

CS FOR SENATE BILL NO. 405 (O&G)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE SPECIAL COMMITTEE ON OIL AND GAS

Offered: 4/15/92  
Referred: Judiciary

Sponsor(s): SENATOR HOFFMAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to evidence of financial responsibility provided by persons who conduct  
2 oil operations; and providing for an effective date."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 \* Section 1. AS 46.04.040(e) is amended to read:

5 (e) Financial responsibility may be demonstrated by (1) self-insurance, (2) insurance, (3)  
6 surety, (4) guarantee, (5) letter of credit approved by the department, or (6) other proof of  
7 financial responsibility approved by the department, including proof of financial responsibility  
8 provided by a group of insureds who have agreed to cover pollution risks of members of the  
9 group under terms the department may prescribe. An action brought under AS 46.03.758,  
10 46.03.759, 46.03.760(a) or (e), 46.03.822, or as 46.04.030(g) may be brought in a state court  
11 directly against the insurer, the group, or another person providing evidence of financial  
12 responsibility; however, the liability under this section of a third-party insurer is limited to  
13 the type of risk assumed and the amount of coverage specified in the proof of financial  
14 responsibility furnished to and approved by the department. The applicant, and an insurer,

1 surety, guarantor, person furnishing an approved letter of credit, or other group or person  
2 providing proof of financial responsibility approved by the department shall appoint an agent for  
3 service of process in the state. For purposes of this subsection, an insurer, other than a group  
4 of insureds whose agreement has been approved by the department, must either be authorized by  
5 the Department of Commerce and Economic Development to sell insurance in the state or be an  
6 unauthorized insurer listed by the Department of Commerce and Economic Development as not  
7 disapproved for use in the state. In this subsection, "third-party insurer" means a third-party  
8 insurer, surety, guarantor, person furnishing a letter of credit, or other group or person  
9 providing proof of financial responsibility on behalf of an applicant under this section;  
10 "third-party insurer" does not include the applicant.

11 \* Sec. 2. TEMPORARY LAW APPLICABLE TO NONCRUDE OIL OPERATIONS.

12 Notwithstanding AS 46.04.040, the Department of Environmental Conservation may, with respect to  
13 noncrude oil operations, approve proof of financial responsibility by a person, other than the applicant,  
14 who does not agree to be subject to a direct action in the state or to appoint an agent for service of  
15 process if the applicant

16 (1) provides proof of financial responsibility in the form and amounts otherwise required  
17 under AS 46.04.040;

18 (2) provides a sworn statement that

19 (A) is acceptable to the department;

20 (B) attests that the applicant has diligently attempted to obtain a form of proof  
21 of financial responsibility that would provide for a direct action and appointment of an agent for  
22 service of process;

23 (C) describes the steps the applicant has taken to obtain a form of proof of  
24 financial responsibility that would provide for a direct action and appointment of an agent for  
25 service of process;

26 (D) states that a form of proof of financial responsibility that would provide for  
27 a direct action and appointment of an agent for service of process is unavailable to the applicant;

28 (3) continues diligent efforts to obtain a form of proof of financial responsibility that  
29 would provide for a direct action and appointment of an agent for service of process and provides a  
30 sworn statement every six months that is acceptable to the department, containing the information  
31 required in (2) of this section.

1 \* **Sec. 3. RATIFICATION OF PREVIOUS EXEMPTIONS GIVEN BY DEPARTMENT OF**  
2 **ENVIRONMENTAL CONSERVATION TO NONCRUDE OIL OPERATIONS.** Notwithstanding  
3 AS 46.04.040, the Department of Environmental Conservation may, with respect to noncrude oil  
4 operations, approve proof of financial responsibility by a person, other than the applicant, who does not  
5 agree to be subject to a direct action in the state or to appoint an agent for service of process if the  
6 applicant, before June 1, 1992,

7 (1) provides proof of financial responsibility in the form and amounts otherwise required  
8 under AS 46.04.040;

9 (2) attests in a statement to the department that the applicant has diligently attempted to  
10 obtain a form of proof of financial responsibility that would provide for a direct action and appointment  
11 of an agent for service of process and that this form of proof is unavailable to the applicant; and

12 (3) agrees to continue diligent efforts to obtain a form of proof of financial responsibility  
13 that would provide for a direct action and appointment of an agent for service of process.

14 \* **Sec. 4.** Section 3 of this Act is retroactive to June 1, 1991.

15 \* **Sec. 5.** If this Act takes effect after June 1, 1992, sec. 2 of this Act is retroactive to June 1, 1992.

16 \* **Sec. 6.** Section 2 of this Act is repealed June 1, 1994.

17 \* **Sec. 7.** This Act takes effect immediately under AS 01.10.070(c).