

House File 561 - Introduced

HOUSE FILE 561

BY ZUMBACH

A BILL FOR

1 An Act providing for the compensation of losses due to the
2 installation of a pipeline on agricultural land.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 479.45, subsection 2, Code 2019, is
2 amended to read as follows:

3 2. a. A claim for damage for future crop deficiency within
4 the easement strip shall not be precluded from renegotiation
5 under [section 6B.52](#) on the grounds that it was apparent at the
6 time of settlement unless the settlement expressly releases the
7 pipeline company from claims for damage to the productivity of
8 the soil. The landowner shall notify the company in writing
9 fourteen days prior to harvest in each year to assess crop
10 deficiency.

11 b. A landowner whose land was affected by the installation
12 or construction of a pipeline, and who has elected to be
13 covered by crop insurance with the federal crop insurance
14 corporation or a private insurer authorized to offer a
15 multiperil crop insurance line of authority in this state
16 may elect to calculate a claim for damage caused by a crop
17 deficiency at the end of each crop year. The claim for damage
18 shall be based on the difference between the average yield of
19 the crop produced within the easement strip and the average
20 yield of the same crop produced on that portion of the parcel
21 or parcels of real estate where the easement strip is located,
22 but excluding the easement strip. The average yield for parcel
23 or parcels of real estate excluding the easement strip shall be
24 deemed to be the same as listed in the landowner's insurance
25 policy for that crop year. The landowner may continue to claim
26 damage for five crop years after the pipeline has been wholly
27 abandoned.

28 Sec. 2. Section 479.46, subsection 1, Code 2019, is amended
29 to read as follows:

30 1. a. The county board of supervisors shall determine
31 when installation of a pipeline has been completed in that
32 county for the purposes of [this section](#). Not less than ninety
33 days after the completion of installation, and if an agreement
34 cannot be made as to damages, a landowner whose land was
35 affected by the installation of the pipeline or a pipeline

1 company may file with the board of supervisors a petition
2 asking that a compensation commission determine the damages
3 arising from the installation of the pipeline.

4 b. If the pipeline company files the petition under this
5 subsection, the landowner shall receive a notice of the
6 request in the same manner provided by the Iowa rules of civil
7 procedure for the personal service of original notice. The
8 landowner shall be deemed to have accepted any decision by the
9 county board of supervisors to approve the petition as provided
10 in subsection 2, unless the landowner responds by notifying the
11 board of supervisors in writing of an election to preserve the
12 landowner's right to bring a cause of action in district court.
13 The landowner must deliver the response to the county board of
14 supervisors within sixty days after receiving the notice of the
15 petition.

16 Sec. 3. Section 479A.11, Code 2019, is amended to read as
17 follows:

18 **479A.11 Damages.**

19 1. A pipeline company operating pipelines or underground
20 storage shall be given reasonable access to the pipelines and
21 storage areas for the purpose of constructing, operating,
22 maintaining, or locating their pipes, pumps, pressure
23 apparatus, or other stations, wells, devices, or equipment
24 used in or upon a pipeline or storage area, but. However, the
25 pipeline company shall pay the owner of the lands for the right
26 of entry and the owner of crops on the land all damages caused
27 by entering, using, or occupying the lands for these purposes;
28 and shall pay to the owner of the lands, after the completion
29 of construction of the pipeline or storage, all damages caused
30 by settling of the soil along and above the pipeline, and
31 wash or erosion of the soil along the pipeline due to the
32 construction of the pipeline. However, this

33 2. A landowner whose land was affected by the installation
34 or construction of a pipeline, and who has elected to be
35 covered by crop insurance with the federal crop insurance

1 corporation or a private insurer authorized to offer a
2 multiperil crop insurance line of authority in this state
3 may elect to calculate a claim for damage caused by a crop
4 deficiency at the end of each crop year. The claim for damage
5 shall be based on the difference between the average yield of
6 the crop produced within the easement strip and the average
7 yield of the same crop produced on that portion of the parcel
8 or parcels of real estate where the easement strip is located,
9 but excluding the easement strip. The average yield for parcel
10 or parcels of real estate excluding the easement strip shall be
11 deemed to be the same as listed in the landowner's insurance
12 policy for that crop year. The landowner may continue to claim
13 damage for five crop years after the pipeline has been wholly
14 abandoned.

15 3. This section does not prevent the execution of an
16 agreement with other terms between the pipeline company and the
17 owner of the land or crops with reference to their use.

