

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.

State of Arkansas *As Engrossed: H1/25/01 H3/9/01 H3/16/01 H3/28/01*

83rd General Assembly

A Bill

Regular Session, 2001

HOUSE BILL 1051

By: Representatives Milum, Weaver, Milligan, Oglesby, Rankin, Hickinbotham, Prater, Shoffner,
Duggar

By: *Senator Mahony*

For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS CODE ANNOTATED 18-61-101
TO PROVIDE THAT EASEMENTS MAY ONLY BE ACQUIRED
THROUGH AN EXPRESS WRITTEN GRANT OF EASEMENT; AND
FOR OTHER PURPOSES.

Subtitle

AN ACT TO AMEND ARKANSAS CODE ANNOTATED
18-61-101 TO PROVIDE THAT EASEMENTS MAY
ONLY BE ACQUIRED THROUGH AN EXPRESS
WRITTEN GRANT OF EASEMENT.

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

SECTION 1. Arkansas Code 18-61-101 is amended to read as follows:

18-61-101. Actions to recover land, tenements, or hereditaments.

(a) No person or his heirs shall have, sue, or maintain any action or suit, either in law or equity, for any lands, tenements, or hereditaments after seven (7) years once his right to commence, have, or maintain the suit shall have come, fallen, or accrued. All suits, either in law or equity, for the recovery of any lands, tenements, or hereditaments shall be had and sued within seven (7) years next after the title or cause of action accrued and no time after the seven (7) years shall have passed.

(b) If any person who is, or shall be, entitled to commence and prosecute a suit or action in law or equity is, or shall be, at the time the right or title first accrued come or fallen within the age of twenty-one (21)

1 years or non compos mentis, the person or his heirs, shall and may,
2 notwithstanding the seven (7) years may have expired, bring his suit or action
3 if the infant or non compos mentis, or his heirs, shall bring it within three
4 (3) years next after full age or coming of sound mind.

5 (c) No cumulative disability shall prevent the bar formed and
6 constituted by the saving of this section.

7 (d) Subsections (a), (b), and (c) of this ~~This~~ section shall not apply
8 to lands which have been sold to any improvement district of any kind or
9 character for taxes due the districts, nor to any taxes due any improvement
10 districts, but the lien of these taxes shall continue until paid.

11 (e) An easement shall not be acquired, created, nor granted by any
12 court, based on prescription, or adverse use, with or without the knowledge of
13 the person against whom the easement is claimed, but shall only be acquired
14 and created through an express written grant or reservation of easement which
15 has been duly filed for record in the county or counties in which the lands
16 subject to the easement are located.

17 (f) The provisions of subsection (e) shall not apply to easements
18 created in favor of public utilities, telecommunication companies, pipeline
19 companies, companies engaged in oil, gas or brine exploration or production
20 operations, natural gas storage companies, counties, municipalities, lands
21 managed for timber, waterways used for recreation, or the State of Arkansas,
22 and shall not prohibit the exercise of the right of eminent domain by any
23 entity possessing that right, nor shall the provisions of subsection (e)
24 diminish the ingress and egress rights of severed mineral owners.

25 (g) A public utility, telecommunication company, pipeline company,
26 company engaged in oil, gas or brine exploration or production operations,
27 severed mineral owner, natural gas storage company, county, municipalities,
28 lands managed for timber, waterways used for recreation, or the State of
29 Arkansas, shall have the right of access, ingress and egress to rebuild,
30 upgrade, modernize, reconstruct, protect, repair, bury or maintain its
31 facilities located on property subject to a prescriptive easement in its
32 favor.

33 (h) The provisions of subsection (e) are intended to be prospective
34 only and shall not apply to any prescriptive easements which may have been
35 previously created, reserved, or granted by written documentation that has
36 been duly filed for record in the county or counties in which the lands

subject to the easement are located or by an order or judgement of a circuit court.

/s/ Milum, et al.