

HOUSE BILL NO. 158

INTRODUCED BY L. JONES

BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING FILING REQUIREMENTS FOR CORPORATIONS AND LIMITED LIABILITY COMPANIES; DEFINING "AUTHORIZED AGENT"; ALLOWING THE SECRETARY OF STATE TO CORRECT CERTAIN ERRORS ON DOCUMENTS CAUSED BY A FILING OFFICER; EXPANDING THE TYPE OF INSTRUMENTS THAT MAY BE FILED WITH THE SECRETARY OF STATE AS SURETY FOR SEISMIC EXPLORATION ACTIVITY; AND AMENDING SECTIONS 32-1-422, 35-1-113, 35-1-217, 35-1-1104, 35-1-1309, 35-2-119, 35-2-1109, 35-8-102, 35-8-208, 82-1-104, AND 82-1-107, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

SECTION 1. SECTION 32-1-422, MCA, IS AMENDED TO READ:

"32-1-422. Restriction on investment in corporate stock -- rulemaking authority. (1) Except as provided in subsections (2) and (3), a commercial or savings bank may not purchase or invest its capital or surplus or money of its depositors, or any part of its capital or surplus or money of its depositors, in the capital stock of any corporation unless the purchase or acquisition of capital stock is necessary to prevent loss to the bank on a debt previously contracted in good faith. Any capital stock purchased or acquired to prevent the loss must be sold by the bank within 6 months after purchase or acquisition if it can be sold for the amount of the claim of the bank against it. All capital stock purchased or acquired must be sold for the best price obtainable by the bank within 1 year after purchase or acquisition, or if the stock is unmarketable, it must be charged off as an investment loss, which is equivalent to the stock's sale. A person or corporation violating any provision of this section shall forfeit to the state twice the nominal amount of the stock.

(2) A bank may acquire and hold for its own account:

(a) up to 20% of its capital and surplus in the capital stock of a bank service corporation organized solely for the purpose of providing services to banks;

(b) shares of stock of a federal reserve bank and a federal home loan bank, without limitation of amount;

(c) shares of stock in a Montana capital company or a Montana small business investment capital



1 company within limits prescribed by the Montana Capital Company Act; and

2 (d) shares of stock or financial interests in an affiliate or a subsidiary, the business activities of which are
3 limited to those allowed by law for a bank.

4 (3) A bank may invest any amount up to the limit established by the department of its unimpaired capital
5 and surplus in shares of stock of:

6 (a) the federal national mortgage association;

7 (b) the federal home loan mortgage corporation;

8 (c) the federal agricultural mortgage corporation; and

9 (d) other corporations created pursuant to acts of congress to meet the agricultural, housing, health,
10 transit, educational, environmental, or similar needs of the nation when the department determines that the
11 investment is in the public interest.

12 (4) A bank may, upon written application and approval of the department, make an investment in an
13 amount permitted by the department by rule so long as the investment serves primarily to promote the public
14 welfare, including the welfare of low- and moderate-income families and communities in need of jobs, housing,
15 and public services. A bank may also, with the department's approval, purchase interests in an entity, as defined
16 in 35-1-113~~(9)~~, that makes investments for similar public welfare purposes.

17 (5) The department shall adopt rules to implement this section. The rules pertaining to the investments
18 allowed in subsection (4) may be substantially equivalent to or more stringent than the eleventh power provided
19 for in 12 U.S.C. 24 and the policy guidelines on community development issued by the office of the comptroller
20 of the currency."

21

22 **SECTION 2. SECTION 35-1-113, MCA, IS AMENDED TO READ:**

23 **"35-1-113. Definitions.** As used in this chapter, the following definitions apply:

24 (1) "Articles of incorporation" include amended and restated articles of incorporation and articles of
25 merger.

26 (2) "Authorized agent" means any individual granted permission by an entity to execute a document on
27 behalf of the entity. The entity is responsible for maintaining a record of the permission granted to an authorized
28 agent.

29 ~~(2)~~(3) "Authorized shares" means the shares of all classes that a domestic or foreign corporation is
30 authorized to issue.

