

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
4

As Engrossed: H3/7/07
A Bill

HOUSE BILL 2743

5 By: Representatives Breedlove, Walters, Wells, Hoyt, Cornwell
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8 **For An Act To Be Entitled**

9 AN ACT TO PROVIDE FOR DAMAGES AND COMPENSATION
10 FOR THE USE OF LAND BY PERSONS OTHER THAN THE
11 SURFACE OWNER OF THE LAND; AND FOR OTHER
12 PURPOSES.
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14

15 **Subtitle**

16 AN ACT TO PROVIDE FOR DAMAGES AND
17 COMPENSATION FOR THE USE OF LAND BY
18 PERSONS OTHER THAN THE SURFACE OWNER.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code § 15-72-201 is amended to read as follows:
24 15-72-201. Definitions.

25 As used in this ~~act~~ subchapter, ~~unless the context otherwise requires:~~

26 (1) "Ongoing activities" means periodic inspection, maintenance,
27 and repair of ongoing production activities, including any redrilling,
28 reworking, or recompletion;

29 (2) "Operations" means all exploration including seismic
30 activities, drilling, and completion activities including the construction of
31 access roads and drill-site pads and the installation of meters, surface
32 equipment and pipelines, but specifically excluding periodic inspection,
33 maintenance, and repair, that:

34 (A) Require entry upon the surface owner's property;and

35 (B) That are conducted after the effective date of this
36 act;



1 (3) "Operator" means the person who has the right to enter upon
 2 the lands of another for the purposes of exploring, drilling, and developing
 3 for the production of brine, oil, gas, and all other petroleum hydrocarbons;

4 ~~(1)(4)~~ "Person" means any natural person, corporation,
 5 association, partnership, trustee, guardian, executor, administrator,
 6 fiduciary, or representative of any kind;

7 ~~(2) "Operator" means the person who has the right to enter upon~~
 8 ~~the lands of another for the purposes of exploring, drilling, and developing~~
 9 ~~for the production of brine, oil, gas, and all other petroleum hydrocarbons;~~
 10 ~~and~~

11 (5) "Surface estate" means an estate in or ownership of a
 12 particular tract of land that does not include and full ownership of mineral
 13 rights; and

14 ~~(3)(6)~~ "Surface owner" means the owner or owners of record of
 15 the surface of the property on which the drilling operation is to occur.

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 17 SECTION 2. Arkansas Code § 15-72-203 is amended to read as follows:

18 15-72-203. Prerequisite to exploring or drilling - Notice to surface
 19 owner - Damages and compensation - Procedures.

20 (a)(1) Before entering upon a site for the purpose of exploration or
 21 for oil or gas drilling, except in instances where there are nonresident
 22 surface owners, nonresident surface tenants, unknown heirs, imperfect titles,
 23 surface owners or surface tenants whose whereabouts cannot be ascertained
 24 with reasonable diligence, the operator shall give to the surface owner
 25 written notice of ~~his~~ the operator's intent of exploration or undertaking
 26 drilling operations on premises owned by the surface owner.

27 (2) The notice shall contain the proposed location and the
 28 approximate date that the operator proposes to commence exploration or
 29 drilling operations.

30 (b) The notice shall be given in writing by certified United States
 31 mail, or personally, to the surface owner at the address of the surface owner
 32 as is reflected in the records of the tax collector of the county in which
 33 the lands are located.

34 (c)(1) The operator shall pay reasonable compensation to the surface
 35 owner for:

36 (A) Actual physical damage to the surface owner's

1 property, including without limitation growing crops or grass, livestock,
2 trees, shrubs, fences, roads, structures, and other improvements;

3 (B) The reasonable rental value of the surface owner's
4 property based on its highest and best use at the time the operations begin;

5 (C) The present value of all revenues lost due to the
6 operations occurring on the surface owner's property;

7 (D) The present value of the right of reentry for ongoing
8 activities.

9 (2) In the event the surface owner does not agree with the
10 operator's best estimate of the fair compensation due as provided in the
11 notice, the surface owner may initiate any one (1) or a combination of the
12 following:

13 (A) Negotiations with the operator regarding compensation
14 due;

15 (B) Entering into nonbinding mediation with the operator
16 in order to reach an acceptable level of compensation, the cost of which
17 shall be borne equally by the operator and the surface owner, except as set
18 forth in subdivision (b)(3) of this section; or

19 (C) Filing of a lawsuit in the circuit court of the county
20 in which the surface owner's property is located, or any county in which any
21 part of the surface owner's property is located if more than one (1) county
22 in order to have a jury assess fair compensation under this section.

23 (3) In any case in which the operator commences operations
24 before mediation, the operator shall be solely responsible for the cost of
25 mediation.

26 (4) In any case in which the amount awarded to the surface owner
27 by a jury exceeds one hundred twenty percent (120%) of the amount offered by
28 the operator in the notice, the operator shall be responsible for reasonable
29 costs and attorneys' fees associated with the action.

30 (5) Nothing in this section shall limit the operator's liability
31 to the surface owner for unreasonable use of the surface owner's property or
32 for using more of the surface owner's property than was necessary for the
33 operations.

34 (6) Nothing in this section in any way affects the rights of
35 landowners under existing law.

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/s/ Breedlove, et al