

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 87th General Assembly
3 Regular Session, 2009

A Bill

HOUSE BILL 1592

4
5 By: Representative Reynolds
6
7

For An Act To Be Entitled

8
9 AN ACT TO CREATE THE ARKANSAS GATHERING LINE LAND
10 ACQUISITION ACT; AND FOR OTHER PURPOSES.
11

Subtitle

12
13 TO CREATE THE ARKANSAS GATHERING LINE
14 LAND ACQUISITION ACT.
15
16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Arkansas Code Title 15 is amended to add a new chapter to
20 read as follows:

CHAPTER 76

ARKANSAS GATHERING LINE LAND ACQUISITION ACT

SUBCHAPTER 1

ARKANSAS GATHERING LINE LAND ACQUISITION ACT

15-76-101. Short Title.

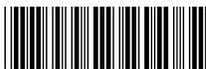
27
28 This chapter shall be known and may be cited as the "Arkansas Gathering
29 Line Land Acquisition Act".
30

15-76-102. Definitions.

As used in this chapter:

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33 (1) "Gathering line" means a pipeline used in connection with
34 the transportation of petroleum, natural gas, carbon dioxide gas, and any
35 product derived from a pipeline:

36 (2) "Mineral developer" means a mineral owner, operator, lessee,



1 or natural gas or petroleum pipeline company that is engaged in the
2 production or conveyance by pipeline of natural gas or petroleum; and

3 (3) "Property owner" means a person who holds an ownership
4 interest in the property to be acquired to construct a natural gas or
5 petroleum gathering line or an associated disposal line, other than the
6 property on which the well to be connected to a natural gas or petroleum
7 gathering line or an associated disposal line is located.

8
9 15-76-103. Easement – Offer and counterproposal.

10 (a)(1) If an easement is sought to be acquired by a mineral developer
11 for the purpose of constructing a natural gas or petroleum gathering line or
12 an associated disposal line and the mineral developer and the property owner
13 cannot agree to the terms, including without limitation locations,
14 conditions, or compensation for the acquisition, the mineral developer may
15 make a written offer to the property owner to include proposed terms,
16 locations, conditions, and compensation for the easement.

17 (2) The offer shall be made by mailing a copy of the offer by
18 certified mail, return receipt requested.

19 (3) The offer submitted by the mineral developer shall also
20 include notice of the property owner’s duty to submit a counterproposal as
21 provided in subsection (b) of this section.

22 (b)(1) Within twenty (20) days after receipt of the mineral
23 developer’s offer, the property owner shall submit either a notice of
24 acceptance or a counterproposal to each term in the offer of the mineral
25 developer, including locations, conditions, and compensation.

26 (2) The acceptance or counterproposal shall be made in the same
27 manner as provided in subdivision (a)(3) of this section for the delivery of
28 the mineral developer’s offer.

29 (c) Except as provided in subsection (d) of this section, if the
30 parties are unable to negotiate a settlement, ten (10) days after the date of
31 receipt of the counterproposal by the property owner the mineral developer
32 may petition the circuit court in the county in which the property is located
33 or any part lies to appoint a hearing officer to review the matters relating
34 to the proposed property acquisition and to have the hearing officer submit a
35 report to the court.

36 (d) If the property owner does not submit an acceptance or a

1 counterproposal to the mineral developer within the time period specified in
 2 subsection (b) of this section and the mineral developer has complied with
 3 all other provisions of this chapter, the mineral developer may file a copy
 4 of the offer submitted to the property owner with the court and that offer
 5 shall be binding on all parties.

6
 7 15-76-104. Petition – Appointment of hearing officer.

8 (a) The petition filed by the mineral developer pursuant to § 15-76-
 9 103(c) shall include:

10 (1) A designation as petitioner of the person on whose behalf
 11 the easement is sought to be acquired;

12 (2) A statement by the petitioner of his or her authority to
 13 petition the circuit court;

14 (3) An allegation that the petitioner has been unable to
 15 negotiate a settlement in good faith with the property owner;

16 (4) A map, plat, or plan included with or attached to the
 17 petition showing the proposed route of the easement;

18 (5) A request for the appointment of a hearing officer;

19 (6) A copy of the offer submitted to the property owner by the
 20 petitioner;

21 (7) A copy of the counterproposal, if any, submitted to the
 22 petitioner by the property owner; and

23 (8) The name of the property owner and his or her address.

24 (b) Upon the filing of the petition, if the route of easement is not
 25 an issue, the court shall grant upon the request of the petitioner an order
 26 of immediate possession of the easement sought to be acquired by the mineral
 27 developer.

28 (c) Within fifteen (15) days of receipt of the petition, the court
 29 shall issue and give notice of the action which shall contain a demand that
 30 the property owner and the mineral developer submit to the court within ten
 31 (10) days the names of any persons whom the parties jointly agree the court
 32 may appoint as a hearing officer.

