however, that if such owners of the unit area are unable to agree upon the amount of
313 such charges, or to agree upon the correctness thereof, the board shall determine the

314 amount after due notice and hearing thereon. The net amount charged against the
315 owners of a separately owned tract shall be considered expense of unit operation
316 chargeable against such tract. The adjustment provided for in this division may be
317 treated separately and handled by agreements separate from the unitization agreement;

318 (v) A provision that the costs and expenses of unit operations, including investment,
319 past and prospective, be charged to the separately owned tracts in the same
320 proportions that such tracts share in unit productions. The expenses chargeable to a
321 tract shall be paid by the person or persons not entitled to share in production free of
322 operating costs, and who, in the absence of unit operation, would be responsible for
323 the expense of developing and operating such tracts, and such person's or persons'
324 interest in the separately owned tract shall be primarily responsible therefor. The
325 obligation or liability of such persons in the several, separately owned tracts for the
326 payment of unit expense shall at all times be several and not joint or collective. The
327 unit operator shall have a first and prior lien upon the leasehold estate exclusive of the
328 royalty interest provided thereby and unleased oil and gas rights, exclusive of
329 one-eighth interest therein, in and to each separately owned tract, and the interest of
330 the owners thereof in and to the unit production and all equipment in possession of
331 the unit, to secure the payment of the amount of the unit expense charged to and
332 assessed against such separately owned tract;

333 (vi) The designation of, or a provision for the selection of, a unit operator. The
334 conduct of all unit operations by the unit operator and the selection of a successor to
335 the unit operator shall be governed by the terms and provisions of the unitization
336 agreements;

337 (vii) A provision that when the full amount of any charge made against any interest
338 in a separately owned tract is not paid when due by the person or persons primarily
339 responsible therefor, then all of the oil and gas production allocated to the interest in
340 default in such separately owned tract, upon which production the unit operator has
341 a lien, may be appropriated by the unit operator and marketed and sold for the
342 payment of such charge, together with interest at a fair and equitable rate as
343 determined by the board thereon. The remaining portion of the unit production or the
344 proceeds derived therefrom allocated to each separately owned tract shall in all events
345 be regarded as royalty to be paid to the owners, free and clear of all unit expense and
346 free and clear of any lien therefor. The owner of any overriding royalty, oil and gas
347 payment, or other interest, who is not primarily responsible for the unpaid obligation,
348 shall, to the extent of any payment or deduction from his or her share, be subrogated
349 to all the rights of the unit operator with respect to the interest or interests primarily
350 responsible for such payment. Any surplus received by the operator from any such

351 sale of production shall be credited to the person or persons from whom it was
352 deducted in the proportion of their respective interest; and

353 (viii) The time the unit operation shall become effective, and the manner in which,
354 and the circumstances under which, the unit operation shall terminate.

355 (E) An order requiring unit operation shall not become effective unless and until a
356 contract incorporating the unitization agreement has been signed or in writing ratified
357 or approved by the owners of at least ~~75~~ 85 percent in interest as costs are shared under
358 the terms of the order and by ~~75~~ 85 percent in interest, as production is to be allocated,
359 of the royalty owners in the unit area, and unless and until a contract incorporating the
360 required arrangements for operations has been signed or in writing ratified or approved
361 by the owners of at least ~~75~~ 85 percent in interest as costs are shared, and unless and
362 until the board has made a finding, either in the order or in a supplemental order, that
363 those contracts have been signed, ratified, or approved. Both contracts may be
364 encompassed in a single document. In the event the required percentage interests have
365 not signed, ratified, or approved such agreements within six months from and after the
366 date of such order, or within such extended period as the board may prescribe, the order
367 shall be automatically revoked.

368 (F)(i) The board, by entry of new or amending orders, may from time to time add to
369 unit operations portions of pools not theretofore included, and may add to unit
370 operations new pools or portions thereof, and may extend the unit area as required.
371 Any such order, in providing for allocation of production from a unitized zone of the
372 unit area, shall first allocate to such pool or pools, or portion thereof so added, a
373 portion of the total production of oil or gas, or both, from all pools affected within the
374 unit area, as enlarged and not required in the conduct of unit operations or
375 unavoidably lost. Such allocation shall be based on a formula for sharing that is
376 considered to treat each tract and each owner fairly and equitably during the
377 remaining course of unit operations. The production so allocated to such added pool
378 or pools or portions thereof shall be allocated to the separately owned tracts which
379 participate in such production on a fair and equitable basis. The remaining portion
380 of unit production shall be allocated among the separately owned tracts within the
381 previously established unit area in the same proportions as those specified prior to the
382 enlargement unless such proportions are shown to be erroneous by data developed
383 subsequent to the former determination, in which event the errors shall be corrected.
384 Orders promulgated under this Code section shall become operative at 7:00 A.M. on
385 the first day of the month next following the day on which the order becomes
386 effective.