1 ~~(3)~~(4) "Conspicuous" means written so that a reasonable person against whom the writing is to operate
2 should have noticed it. For example, printing in italics, boldface, or contrasting color or typing in capitals or
3 underlining is conspicuous.

4 ~~(4)~~(5) "Corporation" or "domestic corporation" means a corporation for profit that is not a foreign
5 corporation and that is incorporated under or subject to the provisions of this chapter.

6 ~~(5)~~(6) "Deliver" includes mail.

7 ~~(6)~~(7) "Distribution" means a direct or indirect transfer of money or other property, except its own shares,
8 or an incurrence of indebtedness, by a corporation to or for the benefit of its shareholders in respect of any of its
9 shares. A distribution may be in the form of a declaration or payment of a dividend; a purchase, redemption, or
10 other acquisition of shares; a distribution of indebtedness; or other form.

11 ~~(7)~~(8) "Effective date of notice" means the date determined as provided in 35-1-116.

12 ~~(8)~~(9) "Employee" includes an officer but not a director. A director may accept duties that make that
13 director an employee.

14 ~~(9)~~(10) "Entity" includes:

15 (a) a corporation and a foreign corporation;

16 (b) a not-for-profit corporation;

17 (c) a profit and a not-for-profit unincorporated association;

18 (d) a business trust, estate, partnership, trust, and two or more persons having a joint or common
19 economic interest; and

20 (e) a state, the United States, or a foreign government.

21 ~~(10)~~(11) "Foreign corporation" means a corporation for profit incorporated under a law other than the law
22 of this state.

23 ~~(11)~~(12) "Governmental subdivision" includes an authority, county, district, and city or town.

24 ~~(12)~~(13) "Includes" denotes a partial definition.

25 ~~(13)~~(14) "Individual" includes the estate of an incompetent or deceased individual.

26 ~~(14)~~(15) "Means" denotes an exhaustive definition.

27 ~~(15)~~(16) "Notice" means notice as provided in 35-1-116.

28 ~~(16)~~(17) "Person" includes an individual and an entity.

29 ~~(17)~~(18) "Principal office" means the office, whether in-state or out-of-state, that is designated in the
30 annual report as the office where the principal executive offices of a domestic or foreign corporation are located.

1 ~~(18)~~(19) "Proceeding" includes a civil suit and a criminal, administrative, and investigatory action.

2 ~~(19)~~(20) "Record date" means the date established under 35-1-535, 35-1-618 through 35-1-630, and
3 35-1-712 or under 35-1-516 through 35-1-533 and 35-1-541 through 35-1-548 on which a corporation determines
4 the identity of its shareholders and their shareholdings for purposes of this chapter. The determination must be
5 made as of the close of business on the record date unless another time for determination is specified when the
6 record date is fixed.

7 ~~(20)~~(21) "Secretary" means the corporate officer to whom the board of directors has delegated
8 responsibility under 35-1-441 for custody of the minutes of the meetings of the board of directors, for custody of
9 the minutes of the shareholders' meetings, and for authenticating records of the corporation.

10 ~~(21)~~(22) "Share" means the unit into which the proprietary interests in a corporation are divided.

11 ~~(22)~~(23) "Shareholder" means the person in whose name shares are registered in the records of a
12 corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file
13 with a corporation.

14 ~~(23)~~(24) "State", when referring to a part of the United States, includes a state, commonwealth, territory,
15 or insular possession of the United States and the agencies and governmental subdivisions of the entities listed.

16 ~~(24)~~(25) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after
17 incorporation.

18 ~~(25)~~(26) "United States" includes a district, an authority, a bureau, a commission, a department, and any
19 other agency of the United States.

20 ~~(26)~~(27) "Voting group" means shares of one or more classes or series that under the articles of
21 incorporation of this chapter are entitled to vote and be counted together collectively on a matter at a meeting of
22 shareholders. All shares entitled by the articles of incorporation or this chapter to vote generally on the matter
23 are for that purpose a single voting group."

24

25 **Section 3.** Section 35-1-217, MCA, is amended to read:

26 **"35-1-217. Filing requirements.** All of the following requirements must be met before a document is
27 ~~entitled to~~ may be filed under this section by the secretary of state:

28 (1) A document that is required or permitted by this chapter to be filed in the office of the secretary of
29 state must satisfy the requirements of this section and of any other section that adds to or varies these
30 requirements.