18 Sec. 4. Section 479B.17, Code 2019, is amended to read as
19 follows:

20 **479B.17 Damages.**

21 1. A pipeline company operating a pipeline or an
22 underground storage facility shall have reasonable access to
23 the pipeline or underground storage facility for the purpose
24 of constructing, operating, maintaining, or locating pipes,
25 pumps, pressure apparatus, or other stations, wells, devices,
26 or equipment used in or upon the pipeline or underground
27 storage facility. A pipeline company shall pay the owner of
28 the land for the right of entry and the owner of crops for all
29 damages caused by entering, using, or occupying the lands and
30 shall pay to the owner all damages caused by the completion
31 of construction of the pipeline due to wash or erosion of the
32 soil at or along the location of the pipeline and due to the
33 settling of the soil along and above the pipeline. ~~However,~~
34 ~~this~~

35 2. A landowner whose land was affected by the installation

1 or construction of a pipeline, and who has elected to be
2 covered by crop insurance with the federal crop insurance
3 corporation or a private insurer authorized to offer a
4 multiperil crop insurance line of authority in this state
5 may elect to calculate a claim for damage caused by a crop
6 deficiency at the end of each crop year. The claim for damage
7 shall be based on the difference between the average yield of
8 the crop produced within the easement strip and the average
9 yield of the same crop produced on that portion of the parcel
10 or parcels of real estate where the easement strip is located,
11 but excluding the easement strip. The average yield for parcel
12 or parcels of real estate excluding the easement strip shall be
13 deemed to be the same as listed in the landowner's insurance
14 policy for that crop year. The landowner may continue to claim
15 damage for five crop years after the pipeline has been wholly
16 abandoned.

17 3. This section does not prevent the execution of an
18 agreement between the pipeline company and the owner of the
19 land or crops with reference to the use of the land.

20 Sec. 5. Section 479B.30, subsection 1, Code 2019, is amended
21 to read as follows:

22 1. a. The county board of supervisors shall determine when
23 construction of a pipeline or underground storage facility has
24 been completed in that county for the purposes of [this section](#).
25 Not less than ninety days after the completion of construction
26 and if an agreement cannot be made as to damages, a landowner
27 whose land was affected by the construction of the pipeline
28 or underground storage facility or the pipeline company may
29 file with the board of supervisors a petition asking that a
30 compensation commission determine the damages arising from
31 construction of the pipeline.

32 b. If the pipeline company files the petition under this
33 subsection, the landowner shall receive a notice of the
34 request in the same manner provided by the Iowa rules of civil
35 procedure for the personal service of original notice. The

1 landowner shall be deemed to have accepted any decision by the
2 county board of supervisors to approve the petition as provided
3 in subsection 2, unless the landowner responds by notifying the
4 board of supervisors in writing of an election to preserve the
5 landowner's right to bring a cause of action in district court.
6 The landowner must deliver the response to the county board of
7 supervisors within sixty days after receiving the notice of the
8 petition.

9 EXPLANATION

10 The inclusion of this explanation does not constitute agreement with
11 the explanation's substance by the members of the general assembly.

12 GENERAL. This bill provides for a claim alleging a crop
13 deficiency within an easement strip over agricultural land due
14 to a pipeline carrying a solid, liquid, or gaseous substance.
15 The bill amends the following three Code chapters: Code
16 chapter 479 governing intrastate pipelines, Code chapter 479A
17 governing interstate pipelines, and Code chapter 479B governing
18 hazardous liquid pipelines.

19 DAMAGE BASED ON INSURANCE POLICY. The bill provides that
20 under each of the three Code chapters the landowner's claim for
21 damage may be determined by calculating the difference between
22 the average yield of the crop produced within the easement and
23 the average yield for the same crop produced on the remaining
24 part of the agricultural land according to the landowner's
25 insurance policy listing insurable crops for that same crop
26 year. The landowner may continue to claim damage for five
27 successive years after the pipeline has been abandoned.

28 CLAIM BROUGHT IN DISTRICT COURT. The bill also provides
29 that in the case of Code chapter 479 and Code chapter 479B
30 a landowner may elect not to utilize a proceeding conducted
31 by a compensation commission to determine damages caused by
32 the installation of the pipeline. Under current law, either
33 the landowner or the pipeline company may petition the board
34 of supervisors in the county where the pipeline is located
35 to establish such a commission. The bill provides that if

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1 the landowner receives a notice by a pipeline company that
2 it has filed such a petition, the landowner may respond by
3 notifying the board of the landowner's election not to proceed
4 by decision of the commission but instead to preserve the
5 landowner's right to bring a cause of action in district court.