- 387 (ii) An order promulgated by the board under this subparagraph shall not become
388 effective unless and until:
- 389 (I) All of the terms and provisions of the unitization agreement relating to the
390 extension or enlargement of the unit area or to the addition of pools or portions
391 thereof to unit operations have been fulfilled and satisfied, and evidence thereof has
392 been submitted to the board; and
- 393 (II) The extension or addition effected by such order has been agreed to in writing
394 by the owners of at least ~~75~~ 85 percent in interest as costs are shared in the area or
395 pools or portions thereof to be added to the unit operation by such order and
396 by ~~75~~ 85 percent in interest, as production is to be allocated, of the royalty owners
397 in the area or pools or portions thereof to be added to the unit operations by such
398 order, and evidence thereof has been submitted to the board.
- 399 (iii) In the event both of the requirements specified in subdivisions (I) and (II) of
400 division (ii) of this subparagraph are not fulfilled within six months from and after the
401 date of such order or within such extended period as the board may prescribe, the
402 order shall be automatically revoked.
- 403 (G) When the contribution of a separately owned tract with respect to any unit pool has
404 been established, such contribution shall not be subsequently altered except to correct
405 a mathematical or clerical error that caused the tract contribution to be erroneous,
406 unless an enlargement of the unit is effected. No change or correction of the
407 contribution of any separately owned tract shall be given retroactive effect, but
408 appropriate adjustment shall be made for the investment charges as provided in this
409 Code section.
- 410 (H) The portion of unit production allocated to a separately owned tract within the unit
411 area shall be deemed, for all purposes, to have been actually produced from such tract,
412 and operations with respect to any unit pool within the unit area shall be deemed, for
413 all purposes, to be the conduct of operations for the production of oil or gas, or both,
414 from each separately owned tract in the unit area.
- 415 (b) Owners, operators, and royalty owners who have separate holdings in the same oil or
416 gas pool or in any area that appears from geological or other data to be underlaid by a
417 common accumulation of oil or gas or both are authorized to make agreements among
418 themselves for establishing and carrying out a plan for the cooperative development and
419 operation of the pool or area, provided that such agreements must be approved by the
420 board; provided, further, that such agreements must be for the purpose of conserving gas
421 or oil or both, or for the prevention of waste, or to assure the ultimate recovery of gas or
422 oil or both. Such agreements shall not be held or construed to violate any of the laws of
423 this state relating to trusts, monopolies, or contracts and combinations in restraint of trade.

424 12-4-46.

425 (a) Before any well covered by this part, other than wells for the production of fresh water,
 426 may be drilled, the person desiring to drill the well shall apply to the director for a drilling
 427 permit, using such forms as the director may prescribe, and shall pay a fee of ~~\$25.00~~
 428 \$500.00 for each permit.

429 (b) The director shall, within 30 days after the receipt of a properly completed application
 430 from any person desiring to drill a well covered by this part, ~~either issue or deny a permit~~
 431 ~~for the well~~ issue a public notice for the permit application by posting such notice to the
 432 division website and by sending such notice via mail or electronic mail to any persons who
 433 have requested notification of permit applications from the division. The director shall
 434 allow for a 30 day public comment period to begin running from the date the public notice
 435 is posted on the division website and as outlined in subsection (c) of this Code section.

436 (c) The permit applicant shall provide the director's public notice of the proposed well
 437 directly to property owners and residents who may be impacted by the issuance of the
 438 permit within ten days of the date of the public notice by, at a minimum:

439 (1) Posting the public notice along the road nearest to the proposed well;

440 (2) Providing the public notice to all persons owning real property within one-half mile
 441 of the proposed wellhead and within one-half mile along the route of any directional
 442 borehole and any residence that has any drinking water wells within one-half mile of the
 443 proposed wellhead and within one-half mile along the route of any directional borehole;
 444 and

445 (3) Publishing the public notice in at least one legal organ in the county where the well
 446 will be located.

447 (d) After considering the permit application, the director shall either issue or deny a permit
 448 for the well. The director shall notify the public of the final permit decision by posting the
 449 decision to the division website and by sending notice of the decision via mail or electronic
 450 mail to any persons who have requested notification of permit applications from the
 451 division.

452 ~~(e)~~(e) In issuing or denying a permit for the drilling of a well covered by this part, the
 453 director shall consider the extent to which the proposed well complies with this part, all
 454 rules and regulations adopted and promulgated pursuant to this part, or any order under this
 455 part.

456 ~~(d)~~(f) In issuing a permit for the drilling of any well covered by this part, the director shall
 457 specify therein such terms and conditions as he or she deems necessary to receive the
 458 permit and to lawfully operate thereunder. Permits shall include the following
 459 requirements:

460 (1) Requirements for testing the integrity of well casings:

461 (2) Requirements for maintenance and repair of roadways significantly impacted by
 462 drilling operations, including hydraulic fracturing activities; and

463 (3) Requirements for buffers around wells and property line setbacks that are sufficient
 464 to protect affected property owners from any noise, light, water, or air pollution resulting
 465 from any drilling operations.

