

1 State of Arkansas  
2 80th General Assembly  
3 Regular Session, 1995  
4 By: Representative Wren

# A Bill

HOUSE BILL 1430

## For An Act To Be Entitled

8 "AN ACT TO AMEND THE ARKANSAS CODE TO REQUIRE, PRIOR TO  
9 THE TIME OF SALE, TRANSFER, OR EXCHANGE OF REAL PROPERTY,  
10 THE DISCLOSURE OF ALL WELLS LOCATED ON SAID PROPERTY; AND  
11 FOR OTHER PURPOSES."

## Subtitle

14 "TO AMEND THE ARKANSAS CODE TO REQUIRE,  
15 PRIOR TO THE TIME OF SALE, TRANSFER, OR  
16 EXCHANGE OF REAL PROPERTY, THE  
17 DISCLOSURE OF ALL WELLS LOCATED ON SAID  
18 PROPERTY."

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

22 SECTION 1. Legislative Purpose. In that there is an ever-increasing  
23 demand for water in this state, necessitating the construction of water  
24 wells, it is imperative that the general health, safety, and welfare be  
25 protected by providing a means to insure the safe maintenance of all wells,  
26 whether in use or abandoned; and to that end it is essential that persons  
27 owning such wells or selling, transferring or exchanging real property  
28 cooperate with the State of Arkansas to protect the ground water resources by  
29 disclosing the location of said wells.

31 SECTION 2. Chapter 43 of Title 17 of the Arkansas Code is amended by  
32 inserting additional subchapters at the end to read as follows:

33 "17-43-401. Disclosure of Wells to Buyer. (a) Prior to closing on  
34 the sale, transfer, or exchange of real property, the seller must disclose in  
35 writing to the buyer information about the status and location of all wells

1 on the property, by delivering to the buyer either a statement by the seller  
2 that no wells exist on the property, or a disclosure statement indicating the  
3 legal description and county, complete with a map drawn from available  
4 information showing the location of each well to the extent practicable. In  
5 the disclosure statement, the seller must also indicate the status of each  
6 well on the property, whether in use, not in use, or abandoned.

7 (b) At the time of closing of the sale, the disclosure statement  
8 information, name and mailing address of the buyer, and the quartile,  
9 section, township, and range in which each well is located must be provided  
10 on a well disclosure certificate signed by the seller or a person authorized  
11 to act on behalf of the seller; said well disclosure certificate to be filed  
12 with the Arkansas Water Well Construction Commission accompanied by a fee as  
13 specified in § 17-43-402.

14 (c) The Arkansas Water Well Construction Commission will not accept a  
15 well disclosure certificate unless it contains all information required by  
16 paragraph (b).

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18 (d) A well disclosure certificate need not be provided if no wells  
19 exist on the property and the seller certifies that no wells exist on the  
20 described real property.

21 (e) This section does not apply to the sale, exchange, or transfer of  
22 real property that consists solely of severed mineral interests.

23 (f) If the seller fails to provide a required well disclosure  
24 certificate, the buyer, or a person authorized to act on behalf of the buyer,  
25 may sign a well disclosure certificate based on the information provided on  
26 the disclosure statement required by paragraph (a) or based on other  
27 available information.

28 (g) No new well disclosure certificate is required under this chapter  
29 if the buyer or seller, or a person authorized to act on behalf of the buyer  
30 or seller, certifies the status and number of wells on the property have not  
31 changed since the last previously filed well disclosure certificate. The  
32 following statement, if followed by the signature of the person making the  
33 statement, is sufficient to comply with the certification requirement of this  
34 paragraph: "I am familiar with the property described in this instrument and  
35 I certify that \_\_\_\_ (number of wells) wells exist on the described real

1 property and the status and number of wells have not changed since the last  
2 previously filed well disclosure certificate."

3       (h) The Arkansas Water Well Construction Commission shall prescribe  
4 the form for a well disclosure certificate and provide well disclosure  
5 certificate forms to any interested persons.

6       (i) The form prescribed by the Arkansas Realtors Association shall be  
7 accepted in lieu of that prescribed by the Arkansas Water Well Construction  
8 Commission, so long as the form contains all required information and is  
9 filed with the Commission in accordance with paragraph (b) of this Section.

10       17-43-402. Establishment of Fees. A fee of seven dollars and twenty-  
11 five cents (\$7.25) per transaction shall be charged for filing the well  
12 disclosure certificate, regardless of the number of wells on the property."

13       17-43-403. Statute of Limitations. Civil liability under this  
14 subchapter shall expire one (1) year from the date of closing of the sale."

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16       SECTION 3. All provisions of this act of a general and permanent  
17 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
18 Code Revision Commission shall incorporate the same in the Code.

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20       SECTION 4. If any provision of this act or the application thereof to  
21 any person or circumstance is held invalid, such invalidity shall not affect  
22 other provisions or applications of the act which can be given effect without  
23 the invalid provision or application, and to this end the provisions of this  
24 act are declared to be severable.

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26       SECTION 5. All laws and parts of laws in conflict with this act are  
27 hereby repealed.

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29       SECTION 6. EMERGENCY. It is hereby found and determined by the  
30 General Assembly that the available water supply is being depleted or  
31 contaminated at a rapidly increasing rate in Arkansas; that it is necessary  
32 to take protective action to conserve a potable water supply for future  
33 generations; and that such water supply can be partially assured through  
34 disclosure of the location of water wells. Therefore, an emergency is hereby  
35 declared to exist, and this act being immediately necessary for the

1 preservation of the public peace, health, and safety shall be in full force  
2 and effect from and after its passage and approval.

3 */s/Rep. Wren*