

State of Arkansas
85th General Assembly
Regular Session, 2005

A Bill

HOUSE BILL 2021

By: Representative Reep

For An Act To Be Entitled

AN ACT TO PERMIT LOGS IN APPLICATIONS FOR AND
GRANTING LEASES AND PERMITS FOR THE TAKING,
SEVERING, OR REMOVING OF TIMBER; AND FOR OTHER
PURPOSES.

Subtitle

TO PERMIT LOGS IN APPLICATIONS FOR AND
GRANTING LEASES AND PERMITS FOR THE
TAKING, SEVERING, OR REMOVING OF TIMBER.

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

SECTION 1. Arkansas Code § 22-5-801 is amended to read as follows:

22-5-801. Leases and permits - Purpose of this section and §§ 22-5-802
– 22-5-813.

(a) It is the purpose and intent of this section and §§ 22-5-802 – 22-
5-813 to charge the office of the Commissioner of State Lands with the
authority and responsibility for considering applications for and granting
leases and permits for the taking of sand, gravel, oil, natural gas,
casinghead gas, coal and other minerals, and timber or logs from the beds and
bars of navigable rivers and lakes in this state or from any other lands or
interests in lands held in the name of the State of Arkansas or any state
agency or institution, excluding tax-forfeited lands and minerals, and to
supervise activities on state-owned lands by leaseholders and permittees.

(b) As used in this subchapter, "log" means a bulky piece or length of
unshaped timber, a length of a tree trunk ready for sawing, or a portion of
the trunk of a felled tree that is sunken on the bed of submerged land owned



1 by the State of Arkansas.

2
3 SECTION 2. Arkansas Code § 22-5-802 is amended to read as follows:

4 22-5-802. Leases and permits - Exemptions for state agencies.

5 (a) The provisions of this section and §§ 22-5-801 and 22-5-803 – 22-
6 5-813 shall not be applicable to the severance, sale, or other disposition of
7 sand, gravel, timber or logs, or minerals salvaged, severed, or removed by a
8 state agency from lands held in the name of or managed by the agency if the
9 sand, gravel, timber or logs, or minerals are salvaged, severed, or removed
10 in the course of managing, developing, and improving the lands by the state
11 agency. This exemption shall not apply to sales for commercial purposes.

12 (b) Any state agency, department, or institution or any county,
13 municipality, or other division of government desiring to sever or take any
14 sand, gravel, timber or logs, or minerals from any lands held in the name of
15 or managed by the state or a state agency or from the beds and bars of rivers
16 in this state, other than lands held in the name of or managed by the agency
17 or division of government so desiring, shall obtain a permit to do so from
18 the office of the Commissioner of State Lands but shall not be required to
19 comply with the bid procedures contained in §§ 22-5-801 – 22-5-813 or to pay
20 any fee, royalty, or taxes otherwise required by §§ 22-5-801 – 22-5-813.

21 (c) The provisions of this section and §§ 22-5-801 and 22-5-803 – 22-
22 5-813 relating to the authority to lease and permit lands held in the name of
23 or managed by the Arkansas State Game and Fish Commission shall not be
24 applicable to the lands of that agency. The commission shall retain control
25 over the procedures for awarding and shall retain the authority over the
26 issuance of leases for the mineral rights and of permits for the rights to
27 produce and sever minerals from lands held in their name or managed by them.
28 Provided, that the commission shall use the same requirements, procedures,
29 standards, and methods required under §§ 22-5-801 – 22-5-813 for other state
30 agencies to lease mineral rights and to issue permits to produce and sever
31 minerals.

32
33 SECTION 3. Arkansas Code § 22-5-803 is amended to read as follows:

34 22-5-803. Leases and permits - Penalties.

35 (a) If any person, firm, company, corporation, or association shall
36 remove any sand, gravel, oil, natural gas, casinghead gas, coal or other

1 minerals, or any timber or logs from the beds or bars of navigable rivers and
2 lakes in this state or from any other lands or interest in lands held in the
3 name of the State of Arkansas without first obtaining a lease or permit to do
4 so from the office of the Commissioner of State Lands, that person, firm,
5 company, or corporation shall be deemed guilty of a misdemeanor and upon
6 conviction shall be punished by a fine of not less than three hundred dollars
7 (\$300) and not more than one thousand dollars (\$1,000). Each day of
8 unauthorized taking shall constitute a separate offense.

9 (b) In addition to the fine mentioned in subsection (a) of this
10 section, the State of Arkansas may bring suit in the name of the state to
11 recover the value of the sand, gravel, oil, natural gas, casinghead gas, coal
12 or other minerals, or timber or logs which ~~has~~ have been illegally removed,
13 as well as all severance taxes and royalties due as a result of the removal.
14

15 SECTION 4. Arkansas Code § 22-5-805 is amended to read as follows:

16 22-5-805. Leases and permits - Requirements - Application - Terms.

