

1 AMENDMENT TO SENATE BILL 1442

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1442 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Drilling Operations Act is amended by  
5 changing Sections 2 and 6 as follows:

6 (765 ILCS 530/2) (from Ch. 96 1/2, par. 9652)

7 Sec. 2. As used in this Act:

8 (a) "Person" means any natural person, corporation,  
9 firm, partnership, venture, receiver, trustee, executor,  
10 administrator, guardian, fiduciary or other representative of  
11 any kind and includes any government or any political  
12 subdivision or agency thereof;

13 (b) "Drilling operations" means the drilling, deepening  
14 or conversion of a well for oil or gas production, including  
15 the production and storage of methane gas, core hole or drill  
16 hole for a stratigraphic test;

17 (c) "Entry" means the moving upon the surface of land  
18 with equipment to commence drilling operations, but shall not  
19 include entry for the survey for or ascertaining or  
20 identification of a well location;

21 (d) "Operator" means the person, whether the owner or  
22 not, who applies for or holds a permit for drilling

1 operations or who is named as the principal on a bond for a  
2 permit for a well that was issued by the Department of  
3 Natural Resources;

4 (e) "Surface owner" means the person in whose name the  
5 surface of the land on which drilling operations are  
6 contemplated, and who is assessed for purposes of taxes  
7 imposed pursuant to the Property Tax Code according to the  
8 records of the assessor of the county where the land is  
9 located as certified by said assessor;

10 (f) "Assessor" means the supervisor of assessments,  
11 board of assessors, or county assessor, as the case may be,  
12 for the county in which the land is located;

13 (g) "Production operation" means the operation of a well  
14 for the production of oil or gas including all acts,  
15 structures, equipment, and roadways necessary for such  
16 operation;

17 (h) "New well" means a well that is spudded after the  
18 effective date of this Act and does not utilize any part of a  
19 well bore or drilling location that existed prior to the  
20 effective date of this Act;

21 (i) "Completion of the well" means completion of those  
22 processes necessary before production occurs, including the  
23 laying of flow lines and the construction of the tank  
24 battery. If the well is not productive, the date of  
25 completion of the well is the day it is plugged and  
26 abandoned.

27 (j) "Agricultural production" means the production of  
28 any growing grass, crops, or trees attached to the surface of  
29 the land, whether or not the grass, crops, or trees are to be  
30 sold commercially, and the production of any farm animals,  
31 whether or not the animals are to be sold commercially.

32 (Source: P.A. 88-670, eff. 12-2-94; 89-445, eff. 2-7-96.)

33 (765 ILCS 530/6) (from Ch. 96 1/2, par. 9656)

1           Sec. 6. Compensation of surface owners for drilling and  
2 producing operations and duties after cessation of  
3 production.

4           (A) The surface owner shall be entitled to reasonable  
5 compensation from the operator for damages to agricultural  
6 production and income, growing crops, trees, shrubs, fences,  
7 roads, structures, improvements and livestock thereon caused  
8 by the drilling of a new well, including compensation for the  
9 diminution in value, if any, of the surface lands and other  
10 property after completion of the surface disturbance,  
11 determined according to the actual use made thereof by the  
12 surface owner immediately prior to the commencement of the  
13 drilling operations, the cost of repair of personal property  
14 up to the value of replacement by personal property of like  
15 age, wear, and quality, and lost use of and access to the  
16 surface owner's land. The surface owner shall also be  
17 entitled to reasonable compensation from the operator for  
18 subsequent damages to agricultural production and income,  
19 growing crops, trees, shrubs, fences, roads, structures,  
20 improvements and livestock thereon caused by subsequent  
21 production operations of the operator thereon, including  
22 compensation for the diminution in value, if any, of the  
23 surface lands and other property after completion of the  
24 surface disturbance, determined according to the actual use  
25 made thereof by the surface owner immediately prior to the  
26 commencement of the drilling operations, the cost of repair  
27 of personal property up to the value of replacement by  
28 personal property of like age, wear, and quality, and lost  
29 use of and access to the surface owner's land. The surface  
30 owner shall also be entitled to reasonable compensation for  
31 all negligent acts of operator that cause measurable damage  
32 to the productive capacity of the soil. In addition, the  
33 operator shall not utilize any more of the surface estate  
34 than is reasonably necessary for the exploration, production

1 and development of the mineral estate.

2 (B) The compensation required pursuant to paragraph (A)  
3 above shall be paid in any manner mutually agreed upon by the  
4 operator and the surface owner, but the failure to agree  
5 upon, or make the compensation required, shall not prevent  
6 the operator from commencement of drilling operations;  
7 provided, however, that operator shall tender to the surface  
8 owner payment by check or draft in accordance with the  
9 provisions herein no later than 90 days after completion of  
10 the well. The surface owner's remedy shall be an action for  
11 compensation in the circuit court in which the lands or the  
12 greater part thereof are located on which drilling operations  
13 were conducted; provided, however, that if operator fails to  
14 tender payment within the 90-day period or if the tender is  
15 not reasonable, surface owner shall be entitled to reasonable  
16 compensation as provided herein as well as attorney's fees.

17 If operator relies on a third party appraiser or fair  
18 market value, such amount shall be conclusively deemed to be  
19 reasonable, and there shall be no award of attorney's fees.

20 (C) In conjunction with the plugging and abandonment of  
21 any well, the operator shall restore the surface to a  
22 condition as near as practicable to the condition of the  
23 surface prior to commencement of drilling operations;  
24 provided, however, that the surface owner and operator may  
25 waive this requirement in writing, subject to the approval of  
26 the Department of Natural Resources that the waiver is in  
27 accordance with its rules.

28 (D) Where practicable and absent a written agreement to  
29 the contrary with the surface owner, all flow lines and other  
30 underground structures must be buried to a depth not less  
31 than 36 inches from the surface.

32 (Source: P.A. 89-445, eff. 2-7-96.)"