1 (2) The document must contain the information required by this chapter. It may contain other information
2 as well.

3 (3) The document must be typewritten or printed.

4 (4) The document must be in the English language. A corporate name need not be in English if it is
5 written in English letters or Arabic or Roman numerals. The certificate of existence required of foreign
6 corporations need not be in English if it is accompanied by a reasonably authenticated English translation.

7 (5) ~~(a)~~ Except as provided in subsection (5)(b), ~~the~~ The document must be executed:

8 ~~(a)(i)~~ (i) by the presiding officer of the board of directors of a domestic or foreign corporation, by its
9 president, or by another of its officers;

10 ~~(b)(ii)~~ (ii) if directors have not been selected or the corporation has not been formed, by an incorporator; or

11 ~~(c)(iii)~~ (iii) if the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that
12 fiduciary.

13 (b) A corporation's annual report may be executed as provided in subsection (5)(a) or by the
14 corporation's registered AUTHORIZED agent.

15 (6) The person executing the document shall sign it the document and state beneath or opposite the
16 person's signature the person's name and the capacity in which the person signs. The document may but need
17 not contain the corporate seal, an attestation by the secretary or an assistant secretary, ~~and~~ or an
18 acknowledgment, verification, or proof.

19 (7) The document must be in or on the prescribed form if the secretary of state has prescribed a
20 mandatory form for the document under rules adopted pursuant to 35-1-1315.

21 (8) The document must be delivered to the office of the secretary of state for filing and must be
22 accompanied by:

23 (a) the correct filing fee; and

24 (b) any franchise tax, license fee, or penalty required by this chapter, rules promulgated under this
25 chapter, or other law."

26

27 **Section 4.** Section 35-1-1104, MCA, is amended to read:

28 **"35-1-1104. Annual report for secretary of state.** (1) Each domestic corporation and each foreign
29 corporation authorized to transact business in this state shall deliver to the secretary of state, for filing, an annual
30 report, executed as provided in 35-1-217, that sets forth:

- 1 (a) the name of the corporation and the state or country under whose law it is incorporated;
2 (b) the mailing address and, if different, street address of its registered office and the name of its
3 registered agent at that office in this state;
4 (c) the address of its principal office;
5 (d) the names and business addresses of its directors and principal officers;
6 (e) a brief description of the nature of its business;
7 (f) the total number of authorized shares, itemized by class and series, if any, within each class; and
8 (g) the total number of issued and outstanding shares, itemized by class and series, if any, within each
9 class.

10 (2) Information in the annual report must be current as of the date the annual report is executed on behalf
11 of the corporation.

12 (3) The first annual report must be delivered to the secretary of state between January 1 and April 15
13 of the year following the calendar year in which a domestic corporation was incorporated or a foreign corporation
14 was authorized to transact business. Subsequent annual reports must be delivered to the secretary of state
15 between January 1 and April 15.

16 (4) If an annual report does not contain the information required by this section, the secretary of state
17 shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for
18 correction. If the report is corrected to contain the information required by this section and delivered to the
19 secretary of state within 30 days after the effective date of notice, it is considered to be timely filed."
20

21 **Section 5.** Section 35-1-1309, MCA, is amended to read:

22 **"35-1-1309. Filing duty of secretary of state.** (1) If a document delivered to the office of the secretary
23 of state for filing satisfies the requirements of 35-1-217 and 35-1-218, if applicable, the secretary of state shall
24 file it the document.

25 (2) The secretary of state shall file a document by stamping or otherwise endorsing on the document
26 "Filed", the secretary of state's official title, and the date and time the document was received by the secretary
27 of state for filing. Except as provided in 35-1-315 and 35-1-1034, after filing a document, the secretary of state
28 shall deliver a certification letter to the domestic or foreign corporation or its representative as acknowledgment
29 that the document has been filed and all applicable fees have been paid.

30 (3) If the secretary of state refuses to file a document, the secretary of state shall return it the document

1 to the domestic or foreign corporation or the corporation's representative within 10 business days after the
2 document was delivered to the secretary of state, together with a brief written explanation of the reason for the
3 refusal.

