

By: Keffer of Dallas

H.B. No. 2613

A BILL TO BE ENTITLED

1 AN ACT

2 relating to liens on stored hydrocarbons at sites and facilities  
3 that have not been timely cleaned up.

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

5 SECTION 1. The heading to Section 91.115, Natural Resources  
6 Code, is amended to read as follows:

7 Sec. 91.115. FIRST LIEN ON EQUIPMENT AND STORED  
8 HYDROCARBONS.

9 SECTION 2. Section 91.115, Natural Resources Code, is  
10 amended by amending Subsections (a), (e), and (f) and adding  
11 Subsection (h) to read as follows:

12 (a) If a responsible person fails to clean up a site or  
13 facility that has ceased oil and gas operations under the  
14 commission's jurisdiction on or before the date the site or  
15 facility is required to be cleaned up by law or by a rule adopted or  
16 order issued by the commission, the state has a first lien, superior  
17 to all preexisting and subsequent liens and security interests, on  
18 the responsible person's interest in any hydrocarbons stored at the  
19 site or facility and in any equipment that is:

20 (1) located at the site or facility; and

21 (2) used by the responsible person in connection with  
22 the activity that generated the pollution.

23 (e) The lien is extinguished as to any stored hydrocarbons  
24 or items [~~item~~] of equipment that are [~~is~~] lawfully removed by any

1 person other than the operator or a nonoperator according to a lien,  
2 lease, judgment, written contract, or security agreement before the  
3 commission enters into a cleanup contract. An item of equipment may  
4 not be removed from an abandoned site or facility if the removal  
5 will cause the release of a substance that may cause pollution  
6 unless the substance is lawfully disposed of.

7 (f) Equipment or stored hydrocarbons subject to a lien under  
8 this section are [~~is~~] presumed to have been abandoned on the date  
9 the commission enters into a contract to clean up the site or  
10 facility on which the equipment or hydrocarbons are [~~is~~] located.  
11 The commission may dispose of the equipment or stored hydrocarbons  
12 in accordance with the provisions of Sections 89.085, 89.086, and  
13 89.087 of this code for the disposition of well-site equipment and  
14 hydrocarbons.

15 (h) The lien provided by this section, as it relates to  
16 stored hydrocarbons, shall be subject to and inferior to any lien in  
17 favor of the State of Texas to secure royalty payments.

18 SECTION 3. (a) This Act takes effect September 1, 2003.

19 (b) The changes in law made by Section 91.115, Natural  
20 Resources Code, as amended by this Act, apply only to an interest in  
21 hydrocarbons stored at a site or facility the date for cleanup of  
22 which required by law or rule or order adopted by the Railroad  
23 Commission of Texas is September 1, 2003, or later.