

BILL ANALYSIS

H.B. 2087
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Energy Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, when the lessee under an oil and gas lease becomes delinquent in his or her royalty payments, the General Land Office has three options: it can terminate a lease for nonpayment, file suit against a lessee for nonpayment and upon receiving a judgment attempt to levy against any property that the lessee may have, or it may invoke its statutory and contractual lien rights.

Once the land office exercises its lien rights, the first purchaser of oil and gas from the lessee is required to remit 100 percent of the funds due the lessee to the land office until such time as the delinquent royalties, penalty, and interest are paid. However, this payment hold is only applicable to the specific lease with the delinquent royalty payments, so if an operator with a number of state leases falls behind in payments on one or more leases, the land office cannot use the proceeds of the operator's remaining leases to satisfy the operator's debt to the state.

H.B. 2087 authorizes the application of the state's statutory and contractual lien to the proceeds of other state leases of the same lessee. The bill authorizes the commissioner of the General Land Office to waive the state's contractual lien in extraordinary situations.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 2087 amends the Natural Resources Code to clarify that the proceeds that may accrue to a lessee from the sale of oil and gas for which the lessee has granted an express contractual lien or security interest to the state by acceptance of a lease of state land refers to the sale of oil and gas extracted from the area covered by the lease or from the area covered by any other lease of state land or minerals held by the lessee. The bill specifies that the state's securing of the payment of royalties and other amounts due or to become due under the lease and its securing of the payment of damages or loss that the state may suffer by reason of the lessee's breach of a covenant or condition of the lease, whether express or implied, also applies to a condition of another lease of state land or minerals held by the lessee. The bill authorizes the commissioner of the General Land Office to temporarily suspend enforcement of a lien to secure the payment of unpaid royalty and other amounts due under oil and gas leases of state land if the commissioner determines that, because of extenuating circumstances beyond the control of the lessee, the lessee did not receive payment from the first purchaser of the oil or gas produced from the lease area.

EFFECTIVE DATE

September 1, 2009.