



LOUISIANA STATE LAW INSTITUTE

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January 31, 2017

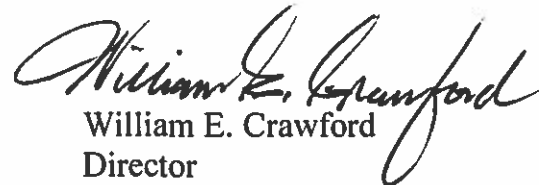
Senator John A. Alario, Jr.
President of the Senate
P.O. Box 94183
Baton Rouge, Louisiana 70804

RE: SR 31 OF 2016

Dear Mr. President:

The Louisiana State Law Institute respectfully submits herewith its interim report to the legislature relative to the implications of the Louisiana Risk Fee Act.

Sincerely,


William E. Crawford
Director

WEC/puc

Enclosure

cc: Senator Page Cortez

email cc: David R. Poynter Legislative Research Library
drplibrary@legis.la.us
Secretary of State, Mr. Tom Schedler
admin@sos.louisiana.gov

**LOUISIANA STATE LAW INSTITUTE
RISK FEE ACT COMMITTEE**

**INTERIM REPORT TO THE LEGISLATURE
IN RESPONSE TO SR 31 OF THE 2016 SECOND
EXTRAORDINARY SESSION**

Relative to the implications of the Louisiana Risk Fee Act

Prepared for the
Louisiana Legislature on

January 31, 2017

Baton Rouge, Louisiana

**LOUISIANA STATE LAW INSTITUTE
RISK FEE ACT COMMITTEE**

Wm. Timothy Allen, III	Shreveport
Kelly Brechtel Becker	New Orleans
M. Taylor Darden	New Orleans
Keith B. Hall	Baton Rouge
Matthew R. May	Shreveport
Randall C. Songy	Lafayette

Patrick S. Ottinger, Reporter
Mallory C. Waller, Staff Attorney

SENATE RESOLUTION NO. 31

BY SENATOR CORTEZ

A RESOLUTION

To urge and request the Louisiana State Law Institute to study the implications of Act 743 of the 2012 Regular Session of the Legislature, and to submit a written report of its findings with any recommendations.

WHEREAS, in 1984, R.S. 30:10 was amended by Act 345 to add statutory provisions which, in the oil and gas industry, have been referred to as the "Louisiana Risk Fee Act"; and

WHEREAS, the purpose of this legislation was to incentivize a party to share in the cost, risk, and expense of drilling a well in a compulsory unit created by the office of conservation, and concomitantly, to compensate a party for the risk that it assumes in drilling a well; and

WHEREAS, the drilling of oil and gas wells is an important sector of Louisiana's economy, and the policy of this state is advanced when wells are drilled under circumstances that the risk associated therewith is equitably shared by parties who would share in the reward of such undertakings; and

WHEREAS, certain provisions of Act 743 of the 2012 Regular Session may frustrate the original policy and purpose of the 1984 legislation, and may serve as a disincentive to a party who does not share in the risk associated with the drilling of a well, and reward such nonparticipating party for its failure to share in the risk associated with drilling a well; and

WHEREAS, certain provisions contained in Act 743 could lead to significant uncertainty in relation to the rights and obligations of the parties to a drilling unit; and

WHEREAS, the oil and gas industry would benefit from a thoughtful examination and study of the entirety of the Louisiana Risk Fee Act.

THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to study the implications of Act 743 of the 2012 Regular Session of the Legislature on the Louisiana Risk Fee Act.

SR NO. 31

ENROLLED

BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall submit a written report of its findings, together with any recommendations in the form of proposed legislation, to the Legislature of Louisiana no later than February 1, 2017.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the director of the Louisiana State Law Institute.

PRESIDENT OF THE SENATE

January 31, 2017

To: Senator John A. Alario, Jr.
President of the Senate
P.O. Box 94183
Baton Rouge, Louisiana 70804

**INTERIM REPORT TO THE LEGISLATURE
IN RESPONSE TO SR 31 OF THE 2016 SECOND EXTRAORDINARY SESSION**

Senate Resolution No. 31 of the 2016 Second Extraordinary Session urges and requests the Louisiana State Law Institute to study the implications of Act 743 of the 2012 Regular Session of the Legislature on the Louisiana Risk Fee Act. In fulfillment of this request, the Law Institute created the Risk Fee Act Committee, composed of oil and gas practitioners and professors and placed under the direction of Mr. Patrick S. Ottinger, a practicing lawyer and an Adjunct Professor of Mineral Law at the LSU Law Center, as Reporter.

The Committee has met multiple times to examine and study the 2012 amendments to the Risk Fee Act, and to discuss issues and concerns that could potentially be addressed by revisions to R.S. 30:10. Some of the issues that remain under the Committee's consideration include:

1. Addressing the responsibility of a nonparticipating owner to demonstrate to an operator charged with the responsibility to pay royalties the sufficiency of such owner's title to its leases as well as the lease terms pertaining to royalties.
2. Clarifying that any costs incurred by an operator to conduct title work with respect to a tract under lease to a nonparticipating owner is subject to recoupment as well as any applicable risk charge.
3. Clarifying R.S. 30:10 with respect to the determination of the revenue stream to be applied against payout of any recoverable expenses and risk charge as it relates to the deduction or exclusion of royalties paid by the operator on behalf of a nonparticipating owner.
4. Addressing "subsequent operations" beyond the initial drilling of a well and how they should be handled, *i.e.*, whether a new risk fee notice is required or whether the pending risk charge can be applied to such "subsequent operations" without the need for an additional risk fee notice and opportunity to participate.
5. Considering the consequences arising out of the release of a mineral lease by a nonparticipating owner insofar as it concerns the position in which the landowner now finds himself.
6. Considering other issues including the entitlement of a participating owner to receive well information and the consequences that arise when a risk fee notice was issued by the

operator at a point in time when a tract was unleased of record but thereafter a mineral lease is granted or recorded.

7. Clarifying issues relating to the date on which any amendments are to be effective, including whether and the extent to which such amendments might be retroactively applied, both with respect to the 2012 amendments and to any future amendments proposed in legislation.

In addition, Committee members were also encouraged to request feedback from energy participants, including current operators, concerning any issues they have encountered with respect to the Risk Fee Act in general, as well as its 2012 amendments. The Reporter is also soliciting input from applicable trade associations on these matters, and the process of receiving comments is still very much ongoing.

The Committee will continue meeting in order to determine what amendments, if any, would be appropriate in light of the issues it has discussed and input it has received. A final report will be submitted to the legislature once the Committee receives approval of its proposed recommendations from the Council of the Law Institute.

Respectfully submitted,

Patrick S. Ottinger, Reporter
Risk Fee Act Committee
Louisiana State Law Institute