

House File 2702

H-8164

1 Amend House File 2702 as follows:

2 1. By striking everything after the enacting clause and  
3 inserting:

4 <Section 1. NEW SECTION. 557D.1 Short title.

5 This chapter shall be known and may be cited as the "*Iowa*  
6 *Surface Owners Protection Act*".

7 Sec. 2. NEW SECTION. 557D.2 Applicability.

8 This chapter applies to all of the following:

9 1. Real property and its improvements on which oil and gas  
10 operations are conducted.

11 2. Oil and gas operations commenced on or after July 1,  
12 2026, except for all of the following:

13 a. Maintenance and ongoing production activities related  
14 to an oil or gas well producing or capable of producing oil or  
15 gas on July 1, 2026, for which the operator has a valid permit  
16 from the department of natural resources, except for all of the  
17 following:

18 (1) Reentries, workovers, and other oil or gas operations  
19 are subject to this chapter if the activities disturb  
20 additional surface.

21 (2) The duty to reclaim, as stated in section 557D.4,  
22 subsection 3, is applicable to a well that is not plugged or  
23 abandoned on July 1, 2026.

24 b. Oil and gas operations conducted within the scope of  
25 an agreement, entered into prior to July 1, 2026, between a  
26 surface owner and an operator that sets forth the rights and  
27 obligations of the parties with respect to surface activities  
28 conducted by the operator, including providing payment for  
29 damages to the surface owner.

30 c. Oil and gas operations conducted within the scope of  
31 a surface use and compensation agreement, entered into on or  
32 after July 1, 2026, between a surface owner and an operator are  
33 not required to strictly comply with sections 557D.4, 557D.5,  
34 or 557D.6 to the extent the agreement is not inconsistent with  
35 Iowa law.

1     Sec. 3. NEW SECTION.   557D.3   Definitions.

2     As used in this chapter, unless the context otherwise  
3 requires:

4     1.    "Bank" means "bank", "insured bank", or "state bank" as  
5 those terms are defined in section 524.103.

6     2.    "Banking institution" means a bank or credit union.

7     3.    "Certified appraiser" means "certified real estate  
8 appraiser" as defined in section 543D.2.

9     4.    "Credit union" means the same as defined in section  
10 533.102.

11    5.    "Department" means the department of natural resources.

12    6.    "Oil and gas operations" means all activities affecting  
13 a surface owner's land that are associated with exploration,  
14 drilling, or production of oil, gas, or metallic mineral  
15 resources that require a permit pursuant to section 458A.5,  
16 from initial exploration through final reclamation of the  
17 affected surface.

18    7.    "Operator" means a person with the legal right to conduct  
19 oil and gas operations, including an agent, employee, or  
20 contractor of the person.

21    8.    "Reclaim" means to substantially restore the surface  
22 affected by oil and gas operations to the condition that  
23 existed prior to the oil and gas operations, or as otherwise  
24 agreed to in writing by the operator and surface owner.

25    9.    "Surface owner" means a person who holds legal or  
26 equitable title, as shown in the records of the county clerk,  
27 to the surface of the real property, which is suitable for  
28 agricultural use, and on which the operator has the legal right  
29 to conduct oil and gas operations.

30    10.   "Surface use and compensation agreement" means an  
31 agreement between a surface owner and an operator specifying  
32 the rights and obligations of the surface owner and the  
33 operator concerning oil and gas operations, including providing  
34 payment for damages to the surface owner's land.

35    11.   "Tenant" means a person who holds a leasehold interest

1 in agricultural land.

2 Sec. 4. NEW SECTION. 557D.4 Compensation for oil and gas  
3 operations.

4 1. a. An operator shall compensate the surface owner  
5 for all damages to the land, land improvements, soil, water,  
6 groundwater, and crops including reductions in crop yields,  
7 as applicable, caused by entering, using, and occupying the  
8 surface owner's land for oil and gas operations.

9 b. To the extent not otherwise included in paragraph "a",  
10 an operator shall compensate the surface owner for the loss  
11 of agricultural production and the reduction in gross income  
12 attributable to the oil and gas operations on the surface  
13 owner's land.

14 c. An operator shall compensate the surface owner for all  
15 of the following:

16 (1) Access, use, and the right to exclude persons from  
17 the surface owner's land for the duration of the oil and gas  
18 operations.

19 (2) The reduction in land value of the tract caused by the  
20 oil and gas operations.

21 2. The amount of compensation may be determined by any  
22 method or formula mutually agreeable between the surface owner  
23 and the operator or as provided in section 557D.8.

