

By: Craddick

H.B. No. 4218

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a cause of action for the bad faith washout of an
3 overriding royalty interest in an oil and gas lease.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Title 4, Property Code, is amended by adding
6 Chapter 31 to read as follows:

7 CHAPTER 31. BAD FAITH WASHOUT OF OVERRIDING ROYALTY INTEREST IN OIL
8 AND GAS LEASE

9 Sec. 31.001. DEFINITION. In this chapter, "washout" means
10 the elimination or reduction of an overriding royalty interest in
11 an oil and gas lease by the forfeiture or surrender of the oil and
12 gas lease by a lessee or the lessee's successors or assigns and the
13 subsequent reacquisition of a lease, or all or part of the mineral
14 estate associated with the lease, by the lessee or the lessee's
15 successors, assigns, contractors, or subsidiaries on all or part of
16 the same land, free of the overriding royalty interest.

17 Sec. 31.002. CAUSE OF ACTION FOR BAD FAITH WASHOUT. A
18 person may bring a cause of action for a bad faith washout of the
19 person's overriding royalty interest in an oil and gas lease. The
20 person is entitled to a remedy under this chapter if the person
21 proves by a preponderance of the evidence that:

22 (1) the person owned or had a legal right to the
23 overriding royalty interest;

24 (2) the defendant had control over the oil and gas

1 lease burdened by the overriding royalty interest;

2 (3) the defendant caused a washout of the person's
3 overriding royalty interest; and

4 (4) the defendant acted in bad faith by knowingly or
5 intentionally causing the washout.

6 Sec. 31.003. VENUE. An owner of an overriding royalty
7 interest in an oil and gas lease may bring an action under this
8 chapter in a district court of a county in which any part of the
9 property subject to the oil and gas lease is located.

10 Sec. 31.004. REMEDIES; COSTS AND FEES. (a) An owner of an
11 overriding royalty interest who prevails in an action under this
12 chapter may recover:

13 (1) actual and exemplary damages;

14 (2) enforcement of a constructive trust on the oil and
15 gas lease or mineral estate acquired to accomplish the washout of
16 the overriding royalty interest; and

17 (3) court costs and attorney's fees.

18 (b) The remedies provided by this chapter are cumulative of
19 other remedies provided by common law or statute.

20 Sec. 31.005. LIMITATION ON FILING ACTION. A person must
21 bring an action under this chapter not later than the second
22 anniversary of the date the washout occurred.

23 SECTION 2. Chapter 31, Property Code, as added by this Act,
24 applies only to a washout that occurs on or after the effective date
25 of this Act. A washout that occurred before that date is governed
26 by the law in effect immediately before the effective date of this
27 Act, and that law is continued in effect for that purpose.

1 SECTION 3. This Act takes effect September 1, 2021.