

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 2742

4  
5 By: Representatives Breedlove, Walters, Wells

## For An Act To Be Entitled

9 AN ACT TO CREATE A PRESUMPTION OF DIMINISHED  
10 UTILITY OF THE SURFACE ESTATE IF SEPARATE FROM  
11 THE MINERAL ESTATE ON WHICH A WELL IS DRILLED; TO  
12 ALLOW FOR A REDUCTION IN THE ASSESSMENT VALUE;  
13 AND FOR OTHER PURPOSES.

## Subtitle

16 TO CREATE A PRESUMPTION OF DIMINISHED  
17 UTILITY OF THE SURFACE ESTATE IF  
18 SEPARATE FROM THE MINERAL ESTATE ON  
19 WHICH A WELL IS DRILLED; TO ALLOW FOR A  
20 REDUCTION IN THE ASSESSMENT VALUE.

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

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25 SECTION 1. Arkansas Code § 26-26-407 concerning the valuation of a  
26 surface estate if separate from the mineral estate is amended to read as  
27 follows:

28 26-26-407. Valuation of different types and uses of property.

29 (a) Residential property used solely as the principal place of  
30 residence of the owner shall be assessed in accordance with its value as a  
31 residence, so long as the property is used as the principal place of  
32 residence of the owner and shall not be assessed in accordance with some  
33 other method of valuation until the property ceases to be used for the  
34 residential purpose.

35 (b)(1)(A) Agricultural land, pasture land, and timber land valuation  
36 shall be based on the productivity of the agricultural land, pasture land, or



1 timber land soil.

2 (B) Agricultural land, pasture land, and timber land  
 3 guidelines shall be developed based on the typical or most probable use of  
 4 the soils for agricultural land, pasture land, and timber land in the region.

5 (2) Land that is enrolled in the Wetland Reserves Program of the  
 6 Natural Resources Conservation Service of the United States Department of  
 7 Agriculture or in the Conservation Reserve Program of the United States  
 8 Department of Agriculture shall be treated as agricultural land, pasture  
 9 land, or timber land for purposes of valuation.

10 (c)(1) Commercial land and residential land that is vacant shall be  
 11 valued on its typical use.

12 (2) The assessor must determine what the typical use of vacant  
 13 commercial or residential land is by considering the primary current use of  
 14 adjacent lands.

15 (d)(1) For real property in which the mineral estate and surface  
 16 estate are severed, if a surface estate owner's use and enjoyment of the  
 17 surface estate are adversely affected by a severed mineral estate owner's use  
 18 and enjoyment of the severed mineral estate, or a surface estate owner's  
 19 utility of the surface estate interest is adversely affected by a severed  
 20 mineral estate owner's use and enjoyment of the severed mineral estate, the  
 21 assessment of the surface estate is as follows:

22 (A) For agricultural land, pasture land, or timber land, a  
 23 well drilled for the purpose of extracting minerals from a severed mineral  
 24 estate creates a presumption of diminished utility of the surface estate, and  
 25 the assessed value of the affected surface estate shall reflect the minimum  
 26 productivity value of the surface estate and shall be reduced accordingly.

27 (B) For residential property and commercial property, a  
 28 well drilled for the purpose of extracting minerals from a severed mineral  
 29 estate creates a presumption of diminished utility of the surface estate, and  
 30 the assessed value of the affected surface estate shall reflect the  
 31 diminished utility of the surface estate and reduced accordingly.

32 (2) Unless market evidence indicates an increase in land area  
 33 value or an increase in value of the surface estate, the portion of the  
 34 surface estate for which a presumption of diminished utility exists under  
 35 subdivision (d)(1) of this section shall not exceed one (1) acre per well,  
 36 and the value of the surface estate for that one (1) acre shall be assessed

1 in an amount not to exceed twenty-five percent (25%) less than surrounding  
2 comparable property.

3 ~~(d)~~(e)(1) The county equalization board may reclassify land upon proof  
4 of change in use of the land or upon proof that the land is not eligible for  
5 classification under the provisions of this section.

6 (2) The owner may appeal the decisions of the county assessor  
7 and county equalization board as provided by law for other appeals from the  
8 county assessor or county equalization board.

9 ~~(e)~~(f) In devising and developing methods of assessing and levying the  
10 ad valorem property tax on real property, the Assessment Coordination  
11 Department shall develop and publish tables and other data which shall be  
12 used by county assessors for assessing lands qualifying under the provisions  
13 of this subchapter.

14 ~~(f)~~(g)(1) Whenever land that has qualified for valuation on use or  
15 productivity under subsection (b) of this section is converted to another  
16 use, the person converting the land to another use shall notify, immediately  
17 and in writing, the county assessor of the change in use.

18 (2) At the appropriate time, the county assessor shall extend  
19 the taxes on the land based on the change in use and shall certify to the  
20 county collector the amount to be collected.

21 ~~(g)~~(h)(1) If any person shall fail to give written notice of a change  
22 in use of land as required in subsection ~~(f)~~(g) of this section, the person  
23 shall be subject to a penalty in an amount equal to three (3) years of taxes  
24 on the land at the value in the new use or conversion use.

25 (2) Any penalty so assessed shall be included in the taxes on  
26 the land for the year in which the failure is discovered and shall be a lien  
27 on the land to the same extent as any other taxes levied on the land.

28 ~~(h)~~(i) Any funds derived from penalties assessed pursuant to  
29 subsection ~~(g)~~(h) of this section shall be deposited in the county general  
30 fund to be used for the purposes prescribed by law.

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