466 (g) Any permit issued under this Code section shall become final unless ~~the~~ any person ~~or~~
 467 ~~persons~~ named therein ~~request~~ requests in writing a hearing before an administrative law
 468 judge appointed by the board no later than 30 days after the issuance of such permit.

469 (e)(h) The director shall have the power and the authority to revoke a permit for
 470 noncompliance with any of the provisions of this part, any rules and regulations
 471 promulgated under this part, or the special conditions contained in any permit.

472 (f)(i) The issuance of a permit under this part in no way indicates a determination by the
 473 director as to property or contractual rights of the applicant to drill such a well at the
 474 designated location.

475 12-4-47.

476 (a) Prior to the issuance of a permit to drill any well covered by this part, the owner,
 477 operator, contractor, driller, or other person responsible for the conduct of the drilling
 478 operation shall furnish the state a bond or undertaking in the form prescribed by the board
 479 and in an amount set by the board, executed by a bonding, surety, or insurance company
 480 authorized to do business in this state in the favor of the state. Alternatively, the board in
 481 its discretion may require a similar undertaking executed only by such person to ensure a
 482 faithful performance of the requirements of this part, of any rules or regulations adopted
 483 pursuant thereto, or of any condition of a permit. Such bond or undertaking is intended to
 484 protect the state or any citizen thereof from any injury which may result from improper
 485 drilling.

486 (b) Any bond required under this part shall be released two years from the date of receipt
 487 by the director of all geological information required under this part or any rule or
 488 regulation adopted pursuant to this part; provided, however, that the director shall have
 489 examined and approved the abandoned well for which the bond was furnished.

490 (c) No bond required under this part shall exceed ~~\$50,000.00~~ \$100,000.00.

491 12-4-48.

492 (a) Whenever the director has reason to believe that any person is violating the provisions
 493 of this part or any rule or regulation adopted pursuant to this part, the director may issue
 494 an administrative order to that person. The order shall specify the provisions of this part
 495 alleged to have been violated and shall order that corrective action be taken within a

496 reasonable period of time prescribed in the order. Any such order shall become final and
497 enforceable unless the person or persons named therein request in writing a hearing before
498 an administrative law judge appointed by the board no later than 30 days after the issuance
499 of the order.

500 (b) Whenever the director finds that an emergency exists requiring immediate action to
501 protect the public interest, the director may issue a provisional order reciting the existence
502 of such an emergency and requiring that such action be taken as is reasonably necessary
503 to meet the emergency under the circumstances, provided that such an emergency order
504 shall be issued only after an affidavit has been filed with the director showing specific facts
505 of such an emergency condition. Such order shall be effective immediately. Any person
506 against whom such order is directed shall upon appropriate notice comply therewith
507 immediately but on application to the director shall be afforded a hearing before an
508 administrative law judge appointed by the board within ten days of receipt of such
509 application by the director or, if the party applying so requests, within 48 hours of receipt
510 of such application by the director. Prior to such hearing, the director shall be authorized
511 to modify or revoke such order. After the hearing, the administrative law judge shall be
512 authorized to make such order as is just and reasonable, including an order continuing,
513 revoking, or modifying such provisional order.

514 (c) Whenever the director has reason to believe that any person is violating any provision
515 of this part or any rule or regulation adopted pursuant to this part, the director may bring
516 an action against such person in the proper superior court to restrain such person or persons
517 from continuing such violations. In such action, the director may seek injunctions,
518 including temporary restraining orders and temporary injunctions, without the necessity for
519 showing lack of an adequate remedy at law.

520 (d) Any person who willfully or negligently violates any provision of this part, any rule
521 or regulation adopted under this part, or any permit or final or emergency order of the
522 director shall be subject to a civil penalty of not less than \$50.00, but in any event not to
523 exceed \$10,000.00 for each act of violation. Each day of continued violation shall subject
524 such person to a separate civil penalty. An administrative law judge appointed by the
525 board, after a hearing shall determine whether or not any person has violated any provision
526 of this part or any rule or regulation adopted under this part or any permit or final or
527 emergency order of the director, and shall upon proper finding issue an order imposing
528 such civil penalties as provided in this Code section. Any person so penalized under this
529 Code section is entitled to judicial review. In this connection, all hearings and proceedings
530 for judicial review under this Code section shall be in accordance with Chapter 13 of Title
531 50, the 'Georgia Administrative Procedure Act.' All civil penalties recovered by the

532 director as provided by this chapter shall be paid into the state treasury to the credit of the
533 general fund.