4 (4) The secretary of state's duty to file documents under this section is ministerial. The secretary of
5 state's filing or refusing to file a document does not:

6 (a) affect the validity or invalidity of the document in whole or in part;

7 (b) relate to the correctness or incorrectness of information contained in the document; or

8 (c) create a presumption that the document is valid or invalid or that information contained in the
9 document is correct or incorrect.

10 (5) The secretary of state may correct errors caused by a filing officer. The error and the correction must
11 be retained in the file containing the document in which the error appeared. For the purposes of this subsection,
12 a filing officer is a person employed in a filing office as defined in 30-9A-102."

13

14 **Section 6.** Section 35-2-119, MCA, is amended to read:

15 **"35-2-119. Filing requirements.** All of the following requirements must be met before a document may
16 be filed under this section by the secretary of state:

17 (1) A document that is required or permitted by this chapter to be filed in the office of the secretary of
18 state must satisfy the requirements of this section and of any other section that adds to or varies these
19 requirements.

20 (2) The document must contain the information required by this chapter. ~~†~~ The document may contain
21 other information as well.

22 (3) The document must be typewritten or printed.

23 (4) The document must be in the English language. However, a corporate name does not need to be
24 in English if it is written in English letters or Arabic or Roman numerals. The certificate of existence required of
25 foreign corporations does not need to be in English if it is accompanied by a reasonably authenticated English
26 translation.

27 (5) (a) Except as provided in subsection (5)(b), the ~~The~~ document must be executed:

28 ~~(a)~~(i) by the presiding officer of the corporation's board of directors, its president, or another of its officers;

29 ~~(b)~~(ii) if directors have not been selected or the corporation has not been formed, by an incorporator; or

30 ~~(c)~~(iii) if the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that

1 fiduciary.

2 (b) (i) A corporation's annual report may be executed as provided in subsection (5)(a) or by the
3 corporation's ~~registered~~ AUTHORIZED agent.

4 (ii) FOR THE PURPOSES OF THIS SUBSECTION (5)(B) "AUTHORIZED AGENT" MEANS ANY INDIVIDUAL GRANTED
5 PERMISSION BY AN ENTITY TO EXECUTE A DOCUMENT ON BEHALF OF THE ENTITY. THE ENTITY IS RESPONSIBLE FOR
6 MAINTAINING A RECORD OF THE PERMISSION GRANTED TO AN AUTHORIZED AGENT.

7 (6) The person executing the document shall sign ~~it~~ the document and state beneath or opposite the
8 signature the person's name and the capacity in which the person signs. The document may but does not need
9 to contain the corporate seal, an attestation by the secretary or an assistant secretary, or an acknowledgment,
10 verification, or proof.

11 (7) The document must be in or on the prescribed form if the secretary of state has prescribed a
12 mandatory form for a document under 35-2-1108.

13 (8) The document must be delivered to the office of the secretary of state for filing and must be
14 accompanied by:

15 (a) the correct filing fee; and

16 (b) any franchise tax, license fee, or penalty required by this chapter, rules promulgated under this
17 chapter, or other law."

18

19 **Section 7.** Section 35-2-1109, MCA, is amended to read:

20 **"35-2-1109. Filing duty of secretary of state.** (1) If a document delivered to the office of the secretary
21 of state for filing satisfies the applicable requirements of 35-2-119 and 35-2-120, the secretary of state shall file
22 it the document.

23 (2) The secretary of state shall file a document by stamping or otherwise endorsing on the document
24 "Filed", the secretary of state's official title, and the date and time the secretary of state received the document.
25 Except as provided in 35-2-314 and 35-2-830, after filing a document, the secretary of state shall deliver a
26 certification letter to the domestic or foreign corporation or its representative as acknowledgment that the
27 document has been filed and the fee has been paid.

28 (3) If the secretary of state refuses to file a document, the secretary of state shall return the document
29 to the domestic or foreign corporation or its representative within 10 business days after the document was
30 delivered to the secretary of state and include a brief written explanation of the reason for the refusal.

