

By: King
(Hefner)

S.B. No. 604

A BILL TO BE ENTITLED

AN ACT

relating to land services performed by a landman.

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

SECTION 1. Chapter 954, Occupations Code, is amended to read as follows:

CHAPTER 954. LAND SERVICES FOR PETROLEUM, [AND] MINERAL, AND OTHER ENERGY SOURCES [~~LAND SERVICES~~]

Sec. 954.001. DEFINITIONS. In this chapter:

(1) "Land services" means the performance or supervision of one or more of the following activities:

(A) negotiating the acquisition or divestiture of mineral rights or rights associated with other energy sources;

(B) negotiating business agreements that provide for the exploration for or development of minerals or other energy sources;

(C) ascertaining ownership in mineral rights or rights associated with other energy sources and related real property through the research of public and private records;

(D) reviewing the status of title, curing title defects, providing title due diligence, and otherwise reducing title risk associated with the ownership, acquisition, or divestiture of mineral rights, property associated with minerals, or rights associated with other energy sources, excluding:

(i) administrative functions;

1 (ii) division order functions; and

2 (iii) lease analyst functions;

3 (E) managing rights or obligations derived from
4 ownership of interests in minerals or rights associated with other
5 energy sources; or

6 (F) using or pooling mineral interests or rights
7 associated with other energy sources.

8 (2) "Mineral" has the meaning assigned by Section
9 75.001, Property Code. The term includes oil, gas, related
10 hydrocarbons, coal, lignite, uranium, and substances classified as
11 base, industrial, precious, or strategic minerals.

12 (3) "Other energy source" means a natural resource
13 other than a mineral that is necessary to produce energy, including
14 geothermal, hydroelectric, nuclear, solar, and wind energy.

15 Sec. 954.002. EXCEPTION TO PRACTICE OF LAW. For the
16 purposes of the definition in Section 81.101, Government Code, the
17 "practice of law" does not include engaging in land services [~~acts~~
18 ~~relating to the lease, purchase, sale, or transfer of a mineral or~~
19 ~~mining interest in real property or an easement or other interest~~
20 ~~associated with a mineral or mining interest in real property]~~ if:

21 (1) the acts are performed by a person who does not
22 hold the person out as an attorney licensed to practice law in this
23 state or in another jurisdiction; and

24 (2) the person is not a licensed attorney.

25 SECTION 2. Section 1101.005, Occupations Code, is amended
26 to read as follows:

27 Sec. 1101.005. APPLICABILITY OF CHAPTER. This chapter

1 does not apply to:

2 (1) an attorney licensed in this state;

3 (2) an attorney-in-fact authorized under a power of
4 attorney to conduct not more than three real estate transactions
5 annually;

6 (3) a public official while engaged in official
7 duties;

8 (4) an auctioneer licensed under Chapter 1802 while
9 conducting the sale of real estate by auction if the auctioneer does
10 not perform another act of a broker;

11 (5) a person conducting a real estate transaction
12 under a court order or the authority of a will or written trust
13 instrument;

14 (6) a person employed by an owner in the sale of
15 structures and land on which structures are located if the
16 structures are erected by the owner in the course of the owner's
17 business;

18 (7) an on-site manager of an apartment complex;

19 (8) an owner or the owner's employee who leases the
20 owner's improved or unimproved real estate; or

21 (9) a transaction involving:

22 (A) the sale, lease, or transfer of a mineral or
23 mining interest in real property;

24 (B) the sale, lease, or transfer of a cemetery
25 lot;

26 (C) the lease or management of a hotel or motel;

27 [~~or~~]

1 (D) the sale of real property under a power of
2 sale conferred by a deed of trust or other contract lien; or

3 (E) the sale, lease, or transfer of an interest
4 in real property relating to another energy source, as defined by
5 Section 954.001.

6 SECTION 3. Section 1702.324(a), Occupations Code, is
7 amended to read as follows:

8 (a) For the purposes of this section, "landman" means an
9 individual who, in the course and scope of the individual's
10 business:

11 (1) acquires, divests, or manages petroleum or mineral
12 interests; ~~or~~

13 (2) performs title or contract functions related to
14 the exploration, exploitation, or disposition of petroleum or
15 mineral interests; or

16 (3) otherwise engages in land services as defined by
17 Section 954.001.

18 SECTION 4. Section 171.1011(g-11), Tax Code, is amended to
19 read as follows:

20 (g-11) A taxable entity that is primarily engaged in the
21 business of performing landman services shall exclude from its
22 total revenue, to the extent included under Subsection (c)(1)(A),
23 (c)(2)(A), or (c)(3), subcontracting payments made by the taxable
24 entity to nonemployees for the performance of landman services on
25 behalf of the taxable entity. In this subsection, "landman
26 services" means:

27 (1) performing title searches for the purpose of

1 determining ownership of or curing title defects related to oil,
2 gas, other energy sources, or other related mineral or petroleum
3 interests;

4 (2) negotiating the acquisition or divestiture of
5 mineral rights for the purpose of the exploration, development, or
6 production of oil, gas, other energy sources, or other related
7 mineral or petroleum interests; or

8 (3) negotiating or managing the negotiation of
9 contracts or other agreements related to the ownership of mineral
10 interests for the exploration, exploitation, disposition,
11 development, or production of oil, gas, other energy sources, or
12 other related mineral or petroleum interests.

13 SECTION 5. The change in law made by this Act to Section
14 [171.1011\(g-11\)](#), Tax Code, applies only to a report originally due
15 on or after January 1, 2024.

16 SECTION 6. (a) Except as provided by Subsection (b) of this
17 section, this Act takes effect:

18 (1) immediately if this Act receives a vote of
19 two-thirds of all the members elected to each house, as provided by
20 Section [39](#), Article III, Texas Constitution; or

21 (2) September 1, 2023, if this Act does not receive the
22 vote necessary for immediate effect.

23 (b) Section [171.1011\(g-11\)](#), Tax Code, as amended by this
24 Act, takes effect January 1, 2024.