

Amd- Surface Owners agreement 10-13 House Amd revised

1 Delegates Manchin, Fleischauer, Ireland, Anderson and
2 Campbell move to amend the bill, on page * by inserting a new
3 section, to read as follows:

4 **§22-6A-*. Surface owners agreements.**

5 (a) Notwithstanding the provisions of sections three through
6 eight, article seven of this chapter, the provisions of this
7 section are applicable to horizontal wells for the purpose of
8 compensation for surface owners and to mitigate impacts and loss of
9 use of the surface where a horizontal well is located.

10 (b) The operator shall compensate the surface owner for
11 damages sustained by the surface owner, for loss of agricultural
12 production and income, lost land value, lost value of timber crops,
13 for lost use and enjoyment of the surface, lost access to the
14 surface's owners land, and lost value of improvements caused by the
15 well construction and operation.

16 (c) No later than 30 days prior to first entering the surface
17 of the land to conduct drilling operations, an operator may, by
18 certified mail return receipt requested or hand delivery, give the
19 surface owner notice of the planned operation. The notices permitted
20 by this section shall be given to the surface owner at the address
21 of the records shown by the county clerk at the time of notice. The
22 notice shall include:

23 (1) A copy of this code section;

1 (2) the name, address, telephone number, and if available,
2 facsimile number and electronic mail address of the operator and the
3 operator's authorized representative; and

4 (d) A proposed surface use and compensation agreement
5 addressing, at a minimum and to the extent known the following
6 issues:

7 (1) Placement and dimensions of well pads, gathering pipelines,
8 roads and pits to be constructed for drilling and production
9 operations;

10 (2) Use and impoundment of water on the surface of the land;
11 and

12 (3) An offer of compensation for damages to the surface
13 affected by oil and gas operations.

14 (e) Upon receipt of the surface owners compensation agreement,
15 the surface owner may:

16 (1) Accept the proposed surface owners agreement within twenty
17 days; or

18 (2) Reject the proposed surface use and compensation agreement
19 and enter into negotiations with the operator, including, if the
20 parties agree, mediation.

21 (f) If a civil action is brought, the surface owner must give
22 to operator thirty days notice of its intent to file suit. If a
23 court finds that compensation is owed under this section, the court
24 shall also award the prevailing party attorney fees imposed as

1 follows:

2 (1) If the operator provided notice pursuant to subsection (c)
3 and made an offer of compensation, then attorney fees shall be
4 awarded if the court awards damages that exceed by fifteen percent
5 the last offer made by the operator, prior to institution of suit;
6 or

7 (2) If the operator did not provide notice pursuant to
8 subsection (c) then attorney fees shall be awarded if the court
9 awards damages greater than the last offer made by the operator
10 prior to institution of suit: *Provided*, That the surface owner gave
11 to the operator 30 days notice of his or her intent to file suit;
12 or

13 (g) In any action for breach of surface owners compensation
14 agreement, the court shall award attorney fees to the prevailing
15 party if either the surface owner or the operator willfully and
16 knowingly violated the surface owners compensation agreement.

17 (h) The remedies provided by this section are not exclusive and
18 do not preclude a person from seeking other remedies allowed by law.