1 (4) The secretary of state's duty concerning the documents under this section is ministerial. Filing or
2 refusal to file a document does not:

3 (a) affect the validity or invalidity of the document in whole or in part;

4 (b) relate to the correctness or incorrectness of information contained in the document; or

5 (c) create a presumption that the document is valid or invalid or that information contained in the
6 document is correct or incorrect.

7 (5) The secretary of state may correct errors caused by a filing officer. The error and the correction must
8 be retained in the file containing the document in which the error appeared. For the purposes of this subsection,
9 a filing officer is a person employed in a filing office as defined in 30-9A-102."

10

11 **SECTION 8. SECTION 35-8-102, MCA, IS AMENDED TO READ:**

12 **"35-8-102. Definitions.** As used in this chapter, unless the context requires otherwise, the following
13 definitions apply:

14 (1) "Articles of organization" means articles filed pursuant to 35-8-201 and those articles as amended
15 or restated. In the case of a foreign limited liability company, the term includes all records serving a similar
16 function required to be filed under the laws of the state or country where it is organized.

17 (2) "At-will company" means a limited liability company other than a term company.

18 (3) "Authorized agent" means any individual granted permission by an entity to execute a document on
19 behalf of the entity. The entity is responsible for maintaining a record of the permission granted to an authorized
20 agent.

21 ~~(3)(4)~~ "Business" includes every trade, occupation, profession, or other lawful purpose, whether or not
22 carried on for profit.

23 ~~(4)(5)~~ "Corporation" means a corporation formed under the laws of this state or a foreign corporation.

24 ~~(5)(6)~~ "Court" includes every court having jurisdiction in the case.

25 ~~(6)(7)~~ "Debtor in bankruptcy" means a person who is the subject of an order for relief under Title 11 of
26 the United States Code or a comparable order under federal, state, or foreign law governing insolvency.

27 ~~(7)(8)~~ "Disqualified person" means any person or entity that for any reason is or becomes ineligible under
28 this chapter to become a member in a professional limited liability company.

29 ~~(8)(9)~~ "Distribution" means a transfer of money, property, or other benefit to a member in that member's
30 capacity as a member of a limited liability company or to a transferee of a member's distributional interest.

1 ~~(9)~~(10) "Distributional interest" means all of a member's interest in the distributions of a limited liability
2 company.

3 ~~(10)~~(11) "Event of dissociation" means an event that causes a person to cease to be a member.

4 ~~(11)~~(12) "Foreign corporation" means a corporation that is organized under the laws of a state other than
5 Montana or under the laws of any foreign country.

6 ~~(12)~~(13) "Foreign limited liability company" means an entity that is:

7 (a) an unincorporated entity;

8 (b) organized under laws of a state other than Montana or under the laws of any foreign country;

9 (c) organized under a statute pursuant to which an entity may be formed that affords to each of its
10 members limited liability with respect to the liabilities of the entity; and

11 (d) not required to be registered or organized under any statute of this state other than this chapter.

12 ~~(13)~~(14) "Foreign limited partnership" means a limited partnership formed under the laws of any state
13 other than Montana or under the laws of any foreign country.

14 ~~(14)~~(15) "Foreign professional limited liability company" means a limited liability company organized for
15 the purpose of rendering professional services under the laws of any state other than Montana.

16 ~~(15)~~(16) "Licensing authority" means an officer, board, agency, court, or other authority in this state that
17 has the power to issue a license or other legal authorization to render a professional service.

18 ~~(16)~~(17) "Limited liability company" or "domestic limited liability company" means an organization that
19 is formed under this chapter.

20 ~~(17)~~(18) "Limited partnership" means a limited partnership formed under the laws of this state or a foreign
21 limited partnership.

22 ~~(18)~~(19) "Manager" means a person who, whether or not a member of a manager-managed company,
23 is vested with authority under 35-8-301.

24 ~~(19)~~(20) "Manager-managed company" means a limited liability company that is so designated in its
25 articles of organization.

26 ~~(20)~~(21) "Member" means a person who has been admitted to membership in a limited liability company,
27 as provided in 35-8-703, and who has not dissociated from the limited liability company.

28 ~~(21)~~(22) "Member-managed company" means a limited liability company other than a manager-managed
29 company.