24 3. A reservation or assignment of the compensation provided  
25 in subsection 1 apart from the surface estate is prohibited  
26 except to a surface owner of the land, a tenant of the surface  
27 estate, an agricultural supply dealer as defined in section  
28 570A.1, or a financial institution as defined in section  
29 570A.1.

30 4. An operator shall not be responsible for allocating  
31 compensation between the surface owner and any tenant, except  
32 that an operator shall compensate a tenant of the surface  
33 owner for any damages to crops including any reduction in crop  
34 yields and the cost of repairing or replacing any leasehold  
35 improvements damaged as a result of the operator's oil and gas

1 operations. The improvements must be approved or authorized by  
2 the surface owner.

3 5. An operator shall reclaim all the surface affected by  
4 the operator's oil and gas operations once the oil and gas  
5 operations are completed or the well is plugged or closed.

6 Sec. 5. NEW SECTION. 557D.5 Notice of operations —  
7 proposed surface use and compensation agreement.

8 1. Prior to initial entry upon the land for an activity that  
9 does not disturb the surface, including an inspection, staking,  
10 survey, measurement, or general evaluation of a proposed route  
11 or site for oil and gas operations, the operator shall provide  
12 at least ten business days' notice by certified mail or hand  
13 delivery to the surface owner.

14 2. No less than ninety days before first entering the  
15 surface of the land to conduct oil and gas operations, an  
16 operator shall, by certified mail or hand delivery, give the  
17 surface owner notice of the planned oil and gas operations.  
18 The notice shall include all of the following:

19 a. Sufficient disclosure of the planned oil and gas  
20 operations to enable the surface owner to evaluate the effect  
21 of the operations on the property.

22 b. A copy of the provisions of this chapter.

23 c. The name, address, telephone number and, if available,  
24 facsimile number, and electronic mail address of the operator  
25 and the operator's authorized representative.

26 d. A proposed surface use and compensation agreement  
27 addressing, at a minimum and to the extent known, all of the  
28 following issues:

29 (1) The placement, specifications, maintenance, and design  
30 of well pads, gathering pipelines, and roads to be constructed  
31 for oil and gas operations.

32 (2) Terms of ingress and egress upon the surface of the land  
33 for oil and gas operations.

34 (3) Construction, maintenance, and placement of all pits  
35 and equipment used or planned for oil and gas operations.

1 (4) Use and impoundment of water on the surface of the land,  
2 the drilling of any water wells, and the quantity of water  
3 removal.

4 (5) Removal and restoration of plant life.

5 (6) Surface water drainage changes.

6 (7) Actions to limit and effectively control precipitation  
7 runoff and erosion.

8 (8) Control and management of noise, weeds, dust, traffic,  
9 trespass, litter, and interference with the surface owner's  
10 use.

11 (9) Interim and final obligations to reclaim the surface  
12 owner's land.

13 (10) Actions to minimize surface damages to the property.

14 (11) Operator indemnification for injury to persons caused  
15 by the operator.

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

18 3. If legal title and equitable title are not held by the  
19 same person, notice shall be given to both the holder of legal  
20 title and to the holder of equitable title.

21 4. *a.* Upon receipt of the notice required by subsection 2,  
22 the surface owner may do any of the following:

23 (1) Accept the proposed surface use and compensation  
24 agreement.

25 (2) Reject the proposed surface use and compensation  
26 agreement. Failure to accept the proposed agreement within  
27 ninety days shall be deemed to be a rejection by the surface  
28 owner.

29 *b.* If the proposed agreement is rejected, the surface owner  
30 may enter into negotiations with the operator, including, if  
31 the parties agree, with the aid of mediation.

32 5. The operator and the surface owner may enter into a  
33 mutually acceptable surface use and compensation agreement with  
34 respect to the surface activities conducted by the operator.

35 6. Notices required under this section shall be deemed to

1 have been received five days after mailing by certified mail or  
2 immediately upon hand delivery.

3     Sec. 6. NEW SECTION. 557D.6 **Financial assurance for payment**  
4 **of damages.**

5     Prior to commencing oil and gas operations, the operator  
6 shall file and maintain financial assurance with the department  
7 utilizing one of the following methods:

8     1. The financial assurance shall consist of a surety bond  
9 of a surety corporation authorized to do business in Iowa  
10 as surety, an irrevocable letter of credit from a banking  
11 institution, cash, or a certificate of deposit for the benefit  
12 of the department and the surface owner in the amount of at  
13 least fifty thousand dollars per well location. The surety  
14 bond, irrevocable letter of credit, cash, or certificate of  
15 deposit shall only be released by the department if any of the  
16 following occur:

17     *a.* The surface owner provides notice that compensation for  
18 damages has been paid.

