



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1308

Introduced 2/20/2007, by Rep. John E. Bradley

SYNOPSIS AS INTRODUCED:

765 ILCS 530/4
765 ILCS 530/6

from Ch. 96 1/2, par. 9654
from Ch. 96 1/2, par. 9656

Amends the Drilling Operations Act. Provides that a copy of the Act with a written notice (at present, written notice) shall be provided to the land surface owner prior to drilling. Provides that the compensation paid to a surface owner shall include compensation for damage to personal property, loss of a commercial crop (at present, growing crops, trees, shrubs, structures, improvements, and livestock). Provides conditions and means to arrive at value of a commercial crop.

LRB095 07840 AJO 28001 b

1 AN ACT concerning property.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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

6 (765 ILCS 530/4) (from Ch. 96 1/2, par. 9654)

7 Sec. 4. Notice.

8 (a) Prior to commencement of the drilling of a well, the
9 operator shall give a copy of the Act with a written notice to
10 the surface owner of the operator's intent to commence drilling
11 operations.

12 (b) The operator shall, for the purpose of giving notice as
13 herein required, secure from the assessor's office within 90
14 days prior to the giving of the notice, a certification which
15 shall identify the person in whose name the lands on which
16 drilling operations are to be commenced and who is assessed at
17 the time the certification is made. The written certification
18 made by the assessor of the surface owner shall be conclusive
19 evidence of the surface ownership and of the operator's
20 compliance with the provisions of this Act.

21 (c) The notice required to be given by the operator to the
22 surface owner shall identify the following:

23 (1) The location of the proposed entry on the surface

1 for drilling operations, and the date on or after which
2 drilling operations shall be commenced.

3 (2) A photocopy of the drilling application to the
4 Department of Natural Resources for the well to be drilled.

5 (3) The name, address and telephone number of the
6 operator.

7 (4) An offer to discuss with the surface owner those
8 matters set forth in Section 5 hereof prior to commencement
9 of drilling operations.

10 ~~(5)~~ If the surface owner elects to meet the operator, the
11 surface owner shall request the operator to schedule a meeting
12 at a mutually agreed time and place within the limitations set
13 forth herein. Failure of the surface owner to contact the
14 operator at least 5 days prior to the proposed commencement of
15 drilling operations shall be conclusively deemed a waiver of
16 the right to meet by the surface owner.

17 ~~(6)~~ The meeting shall be scheduled between the hours of
18 9:00 in the morning and the setting of the sun of the same day
19 and shall be at least 3 days prior to commencement of drilling
20 operations. Unless agreed to otherwise, the place shall be
21 located within the county in which drilling operations are to
22 be commenced where the operator or his agent shall be available
23 to discuss with the surface owner or his agent those matters
24 set forth in Section 5 hereof.

25 ~~(7)~~ The notice and a copy of the Act as herein required
26 shall be given to the surface owner by either:

1 (A) certified mail addressed to the surface owner at
2 the address shown in the certification obtained from the
3 assessor, which shall be postmarked at least 10 days prior
4 to the commencement of drilling operations; or

5 (B) personal delivery to the surface owner at least 8
6 days prior to the commencement of drilling operations.

7 (C) Notice to the surface owner as defined in this Act
8 shall be deemed conclusive notice to the record owners of
9 all interest in the surface.

10 (Source: P.A. 89-445, eff. 2-7-96; revised 10-19-05.)

11 (765 ILCS 530/6) (from Ch. 96 1/2, par. 9656)

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

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

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

21 (2) To ~~to~~ growing crops, trees, shrubs, fences, roads,
22 structures, improvements, personal property, and livestock
23 thereon.

24 (3) For the loss of the value of a commercial crop
25 corresponding to lands taken out of production because of

1 the use thereof by the operator for roads and production
2 equipment. Any recovery shall only be applicable if the
3 area adjacent to said roads and production equipment are
4 planted and harvested. The value of the crop shall be
5 calculated by: (i) determining the average per acre yield
6 for the crop on adjacent lands; (ii) determining the price
7 received for the sale of the crop on adjacent lands less
8 the cost of seed planting, chemicals, fertilizers and
9 harvesting; (iii) determining the acreage of the area
10 utilized for roads and production equipment; and (iv)
11 attributing the determined crop yield to the determined
12 acreage utilized and applying the determined price. The
13 initial determination of the value of the crop shall be
14 determined by the surface owner and submitted to the
15 operator. The surface owner and operator shall mutually
16 agree as to the value of the crop utilizing the above
17 referenced formula for the initial crop year and all ~~caused~~
18 ~~by~~ subsequent crop years ~~production operations of the~~
19 ~~operator thereon. The surface owner shall also be entitled~~
20 ~~to reasonable compensation~~

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

24 (A-5) The ~~the~~ operator shall not utilize any more of the
25 surface estate than is reasonably necessary for the
26 exploration, production and development of the mineral estate.

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

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

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

26 (D) Where practicable and absent a written agreement to the

1 contrary with the surface owner, all flow lines and other
2 underground structures must be buried to a depth not less than
3 36 inches from the surface.

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