HOUSE BILL 861

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Max Coll

AN ACT

RELATING TO INDEMNIFICATION; AMENDING SECTION 56-7-2 NMSA 1978
(BEING LAWS 1971, CHAPTER 205, SECTION 1) TO EXPAND COVERAGE
OF PROHIBITED INDEMNIFICATION ARRANGEMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

    Section 1. Section 56-7-2 NMSA 1978 (being Laws 1971,
Chapter 205, Section 1) is amended to read:

    "56-7-2. <u>OIL, GAS OR WATER WELLS AND MINERAL MINES--</u>
AGREEMENTS, COVENANTS AND PROMISES TO INDEMNIFY VOID.--

        A. [Any] <u>An</u> agreement, covenant or promise
contained in, collateral to or affecting [any] <u>an</u> agreement
pertaining to [any] <u>a</u> well for oil, gas or water, or mine for
[any] <u>a</u> mineral [which] <u>that</u> purports to indemnify the
indemnitee against loss or liability for damages [for

            (1) death or bodily injury to persons; or

.124640.2

1   (2) injury to property; or

2   (3) any other loss, damage or expense arising

3   under either Paragraph (1) or (2) or both; or

4   (4) any combination of these] arising from

5   the circumstances specified in Paragraphs (1), (2) or (3) of

6   this subsection is against public policy and is void:

7   (1) the sole or concurrent negligence of the

8   indemnitee or the agents or employees of the indemnitee [or

9   any];

10   (2) the sole or concurrent negligence of an

11   independent contractor who is directly responsible to the

12   indemnitee [or from any]; or

13   (3) an accident [which] that occurs in

14   operations carried on at the direction or under the

15   supervision of the indemnitee [or], an employee or

16   representative of the indemnitee or in accordance with methods

17   and means specified by the indemnitee or employees or

18   representatives of the indemnitee [is against public policy

19   and is void and unenforceable. This provision shall not

20   affect the validity of any insurance contract or any benefit

21   conferred by the Workmen's Compensation Act].

22   B. As used in this section, "agreement pertaining

23   to [any] a well for oil, gas or water, or mine for [any] a

24   mineral" means [any agreement or understanding, written or

25   oral] an agreement:

.124640.2

1   (1)   concerning any operations related to

2   drilling, deepening, reworking, repairing, improving, testing,

3   treating, perforating, acidizing, logging, conditioning,

4   altering, plugging or otherwise rendering services [in or] in

5   connection with [any] a well drilled for the purpose of

6   producing or disposing of oil, gas or other minerals or water

7   [and designing, excavating, constructing, improving or

8   otherwise];

9   (2)   for rendering services [on or] in

10 connection with [any] a mine shaft, drift or other structure

11 intended for use in the exploration for or production of [any]

12 a mineral [or an agreement]; or

13   (3)   to perform [any] a portion of [any such]

14 the work or services described in Paragraphs (1) or (2) of

15 this subsection or [any] an act collateral thereto [including

16 the furnishing or rental of equipment, incidental

17 transportation and other goods and services furnished in

18 connection with any such service or operation.

19   C.   Nothing in this section shall deprive an owner

20 of the surface estate of the right to secure an indemnity from

21 any lessee, operator, contractor or other person conducting

22 operations for the exploration or production of minerals on

23 the owner's land].

24   C.   A provision in an insurance contract naming a

25 person as an additional insured or otherwise having the effect

. 124640. 2

1　of imposing a duty of indemnification on the primary insured

2　party that would, if it were a direct or collateral agreement

3　described in Subsections A and B of this section, be void, is

4　against public policy and void.

5　　　　D.　Except as provided in Subsections A through C

6　of this section, nothing in this section:

7　　　　　　(1)　deprives an owner of the surface estate

8　of the right to secure indemnity from a lessee, operator,

9　contractor or other person conducting operations for the

10　exploration of minerals on the owner's land; or

11　　　　　　(2)　affects the validity of a benefit

12　conferred by the Workers' Compensation Act. "

13　　　　　　　　　- 4 -

14

15

16

17

18

19

20

21

22

23

24

25

.124640.2

FORTY-FOURTH LEGISLATURE

FIRST SESSION, 1999

February 27, 1999

Mr. Speaker:

Your **JUDICIARY COMMITTEE,** to whom has been referred

HOUSE BILL 861

has had it under consideration and reports same with
recommendation that it **DO PASS**, amended as follows:

1.   On page 3, line 24 after "contract" insert
"indemnity agreement".

2.   On page 3, line 25, after "insured" insert "or a
provision in an insurance contract or any other contract
requiring a waiver of rights of subrogation".

.124640.2

Respectfully submitted,

_____

R. David Pederson, Chairman

Adopted _____   Not Adopted _____

(Chief Clerk)   (Chief Clerk)

Date _____

The roll call vote was_7_ For_0_ Against

Yes: 7

Excused: Luna, Mallory, Rios, Taylor, T., Sanchez

Absent: None

J:\99BillsWP\HO861

.124640.2

FORTY-FOURTH LEGISLATURE

FIRST SESSION

March 13, 1999

SENATE FLOOR AMENDMENT number _____ to HOUSE BILL 861, as amended

Amendment sponsored by Representative Michael S. Sanchez

    1. On page 4, line 5, after the period strike the remainder of the line, strike line 6 through "nothing" and insert in lieu thereof "Nothing".

129098.1

1

2 HFl/HB 861, aa   Page 8

3   _____

4   Michael S. Sanchez

5

6

7

8 Adopted _____   Not Adopted _____
          (Chief Clerk)   (Chief Clerk)

9

10

11   Date _____

12

13

14

15

16

17

18 underscored material = new
   [bracketed material] = delete

19

20

21

22

23

24

25 .129098.1