



Sen. Gary Forby

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09400SB1989sam001

LRB094 11937 LCB 44630 a

1 AMENDMENT TO SENATE BILL 1989

2 AMENDMENT NO. _____. Amend Senate Bill 1989 by replacing
3 everything after the enacting clause with the following:

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

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

7 Sec. 6. Compensation of surface owners for drilling and
8 producing operations and duties after cessation of production.

9 (A) The surface owner shall be entitled to reasonable
10 compensation from the operator for damages as follows:

11 (1) To ~~to~~ growing crops, trees, shrubs, fences, roads,
12 structures, improvements, personal property, and livestock
13 thereon caused by the drilling of a new well. ~~The surface~~
14 owner shall also be entitled to reasonable compensation
15 from the operator for subsequent damages

16 (2) To ~~to~~ growing crops, trees, shrubs, fences, roads,
17 structures, improvements, personal property, and livestock
18 thereon.

19 (3) For the loss of the value of a commercial crop
20 corresponding to lands taken out of production because of
21 the use thereof by the operator for roads and production
22 equipment. Any recovery shall only be applicable if the
23 area adjacent to said roads and production equipment are
24 planted and harvested. The value of the crop shall be

1 calculated by: (i) determining the average per acre yield
2 for the crop on adjacent lands; (ii) determining the price
3 received for the sale of the crop on adjacent lands less
4 the cost of seed planting, chemicals, fertilizers and
5 harvesting; (iii) determining the acreage of the area
6 utilized for roads and production equipment; and (iv)
7 attributing the determined crop yield to the determined
8 acreage utilized and applying the determined price. The
9 initial determination of the value of the crop shall be
10 determined by the surface owner and submitted to the
11 operator. The surface owner and operator shall mutually
12 agree as to the value of the crop. ~~caused by subsequent~~
13 ~~production operations of the operator thereon. The surface~~
14 ~~owner shall also be entitled to reasonable compensation~~

15 (4) For ~~for~~ all negligent acts of operator that cause
16 measurable damage to the productive capacity of the soil.
17 ~~In addition,~~

18 (B) The ~~the~~ operator shall not utilize any more of the
19 surface estate than is reasonably necessary for the
20 exploration, production and development of the mineral estate.

21
22 ~~(B) The compensation required pursuant to paragraph (A)~~
23 ~~above shall be paid in any manner mutually agreed upon by the~~
24 ~~operator and the surface owner, but the failure to agree upon,~~
25 ~~or make the compensation required, shall not prevent the~~
26 ~~operator from commencement of drilling operations; provided,~~
27 ~~however, that operator shall tender to the surface owner~~
28 ~~payment by check or draft in accordance with the provisions~~
29 ~~herein no later than 90 days after completion of the well. The~~
30 ~~surface owner's remedy shall be an action for compensation in~~
31 ~~the circuit court in which the lands or the greater part~~
32 ~~thereof are located on which drilling operations were~~
33 ~~conducted; provided, however, that if operator fails to tender~~
34 ~~payment within the 90 day period or if the tender is not~~

1 ~~reasonable, surface owner shall be entitled to reasonable~~
2 ~~compensation as provided herein as well as attorney's fees.~~

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

6 (C) Blank. ~~In conjunction with the plugging and abandonment~~
7 ~~of any well, the operator shall restore the surface to a~~
8 ~~condition as near as practicable to the condition of the~~
9 ~~surface prior to commencement of drilling operations;~~
10 ~~provided, however, that the surface owner and operator may~~
11 ~~waive this requirement in writing, subject to the approval of~~
12 ~~the Department of Natural Resources that the waiver is in~~
13 ~~accordance with its rules.~~

14 (D) Blank. ~~Where practicable and absent a written agreement~~
15 ~~to the contrary with the surface owner, all flow lines and~~
16 ~~other underground structures must be buried to a depth not less~~
17 ~~than 36 inches from the surface.~~

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