19     *b.* The surface owner and the operator have executed a  
20 surface use and compensation agreement or otherwise agreed that  
21 the security should be released.

22     *c.* There has been a final resolution of the judicial appeal  
23 in any action for damages and any awarded damages have been  
24 paid.

25     *d.* All wells have been plugged and closed and the operator  
26 has not conducted oil and gas operations on the surface owner's  
27 property for a period of six years.

28     2. The financial assurance shall consist of a blanket  
29 surety bond of a surety corporation authorized to do business  
30 in Iowa as surety, irrevocable letter of credit from a banking  
31 institution, cash, or a certificate of deposit in the sum of  
32 at least one hundred thousand dollars subject to the following  
33 criteria:

34     *a.* The department shall hold the corporate surety bond,  
35 irrevocable letter of credit, cash, or certificate of deposit

1 for the benefit of the surface owners of this state and shall  
2 ensure that such security is in a form readily payable to a  
3 surface owner awarded damages in an action brought pursuant to  
4 this chapter.

5 *b.* The corporate surety bond, irrevocable letter of credit,  
6 cash or certificate of deposit shall remain in full force and  
7 effect as long as the operator continues oil and gas operations  
8 in Iowa.

9 *c.* The corporate surety bond, irrevocable letter of credit,  
10 cash, or certificate of deposit shall not be released until  
11 six years after the operator is not the operator or producer  
12 of record of any well in Iowa and does not hold any outstanding  
13 drilling permits in Iowa issued pursuant to chapter 458A.

14 *d.* In the event that, pursuant to a judgment, all or a  
15 portion of the corporate surety bond, irrevocable letter of  
16 credit, cash, or certificate of deposit has been used to pay a  
17 surface owner, the operator shall immediately post additional  
18 financial assurance so that the total amount posted equals  
19 one hundred thousand dollars and, if the operator does not  
20 post the additional financial assurance, the department shall  
21 publish notice to that effect on its website and an applicable  
22 electronic newsletter or press release. The department may  
23 suspend the operator's or producer's permits issued pursuant  
24 to section 458A.5 if the operator fails to post sufficient  
25 financial assurance.

26 **Sec. 7. NEW SECTION. 557D.7 Notification of operator —**  
27 **statute of limitations.**

28 Any person, to receive compensation for crop yield damages  
29 under section 557D.4 or 557D.8, shall notify the operator  
30 of the potential reduction in crop yields at least fourteen  
31 days prior to harvest. Any claim for relief for compensation  
32 brought under this chapter must be commenced within the  
33 limitations period provided in chapter 614.

34 **Sec. 8. NEW SECTION. 557D.8 Determination of damages.**

35 1. Before filing a petition with the county board of

1 supervisors pursuant to this section or commencing a legal  
2 action to recover compensation for damages identified in  
3 section 557D.4, a person entitled to compensation shall prepare  
4 a damages statement describing the damages and the amount of  
5 compensation requested for those damages. If claiming damages  
6 pursuant to section 557D.4, subsection 1, paragraph "c",  
7 the surface owner may obtain a written appraisal valuing the  
8 person's tracts affected or foreseeably affected by the oil  
9 and gas operations. A certified appraiser, or an individual  
10 possessing a temporary permit pursuant to section 543D.11,  
11 shall conduct the appraisal. The operator shall be provided  
12 with a copy of the damages statement, including the appraisal,  
13 if applicable. The operator may make an offer for settlement  
14 to the surface owner or tenant within thirty days of receiving  
15 the damages statement.

16 2. The operator shall reimburse the reasonable actual costs  
17 of the appraisal incurred by the surface owner for obtaining  
18 the appraisal under this section or, at the election of the  
19 surface owner, the operator shall pay the reasonable actual  
20 costs directly to the appraiser.

21 3. The appraisal or opinion of value expressed in the  
22 appraisal is inadmissible at a proceeding commenced under this  
23 chapter, unless the information is offered by the surface  
24 owner. Whether an appraisal is issued under this section does  
25 not require or prohibit the introduction of specific evidence  
26 offered at a proceeding commenced under this chapter.

