

AN ACT concerning civil law.

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

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

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

Sec. 4. Notice.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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