

1-1 By: Craddick (Senate Sponsor - Hughes) H.B. No. 4218
 1-2 (In the Senate - Received from the House April 21, 2021;
 1-3 May 4, 2021, read first time and referred to Committee on Natural
 1-4 Resources & Economic Development; May 19, 2021, reported favorably
 1-5 by the following vote: Yeas 7, Nays 0; May 19, 2021, sent to
 1-6 printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13	X			
1-14			X	
1-15	X			
1-16	X			
1-17	X			

1-18 A BILL TO BE ENTITLED
 1-19 AN ACT

1-20 relating to a cause of action for the bad faith washout of an
 1-21 overriding royalty interest in an oil and gas lease.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Title 4, Property Code, is amended by adding
 1-24 Chapter 31 to read as follows:

1-25 CHAPTER 31. BAD FAITH WASHOUT OF OVERRIDING ROYALTY INTEREST IN OIL
 1-26 AND GAS LEASE

1-27 Sec. 31.001. DEFINITIONS. In this chapter:

1-28 (1) "Bad faith" means the conscious taking of action
 1-29 for the purpose of washing out all or part of an overriding royalty
 1-30 interest.

1-31 (2) "Washout" means the elimination or reduction of an
 1-32 overriding royalty interest in an oil and gas lease by the
 1-33 forfeiture or surrender of the oil and gas lease by a lessee or the
 1-34 lessee's successors or assigns and the subsequent reacquisition of
 1-35 a lease, or all or part of the mineral estate associated with the
 1-36 lease, by the lessee or the lessee's successors, assigns,
 1-37 contractors, or subsidiaries on all or part of the same land, free
 1-38 of the overriding royalty interest.

1-39 Sec. 31.002. CAUSE OF ACTION FOR BAD FAITH WASHOUT. A
 1-40 person may bring a cause of action for a bad faith washout of the
 1-41 person's overriding royalty interest in an oil and gas lease. The
 1-42 person is entitled to a remedy under this chapter if the person
 1-43 proves by a preponderance of the evidence that:

1-44 (1) the person owned or had a legal right to the
 1-45 overriding royalty interest;

1-46 (2) the defendant had control over the oil and gas
 1-47 lease burdened by the overriding royalty interest;

1-48 (3) the defendant caused a washout of the person's
 1-49 overriding royalty interest; and

1-50 (4) the defendant acted in bad faith by knowingly or
 1-51 intentionally causing the washout.

1-52 Sec. 31.003. VENUE. An owner of an overriding royalty
 1-53 interest in an oil and gas lease may bring an action under this
 1-54 chapter in a district court of a county in which any part of the
 1-55 property subject to the oil and gas lease is located.

1-56 Sec. 31.004. REMEDIES; COSTS AND FEES. (a) An owner of an
 1-57 overriding royalty interest who prevails in an action under this
 1-58 chapter may recover:

1-59 (1) actual damages;

1-60 (2) enforcement of a constructive trust on the oil and
 1-61 gas lease or mineral estate acquired to accomplish the washout of

2-1 the overriding royalty interest; and

2-2 (3) court costs and attorney's fees.

2-3 (b) The remedies provided by this chapter are cumulative of
2-4 other remedies provided by common law or statute.

2-5 Sec. 31.005. LIMITATION ON FILING ACTION. A person must
2-6 bring an action under this chapter not later than the second
2-7 anniversary of the date the person obtained actual knowledge that
2-8 the washout occurred.

2-9 SECTION 2. Chapter 31, Property Code, as added by this Act,
2-10 applies only to a washout that occurs on or after the effective date
2-11 of this Act. A washout that occurred before that date is governed
2-12 by the law in effect immediately before the effective date of this
2-13 Act, and that law is continued in effect for that purpose.

2-14 SECTION 3. This Act takes effect September 1, 2021.

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