27 4. A surface owner, tenant, or operator may file a petition  
28 with the county board of supervisors where the oil and gas  
29 operations are being conducted asking that a compensation  
30 commission determine the damages and the amount of compensation  
31 due pursuant to this chapter. If the board of supervisors by  
32 resolution approves the petition, the surface owner, tenant, or  
33 operator shall commence the proceeding by filing an application  
34 with the chief judge of the judicial district for the county  
35 for the appointment of a compensation commission as provided

1 in section 6B.4. The application shall contain all of the  
2 following information:

3     *a.* The name and address of the applicant and a description  
4 of the land on which the damage is claimed to have occurred.

5     *b.* A description of the nature of the damage claimed to have  
6 occurred and the amount of the compensation requested.

7     *c.* The name and address of the operator claimed to have  
8 caused the damage or the name and address of the affected  
9 surface owner or tenant.

10     5. *a.* After the commissioners have been appointed, the  
11 applicant shall serve notice on the operator, or the surface  
12 owner and the tenant, stating all of the following:

13         (1) That a compensation commission has been appointed to  
14 determine the damages caused by the oil and gas operations.

15         (2) The name and address of the applicant and a description  
16 of the land on which the damage is claimed to have occurred.

17         (3) The date, time, and place when the commissioners will  
18 view the premises and proceed to appraise the damages and that  
19 the operator, surface owner, or tenant may appear before the  
20 commissioners.

21     *b.* The county attorney may assist in coordinating the  
22 proceedings, but does not become an attorney for the operator,  
23 surface owner, or tenant by doing so. The county attorney may  
24 assist the commission with preparing its written report.

25     6. The commissioners shall view the land at the time  
26 provided in the notice and assess the damages sustained by  
27 the surface owner or tenant by reason of the oil and gas  
28 operations and they shall file their report with the sheriff.  
29 The appraisal of damages returned by the commissioners is  
30 final unless appealed. After the appraisal of damages  
31 has been delivered to the sheriff by the compensation  
32 commission, the sheriff shall give written notice by ordinary  
33 mail to the operator, surface owner, and tenant of the date  
34 the appraisal of damages was made, the amount of the  
35 appraisal, and that any interested party may appeal to the

1 district court within thirty days of the date of mailing. The  
2 sheriff shall endorse the date of mailing of notice on the  
3 original appraisal of damages. At the time of appeal, the  
4 appealing party shall give written notice to the adverse party  
5 or the adverse party's attorney and the sheriff.

6 7. Chapter 6B applies to this section to the extent it is  
7 applicable and consistent with this section.

8 8. The operator shall pay all costs of the assessment made  
9 by the commissioners and reasonable attorney fees and costs  
10 incurred by the landowner, as determined by the commissioners,  
11 if the award of the commissioners exceeds one hundred ten  
12 percent of the final offer of the operator prior to the  
13 determination of damages. The operator shall file with the  
14 sheriff an affidavit setting forth the most recent offer made  
15 to the surface owner or tenant. Commissioners shall receive  
16 a per diem of fifty dollars and actual and necessary expenses  
17 incurred in the performance of their official duties. The  
18 operator shall also pay all costs occasioned by the appeal,  
19 including reasonable attorney fees to be taxed by the court,  
20 unless on the trial of the appeal the same or a lesser amount  
21 of damages is awarded than was allowed by the compensation  
22 commission from which the appeal was taken.

23 Sec. 9. NEW SECTION. 557D.9 Damages.

24 In an action brought pursuant to this chapter, if the court  
25 finds that compensation is owed for damages, the court may also  
26 award the surface owner attorney fees and costs if any of the  
27 following occurred:

28 1. The operator conducted oil and gas operations without  
29 providing notice as required by section 557D.5, subsection 2.

30 2. The operator conducted oil and gas operations without a  
31 surface use and compensation agreement and before filing and  
32 maintaining financial assurance as required pursuant to section  
33 557D.6.

34 3. The operator conducted oil and gas operations outside  
35 the scope of a surface use and compensation agreement and, when

1 entering into the agreement, knew or should have known that oil  
2 and gas operations would be conducted outside the scope of the  
3 agreement.

4 4. The operator failed to exercise good faith in complying  
5 with the provisions of this chapter or the terms of a surface  
6 use and compensation agreement.

7 5. The operator willfully and knowingly violated the  
8 surface use and compensation agreement.

9 Sec. 10. NEW SECTION. 557D.10 Remedies not exclusive.

10 The remedies provided by this chapter are not exclusive and  
11 do not preclude a person from seeking other remedies allowed  
12 by law.>

13 2. Title page, lines 1 and 2, by striking <oil and gas,  
14 geologic hydrogen, hydrocarbons, or other minerals> and  
15 inserting <oil, gas, or metallic mineral resources>

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