30 ~~(22)~~(23) "Operating agreement" means an agreement, including amendments, as to the conduct of the

1 business and affairs of a limited liability company and the relations among the members, managers, and the
2 company that is binding upon all of the members.

3 ~~(23)~~(24) "Person" means an individual, a general partnership, a limited partnership, a domestic or foreign
4 limited liability company, a trust, an estate, an association, a corporation, or any other legal or commercial entity.

5 ~~(24)~~(25) "Professional limited liability company" means a limited liability company designating itself as
6 a professional limited liability company in its articles of organization.

7 ~~(25)~~(26) "Professional service" means a service that may lawfully be rendered only by persons licensed
8 under a licensing law of this state and that may not be lawfully rendered by a limited liability company that is not
9 a professional limited liability company.

10 ~~(26)~~(27) "Qualified person" means a natural person, limited liability company, general partnership, or
11 professional corporation eligible under this chapter to own shares issued by a professional limited liability
12 company.

13 ~~(27)~~(28) "Record" means information that is inscribed on a tangible medium or that is stored in an
14 electronic or other medium and is recoverable in a perceivable form.

15 ~~(28)~~(29) "Sign" means to identify a record by means of a signature, mark, or other symbol with the intent
16 to authenticate it.

17 ~~(29)~~(30) "State" means a state, territory, or possession of the United States, the District of Columbia, or
18 the Commonwealth of Puerto Rico.

19 ~~(30)~~(31) "Surviving limited liability company" means the constituent entity surviving the merger, as
20 identified in the articles of merger provided for in 35-8-1201.

21 ~~(31)~~(32) "Term company" means a limited liability company designated as a term company in its articles
22 of organization."

23

24 **Section 9.** Section 35-8-208, MCA, is amended to read:

25 **"35-8-208. Annual report for secretary of state.** (1) A limited liability company or a foreign limited
26 liability company authorized to transact business in this state shall deliver to the secretary of state, for filing, an
27 annual report that sets forth:

28 (a) the name of the limited liability company and the state or country under whose law it is organized;

29 (b) the mailing address and, if different, street address of its registered office and the name of its
30 registered agent at that office in this state;

1 (c) the address of its principal office;

2 (d) (i) if the limited liability company is managed by a manager or managers, a statement that the
3 company is managed in that fashion and the names and street addresses of the managers;

4 (ii) if the management of a limited liability company is reserved to the members, a statement to that effect;

5 (e) if the limited liability company is a professional limited liability company, a statement that all of its
6 members and not less than one-half of its managers are qualified persons with respect to the limited liability
7 company.

8 (2) Information in the annual report must be current as of the date the annual report is executed on behalf
9 of the limited liability company.

10 (3) The first annual report must be delivered to the secretary of state between January 1 and April 15
11 of the year following the calendar year in which a domestic limited liability company is organized or a foreign
12 limited liability company is authorized to transact business. Subsequent annual reports must be delivered to the
13 secretary of state between January 1 and April 15.

14 (4) If an annual report does not contain the information required by this section, the secretary of state
15 shall promptly notify the reporting domestic or foreign limited liability company in writing and return the report to
16 it the limited liability company for correction.

17 (5) The annual report must be executed by at least one member of the limited liability company or by the
18 registered AUTHORIZED agent and must include the street address of the any member executing the annual report.

19 (6) A domestic professional limited liability company or a foreign professional limited liability company
20 authorized to transact business in this state shall annually file before April 15, with each licensing authority having
21 jurisdiction over a professional service of a type described in its articles of organization, a statement of
22 qualification setting forth the names and addresses of the members and managers of the company and additional
23 information that the licensing authority may by rule prescribe as appropriate in determining whether the company
24 is complying with the provisions of part 13 of this chapter and rules promulgated under part 13 of this chapter.
25 The licensing authority may charge a fee to cover the cost of filing a statement of qualification."
26

27 **Section 10.** Section 82-1-104, MCA, is amended to read:

28 **"82-1-104. ~~Surety bond~~ Indemnification of property owners -- restoration of surface.** (1) Prior to
29 performing ~~such~~ seismic activity, a person, firm, or corporation shall ~~also~~ file with the secretary of state a ~~good~~
30 ~~and sufficient~~ surety bond, cash, certificate of deposit, or other instrument acceptable to the secretary of state