33 (d)(1) Within fifteen (15) days after providing notice of the action
 34 to the parties, the court shall appoint a hearing officer from the list of
 35 names provided under subsection (c) of this section.

36 (2) If the parties are unable to agree on the selection of a

1 hearing officer, the court shall appoint a hearing officer who is
 2 knowledgeable in property valuation techniques and administrative hearing
 3 procedures.

4 (e) Subject to any limitations in the order of appointment, the
 5 hearing officer has and shall exercise the power to regulate all proceedings
 6 in hearings before him or her, including requiring:

7 (1) The production of books, papers, vouchers, documents, and
 8 writings applicable to the issue;

9 (2) The swearing in of witnesses; and

10 (3) Receiving testimony and exhibits offered in evidence.

11 (f)(1) Upon receipt of the order of appointment, the hearing officer
 12 shall set a time and place for a hearing of parties or their attorneys to be
 13 held within twenty (20) days after the date of the order of appointment.

14 (2) The hearing officer shall notify the parties or their
 15 attorneys of the date of the hearing.

16 (3) If a party fails to appear at the time and place appointed,
 17 the hearing officer may proceed ex parte or adjourn the proceedings for a
 18 future date, giving notice to the absent party of the adjournment.

19 (g)(1) The parties may procure the attendance of witnesses before the
 20 hearing officer by the issuance and service of subpoenas as provided in the
 21 Rules of Civil Procedure.

22 (2) If without adequate reason a witness fails to appear or give
 23 evidence, he or she may be cited by the judge for contempt or be subject to
 24 other court sanctions.

25 (h) The compensation to be allowed to a hearing officer shall be fixed
 26 by the court and shall be apportioned equally among the parties.

27
 28 15-76-105. Scope of review by the hearing officer.

29 (a) The report of the hearing officer shall include findings
 30 concerning the following:

31 (1) When the route of easement is in issue, a full consideration
 32 of all other access available to the mineral developer, including the cost of
 33 construction for alternative routes, safety, obstructions, and other economic
 34 and noneconomic factors;

35 (2)(A) The cost of acquisition or contract to acquire comparable
 36 easements if the transaction or contracting was freely made in good faith

1 within a reasonable time before or after the date the petition was filed; or

2 (B) Other credible evidence of the market value of the
3 easement to be acquired; and

4 (3) The amount of damages sustained by the property owner for
5 the:

6 (A) Loss of agricultural production and income;

7 (B) Lost value of improvements;

8 (C) Cost for surface reclamation including revegetation,
9 soil treatment, reshaping of topography, drainage systemizing, waste
10 disposal, removal of any equipment, structures and obstacles, and the return
11 of the property to its approximate original contour;

12 (D) Inconvenience to the property owner in use of his or
13 her property; and

14 (E) Burden on the property owner of continued inspection
15 and repair of the gathering line by the mineral developer.

16 (b) The total amount of compensation or damages awarded under
17 subdivisions (a)(2) and (3) of this section shall not be greater than one-
18 half (1/2) of the sum of the reasonable cost of surface reclamation plus
19 twice the market value of the easement to be acquired as determined in
20 subdivision (a)(2) of this section.

21
22 15-76-106. Report and appeal.

23 (a) Within forty-five (45) days after the appointment of the hearing
24 officer the:

25 (1) Hearing officer shall:

26 (A) Prepare a report and shall make findings of fact and
27 conclusions of law; and

28 (B) File the report with the circuit clerk and, unless
29 waived by the parties, he or she shall file with it a transcript or other
30 authorized recording of the proceedings and of the evidence and the original
31 exhibits:

32 (2) Clerk shall mail notice of the filing to all parties; and

33 (3) Circuit court shall accept the hearing officer's findings of
34 fact unless clearly erroneous.

35 (b)(1) Within ten (10) days after being served with notice of the
36 filing of the report, either party may appeal the decision of the hearing

1 officer to the court.

2 (2) The circuit court may adopt or modify the report.

3 (c) If the appealing party does not prevail in his or her appeal, the
4 court shall award the other party reasonable attorney's fees and court costs
5 incurred on appeal.

6 (d) If an appeal is not filed within ten (10) days of the parties
7 having been served notice of the filing of the report or at the conclusion of
8 any appeal, the court shall enter a final judgment granting or modifying the
9 easement sought to be acquired, including the terms and compensation of the
10 easement.

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12 15-76-107. Abandonment of easement.

13 If an easement is acquired pursuant to this chapter and the use for
14 which the easement is acquired is subsequently abandoned, the easement is
15 extinguished and the property interest reverts to the landowner or his or her
16 successor in interest of the fee, free from any rights of the mineral
17 developer.

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