534 (e) In addition to any other enforcement remedy available to the director under this part,
535 all illegal minerals and illegal products are declared to be contraband and forfeited to the
536 state in accordance with the procedures set forth in Chapter 16 of Title 9, except that:

537 (1) Any seizure of contraband shall be delivered to the director or his or her duly
538 authorized agent;

539 (2) Illegal minerals shall only be forfeited as provided for in Code Section 9-16-12; and

540 (3) Property seized pursuant to this subsection shall not be required to be stored in an
541 area within the jurisdiction of the court if such storage is not possible.

542 (f) Nothing in this Code section shall deny or abridge any cause of action a royalty owner,
543 lienholder, or other claimant may have against any persons whose acts result in the
544 forfeiture of the illegal oil, illegal gas, or illegal product.

545 12-4-49.

546 In the administration and enforcement of this part, all hearings before an administrative law
547 judge shall be subject to Chapter 13 of Title 50, the 'Georgia Administrative Procedure
548 Act.' Any party to said hearings (including the director) shall have the right of judicial
549 review in accordance with Chapter 13 of Title 50.

550 12-4-50.

551 In any contested administrative hearing under this part, no person shall be excused from
552 attending and testifying, or from producing books, papers, and records before the
553 administrative law judge, or from obedience to the subpoena of the administrative law
554 judge, on the ground or for the reason that the testimony or evidence, documentary or
555 otherwise, required by him or her may tend to incriminate him or her or subject him or her
556 to a penalty or forfeiture, provided that nothing contained in this Code section shall be
557 construed as requiring any person to produce any books, papers, or records, or to testify in
558 response to any inquiry, not pertinent to a question lawfully before the administrative law
559 judge for determination. No evidence given by or required of any natural person shall be
560 used or admitted against such a person in any criminal prosecution for any transaction,
561 matter, or thing concerning which he or she may be required to testify or produce evidence,
562 documentary or otherwise, before the administrative law judge in obedience to its
563 subpoena; provided, however, that no person testifying shall be exempt from prosecution
564 and punishment for perjury committed in so testifying.

565 12-4-51.

566 Any provision of Part 2 of Article 3 of Chapter 5 of this title which is inconsistent with this
567 part shall not be repealed by this part and shall govern over this part.

568 12-4-52.

569 This part shall not be construed as limiting the authority or functions of any officer or
570 agency of this state under any other law or regulation not inconsistent with this part.

571 12-4-52.1.

572 This part shall not be construed as limiting the authority of local governments to adopt
573 local zoning or land use ordinances limiting the location or timing of activities defined
574 herein for the purposes of protecting natural resources or human health and welfare.

575 12-4-53.

576 The following activities are prohibited:

577 (1) The waste of oil or gas as defined in this part;

578 (2) The sale, purchase, or acquisition or the transportation, refining, processing, or
579 handling of illegal minerals or illegal products;

580 (3) The sale, purchase, or acquisition or the transportation, refining, processing, or
581 handling in any other way of any mineral, including oil and gas, or any mineral product
582 without complying with this part or any rule or regulation of the board promulgated
583 pursuant to this part;

584 (4) Intentionally or negligently permitting any gas or oil well to get out of control;

585 (5) The drilling of any well covered by the provisions of this part by any person without
586 a permit for such drilling; and

587 (6) Any other violation of any provision of this part or any rule or regulation
588 promulgated under this part.

589 12-4-54.

590 (a) As used in this Code section, the term 'extractor' means any person removing oil or gas
591 from the ground pursuant to this part.

592 (b)(1) A severance tax shall be levied on oil or gas removed from the ground in this state
593 by an extractor as follows:

594 (A) Three cents per barrel of oil; and

595 (B) One cent per thousand cubic feet of gas.

596 (2) The Department of Revenue shall promulgate rules and regulations as necessary to
597 implement and administer the provisions of this subsection and shall promulgate and

598 make available forms for the use of extractors to assist in compliance with this
599 subsection.

600 (c)(1) In addition to the tax provided for in subsection (b) of this Code section, the
601 governing authority of each county and each municipal corporation is authorized to
602 provide by local ordinance or resolution for the levy, assessment, and collection of a
603 severance tax on oil or gas removed from the ground by an extractor within the
604 jurisdiction of such county or municipality as follows:

605 (A) An amount not to exceed nine cents per barrel of oil; and

606 (B) An amount not to exceed two cents per thousand cubic feet of gas.

607 (2) The severance tax provided for in paragraph (1) of this subsection shall be collected
608 by the Department of Revenue in the same manner and under the same procedures as
609 provided for pursuant to subsection (b) of this Code section on behalf of each county and
610 municipality electing to exercise the powers conferred herein and shall be remitted to
611 each such county and municipality accordingly."

612 **SECTION 2.**

613 All laws and parts of laws in conflict with this Act are repealed.