

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007

A Bill

HOUSE BILL 2422

4
5 By: Representative Hall
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For An Act To Be Entitled

8
9 AN ACT TO PROHIBIT THE TRANSFER OR ASSIGNMENT OF
10 CERTAIN EASEMENTS; AND FOR OTHER PURPOSES.
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Subtitle

12
13 TO PROHIBIT THE TRANSFER OR ASSIGNMENT
14 OF CERTAIN EASEMENTS.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code Title 18, Chapter 11, Subchapter 1 is amended
20 to add a new section to read as follows:

21 18-11-107. Transfer or assignment of certain easements prohibited.

22 (a) The General Assembly finds that:

23 (1) The grant of an easement in gross over an owner's land is
24 and should be a personal right;

25 (2) An easement in gross, if transferable or assignable, can
26 result in subsequent transfers and unintended consequences that unduly burden
27 an owner's land; and

28 (3) It is the public policy of the State of Arkansas:

29 (A) To require a grantee of an easement in gross over the
30 lands of an owner to obtain the permission and consent of the owner by a
31 personal grant of easement; and

32 (B) That an easement in gross is personal to the grantee
33 and may not be transferred, assigned, devised, inherited, or acquired by
34 intestate succession or in any other manner.

35 (b)(1) As used in this section, "easement in gross" means an easement
36 benefiting a particular person or persons and not a particular piece of land.



1 (2) In determining whether an easement is an easement in gross,
2 a court is not bound by the language used in the instrument granting the
3 easement, and the court may consider all facts and circumstances surrounding
4 the grant of easement.

5 (c) Except as provided in subsection (d) of this section, a grant by
6 an owner of land of an easement in gross over the owner's land is not
7 transferrable or assignable regardless of the form of the instrument granting
8 the easement in gross or the words used to grant the easement in gross.

9 (d) This section does not apply to an easement in gross created before
10 the effective date of this act.

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