17 (a) No person, firm, company, corporation, or association shall take
18 any sand, gravel, oil, natural gas, casinghead gas, coal or other minerals,
19 or sever any timber or logs, from the beds or bars of navigable rivers and
20 lakes in this state or from any other lands or interest in lands held in the
21 name of the State of Arkansas or any agency, department, or institution of
22 the state, excluding tax-forfeited lands and minerals, unless that person
23 shall have first procured a lease or permit to do so from the office of the
24 Commissioner of State Lands.

25 (b)(1) Any person, firm, company, corporation, or association desiring
26 to take sand, gravel, oil, natural gas, casinghead gas, coal or other
27 minerals, or to sever any timber or logs, from state-owned lands shall make
28 application for a lease or permit to do so to the office of the Commissioner
29 of State Lands.

30 (2) Each application shall be on forms prescribed by the office
31 of the Commissioner of State Lands and shall contain such information as
32 shall be prescribed by the Commissioner of State Lands regarding the
33 applicant and the business of the applicant, the sand, gravel, minerals, or
34 timber or logs proposed to be removed from the lands under the lease or
35 permit, and such other information as the Commissioner of State Lands shall
36 deem necessary and appropriate to properly protect the interest of the state

1 and to assure that the leaseholder will in good faith carry out all his or
2 her responsibilities under the lease or permit.

3 (c)(1) Every lease or permit issued under the provisions of this
4 section and §§ 22-5-801 – 22-5-804 and 22-5-806 – 22-5-813 shall define the
5 limit of the area from which the lessee or permittee shall be permitted the
6 exclusive right to take the sand, gravel, minerals, or timber or logs
7 designated in the lease or permit.

8 (2) Each lease or permit issued by the Commissioner of State
9 Lands under the provisions of this section and §§ 22-5-801 – 22-5-804 and 22-
10 5-806 – 22-5-813 shall be for a specific term as may be determined by the
11 Commissioner of State Lands; shall require that reasonable commercial
12 production of the sand, gravel, mineral, or timber or logs covered by the
13 lease or permit shall commence within a specified period of time as
14 determined by the Commissioner of State Lands; and shall provide that the
15 lease or permit shall automatically terminate unless commercial production is
16 commenced within the time prescribed unless the time is extended by the
17 Commissioner of State Lands upon a showing that expenses have been incurred
18 and actual operations are in the process of completion for the commercial
19 production of the oil, natural gas, casinghead gas, sand, gravel, coal or
20 other minerals, or the severance of timber or logs under the lease or permit.

21 (d) Once reasonable commercial production is commenced under any lease
22 or permit issued under this section and §§ 22-5-801 – 22-5-804 and 22-5-806 –
23 22-5-813, the lease or permit shall automatically terminate if commercial
24 production is discontinued for a period of six (6) months or such other
25 period as may be prescribed in the lease.

26
27 SECTION 5. Arkansas Code § 22-5-807 is amended to read as follows:

28 22-5-807. Leases and permits - Notice to, and recommendations from,
29 interested agencies.

30 (a) When an application for a lease or permit is filed with the
31 Commissioner of State Lands for the taking or production of any sand, gravel,
32 oil, natural gas, casinghead gas, coal, or other minerals or the severance of
33 any timber or logs from state-owned lands, the Commissioner of State Lands
34 shall so notify the Arkansas Geological Commission, the Arkansas Soil and
35 Water Conservation Commission, the Oil and Gas Commission, the Arkansas State
36 Game and Fish Commission, the Department of Parks and Tourism, the Arkansas

1 Department of Environmental Quality, the Arkansas Forestry Commission, and
2 any other appropriate state agency which has or may have a particular
3 interest in the area proposed to be covered by the lease or permit.

4 (b) Any interested agency shall have an opportunity to investigate the
5 proposed production or taking of sand, gravel, or minerals or the severance
6 of timber or logs under the lease or permit and to report its findings and
7 recommendations to the office of the Commissioner of State Lands, including
8 any recommendations for conditions or limitations to be imposed on the lessee
9 or permittee with respect to the production of sand, gravel, minerals, or the
10 severance of timber or logs under the lease or permit, within the time
11 specified in the notice.

12 (c) The Commissioner of State Lands may deny an application or may
13 grant a permit or lease subject to such conditions and requirements as he or
14 she deems appropriate to properly protect the interests of the State of
15 Arkansas.

16 (d) No permit or lease shall be granted on interests held in the name
17 of or managed by a state agency or institution without the written consent of
18 the agency or institution.

19 (e) The issuance of a permit or lease shall not be unreasonably
20 delayed or denied without justifiable cause.

21
22 SECTION 6. Arkansas Code § 22-5-809 is amended to read as follows:

23 22-5-809. Leases and permits - Monthly statements - Payment of
24 severance tax.