1 in the amount of \$10,000 for a single ~~such~~ seismic crew or a blanket surety bond, cash, certificate of deposit, or
 2 other instrument acceptable to the secretary of state in the amount of \$25,000 for all ~~such~~ seismic crews
 3 operating within the state for ~~such~~ the person, firm, or corporation, ~~which bond shall to~~ indemnify the owners of
 4 property within this state ~~against such physical~~ for PHYSICAL damages to ~~such their~~ property ~~as may arise as the~~
 5 ~~result of such~~ resulting from any seismic exploration. Partial or complete forfeiture of the surety bond, cash,
 6 certificate of deposit, or other instrument acceptable to the secretary of state must be determined by the
 7 appropriate court of civil jurisdiction.

8 (2) Unless ~~otherwise agreed as between~~ the owner of the surface rights and ~~such~~ the person, firm, or
 9 corporation; ~~conducting seismic activity agree otherwise, it shall be~~ is the obligation of ~~such~~ the person, firm, or
 10 corporation upon completion of seismic exploration to plug all "shot holes" in ~~such a~~ the manner ~~as shall be~~
 11 specified by the board of oil and gas conservation to contain any water within its native strata by filling the ~~hole~~
 12 holes with bentonite mud, cement, or other material approved by the board of oil and gas conservation ~~as~~
 13 ~~required to contain the water, and capping the same~~ In addition, the holes must be capped in a manner and with
 14 a material specified by the board of oil and gas conservation; so that the top of ~~which the cap shall be of~~ is a
 15 sufficient depth below the surface of the land to allow cultivation. The portion of the ~~hole~~ holes above the cap ~~shall~~
 16 must be filled with native material.

17 (3) Upon completion of any seismic exploration, the person, firm, or corporation conducting the
 18 exploration shall remove all stakes, markers, cables, ropes, wires, and debris or other material used in ~~such~~ the
 19 exploration and shall also restore the surface around any shot holes as near as practicable to its original
 20 condition.

21 (4) The surety bond, cash, certificate of deposit, or other instrument acceptable to the secretary of state
 22 must ~~shall~~ remain on file with the secretary of state so long as the exploration is ~~carried on or engaged in~~
 23 conducted, plus an additional 5 years thereafter after the cessation of the exploration activities; provided,
 24 ~~however, that the.~~ The aggregate liability for the exploration activities of the surety shall in no event may not
 25 exceed the amount of ~~said~~ the surety bond, cash, certificate of deposit, or other instrument acceptable to the
 26 secretary of state. Upon the filing of ~~such~~ the surety bond, cash, certificate of deposit, or other instrument
 27 acceptable to the secretary of state, said the secretary of state shall issue to the person, firm, or corporation a
 28 certificate showing that ~~such~~ the surety bond, cash, certificate of deposit, or other instrument acceptable to the
 29 secretary of state has been filed, ~~and showing~~ The certificate must contain the name of the designated resident
 30 agent within the state for service of process for ~~such~~ the person, firm, or corporation."

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

Section 11. Section 82-1-107, MCA, is amended to read:

"82-1-107. Permitholder to furnish information to surface user. (1) Before commencing seismic activity, the person, firm, or corporation conducting the seismic activity shall notify the surface user as to the approximate time schedule of the planned activity, and upon request, the following information ~~shall~~ also must be furnished:

(a) the name and permanent address of the seismic exploration firm, along with the name and address of the firm's designated agent for the state if different from that of the firm;

(b) evidence of a valid permit to engage in seismic exploration;

(c) name and address of the company insuring the seismic firm or, if self-insured, evidence of ~~such~~ self-insurance;

(d) the number or other identifying information of for the surety bond, cash, certificate of deposit, or other instrument acceptable to the secretary of state and required in 82-1-104;

(e) a description of the planned seismic activity and where it will take place; and

(f) anticipated need, if any, to obtain water from the surface user during planned seismic activity.

(2) The surface user is responsible for providing the permitholder with the name and permanent address of a responsible person with whom communication may be maintained."

- END -