



Rep. Brandon W. Phelps

Filed: 3/24/2017

10000HB1542ham001

LRB100 03404 HEP 24298 a

1 AMENDMENT TO HOUSE BILL 1542

2 AMENDMENT NO. _____. Amend House Bill 1542 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Principal and Income Act is amended by
5 changing Sections 10 and 15 as follows:

6 (760 ILCS 15/10) (from Ch. 30, par. 510)

7 Sec. 10. Disposition of natural resources.

8 (a) If any part of the principal consists of a right to
9 receive royalties, overriding or limited royalties, working
10 interests, production payments, net profit interests, or other
11 interest in minerals, oil, gas or other natural resources in,
12 on or under land, except timber, water, soil, sod, dirt, peat,
13 turf or mosses, the receipts from taking the natural resources
14 from the land shall be allocated as follows:

15 (1) if received as rent on a lease or extension
16 payments on a lease, the receipts are income;

1 (2) if received from a production payment, the receipts
2 are income to the extent of any factor for interest or its
3 equivalent provided in the governing instrument. There
4 shall be allocated to principal the fraction of the balance
5 of the receipts which the unrecovered cost of the
6 production payment bears to the balance owed on the
7 production payment, exclusive of any factor for interest or
8 its equivalent. The receipts not allocated to principal are
9 income;

10 (3) except for oil or gas from non-coal formations, if
11 received as a royalty, overriding or limited royalty, or
12 bonus, or from a working, net profit, or any other interest
13 in minerals, ~~oil, gas~~, or other natural resources, receipts
14 not provided for in the ~~preceding~~ paragraphs of this
15 Section shall be apportioned on a yearly basis in
16 accordance with this paragraph whether or not any natural
17 resource was being taken from the land at the time the
18 trust was established. The trustee shall allocate to
19 principal as an allowance for depletion the greater of (i)
20 that portion, if any, of the gross receipts that is allowed
21 as a depletion deduction for federal income tax purposes
22 and (ii) 10% of the gross receipts, except that that
23 allocation shall not exceed 50% of the net receipts
24 remaining after payment of all expenses, direct and
25 indirect, computed without the allowance for depletion.
26 The trustee shall allocate the balance of the gross

1 receipts, after payment therefrom of all expenses, direct
2 and indirect, to income; -

3 (4) for oil or gas from non-coal formations, proceeds
4 from the sale of such minerals produced and received as
5 royalty, overriding royalty, limited royalty, working
6 interest, net profit interest, time-limited interest or
7 term interest, or lease bonus shall be deemed income.

8 (b) If an item of depletable property of a type specified
9 in this Section is held on the effective date of this Act,
10 receipts from the property shall be allocated in the manner
11 used before the effective date of this Act, but as to all
12 depletable property acquired after the effective date of this
13 Act by an existing or new trust, the method of allocation
14 provided herein shall be used.

15 (c) If any part of the principal consists of timber, water,
16 soil, sod, dirt, peat, turf, or mosses, the receipts from those
17 resources shall be allocated in accordance with Section 3.

18 (Source: P.A. 87-714.)

19 (760 ILCS 15/15) (from Ch. 30, par. 515)

20 Sec. 15. Non-trust estates.

21 (a) The provisions of this Act, as far as applicable, shall
22 apply to nontrust estates subject to any agreement of the
23 parties or any specific direction by statute or otherwise, and
24 the references to trusts and trustees shall be read as applying
25 to nontrust estates and to legal tenants (including life

1 tenants, tenants for terms of years, or any other period of
2 tenancy) and remaindermen as the context requires; except that
3 if either a legal tenant or a remainderman has incurred a
4 charge for his benefit without the consent or agreement of the
5 other, he shall pay that charge in full.

6 (b) If the costs of an improvement, including special taxes
7 or assessments, representing an addition to value of property
8 forming part of the principal cannot reasonably be expected to
9 outlast the legal tenancy, the costs shall be paid by the legal
10 tenant. If the improvement can reasonably be expected to
11 outlast the legal tenancy, only a portion of the costs shall be
12 paid by the legal tenant and the balance by the remainderman.
13 The portion payable by the legal tenant shall be that fraction
14 of the total found by dividing the present value of the legal
15 tenancy by the present value of an estate of the same form as
16 that of the legal tenancy but limited to a period corresponding
17 to the reasonably expected duration of the improvement. The
18 computation of present value of the legal tenancy shall be
19 computed on the basis of two-thirds of the value determined by
20 use of the tables set forth under Section 7520 of the Internal
21 Revenue Code of 1986 and the regulations thereunder for the
22 calculation of the values of annuities, life estates, and terms
23 for years, and no other evidence of duration or expectancy
24 shall be considered, except that any legal tenancy or remainder
25 interest acquired for consideration based on those tables shall
26 be computed on the basis of the tables in effect at the time

1 acquired. The method of computing the present value of a legal
2 tenancy established in this subsection shall apply to all legal
3 tenancies and remainders created after January 1, 1992 and to
4 all legal tenancies and remainders which were acquired for
5 consideration if the amount of the consideration was based on
6 the tables set forth under Section 2031 or 7520 of the Internal
7 Revenue Code then in effect.

8 (c) If a legal tenant has leased any lands for agricultural
9 or farming operations and his legal tenancy terminates on or
10 after the day any rent has become due and payable, he or his
11 representative is entitled to recover that rent from the
12 lessee; and if a legal tenancy terminates before the rent under
13 the lease is fully paid, the legal tenant or his representative
14 is entitled to recover from the lessee:

15 (1) that portion of the rent not due which the number
16 of days from the beginning of the period for which the rent
17 is not due to the date of the termination of the legal
18 tenancy bears to the total number of days in the period for
19 which the rent is unpaid; and

20 (2) that portion of the landlord's share of actual
21 expenses paid before the termination of the legal tenancy
22 and not previously recovered by him, which the number of
23 days in the lease period on and after the termination bears
24 to the total number of days in the lease period.

25 (d) This Section does not apply to life estates and
26 remainder interests in oil or gas from non-coal formations, or

1 royalties or overriding royalties created under leases of such
2 minerals.

3 (Source: P.A. 82-390; 87-714.)".