25 (a)(1) Every person obtaining a lease or permit under this section and
26 §§ 22-5-801 – 22-5-808 and 22-5-810 – 22-5-813 shall keep an accurate record
27 and account of all sand, gravel, oil, natural gas, casinghead gas, coal and
28 other minerals taken, and all timber or logs severed from the land covered by
29 the lease or permit, and shall file with the Revenue Division of the
30 Department of Finance and Administration monthly an itemized verified
31 statement of the total conventional weight or volume of any and all minerals
32 and timber or logs taken under the lease or permit during the preceding
33 month. These reports shall be made on forms prescribed by the division.

34 (2) Every person obtaining a lease or permit under this section
35 and §§ 22-5-801 – 22-5-808 and 22-5-810 – 22-5-813 shall keep an accurate
36 record and account of all sand, gravel, oil, natural gas, casinghead gas,

1 coal and other minerals taken, and all timber or logs severed from the land
2 covered by the lease or permit, and shall file with the office of the
3 Commissioner of State Lands monthly an itemized verified statement of the
4 total number of tons of sand and gravel, barrels of oil, thousands of cubic
5 feet of natural gas and casinghead gas, tons of coal, and the conventional
6 weight or volume of any and all other minerals and timber or logs taken under
7 the lease or permit, during the preceding month. These reports shall be made
8 on forms prescribed by the Commissioner of State Lands.

9 (b)(1) At the time of filing the reports, the lessee or permittee
10 shall pay the severance tax to the Department of Finance and Administration
11 in the same manner and at the same rate as all other severance taxes
12 collected by the division.

13 (2) The lessee or permittee shall also pay monthly to the office
14 of the Commissioner of State Lands royalties on the amount of actual
15 consideration for the sand, gravel, minerals, or timber or logs taken or
16 severed from the state-owned lands under the conditions of the lease or
17 permit issued by the Commissioner of State Lands.

18 (3) The Commissioner of State Lands shall further be authorized
19 to require the posting of a corporate surety bond by any lessee or permittee
20 to guarantee the payment of the taxes, royalties, and consideration.

21 (c)(1) Except for application and bid fees, all funds received by the
22 office of the Commissioner of State Lands as fees, compensation, or royalties
23 for leases or permits issued for the taking of any sand, gravel, minerals, or
24 timber for lands owned or held in the name of a state agency or institution
25 shall be special revenues and shall be deposited in the State Treasury and
26 credited to the fund or account from which the agency or institution receives
27 its support.

28 (2) Except for application and bid fees, all funds received by
29 the Commissioner of State Lands for leases or permits for the taking of any
30 sand, gravel, minerals, or timber from all other state-owned lands shall be
31 deposited in the State Treasury as general revenues.

32 (3) Except for application and bid fees derived from the removal
33 of logs, all funds received by the Commissioner of State Lands for leases or
34 permits for the taking of logs from lands owned or held in the name of the
35 state shall be deposited as cash funds in the State Treasury for the Land
36 Department. The Commissioner of State Lands shall distribute cash revenues

deposited in the State Treasury for the Land Department to counties from which logs were removed in accordance with the value of the logs as determined by the Commissioner of State Lands.

~~(3)~~(4) All funds received by the Arkansas State Game and Fish Commission as fees, compensation, or royalties, including any application or bid fees, for leases or permits issued for the taking of any minerals for lands held in the name of the commission shall be special revenues and shall be deposited in the State Treasury and credited to the Game Protection Fund for the use of the commission.

SECTION 7. Arkansas Code § 22-5-810 is amended to read as follows:

22-5-810. Leases and permits - Liability - Transferability - Renewal.

(a) Each person, firm, company, corporation, association, or other business entity holding a lease or permit for the taking or production of any sand, gravel, timber or logs, minerals, or other natural resources shall be absolutely liable for all severance taxes, royalties, and actual consideration for all the sand, gravel, or minerals produced or timber or logs severed under the lease or permit regardless of whether the lessee or permittee is actually producing or severing the minerals or timber or logs from the land.

(b)(1) All leases issued under the authority of this section and §§ 22-5-801 – 22-5-809 and 22-5-811 – 22-5-813 shall be transferable only with the approval of the Commissioner of State Lands.

(2) Any lease transferred in violation of subdivision (b)(1) of this section shall be subject to cancellation by the Commissioner of State Lands.

(3) All permits issued under the authority of this section and §§ 22-5-801 – 22-5-809 and 22-5-811 – 22-5-813 shall not be transferable.

(c) Upon the expiration of any lease or permit issued under the authority of this section and §§ 22-5-801 – 22-5-809 and 22-5-811 – 22-5-813, the lease or permit shall not be renewed or reissued.

SECTION 8. Arkansas Code § 22-5-811 is amended to read as follows:

22-5-811. Leases and permits – Existing ones to continue.

Any person, firm, company, corporation, state agency, or other business entity holding a lease or permit on March 21, 1975, for the taking or

1 production of any sand, gravel, minerals, or timber or logs from state-owned
2 lands shall be permitted to continue to take or produce sand, gravel,
3 minerals, or timber or logs from state-owned lands in accordance with such
4 existing lease or permit.