

By: Geren

H.B. No. 1405

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of landmen by the Texas Real Estate Commission.

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

SECTION 1. Section 1101.002, Occupations Code, is amended by adding Subdivision (3-a) to read as follows:

(3-a) "Landman" means a person who, in the course and scope of the person's business:

(A) acquires or manages petroleum, natural gas, or mineral interests;

(B) performs title or contract functions related to the exploration, exploitation, or disposition of petroleum, natural gas, or mineral interests;

(C) negotiates for the acquisition or divestiture of petroleum, natural gas, or mineral rights, including the acquisition or divestiture of land or petroleum, natural gas, or mineral rights for a pipeline; or

(D) negotiates business agreements that provide for the exploration for or development of petroleum, natural gas, or minerals.

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

Sec. 1101.005. APPLICABILITY OF CHAPTER. This chapter does not apply to:

- 1           (1) an attorney licensed in any state;
- 2           (2) an attorney-in-fact authorized under a power of  
3 attorney to conduct a real estate transaction;
- 4           (3) a public official while engaged in official  
5 duties;
- 6           (4) an auctioneer licensed under Chapter 1802 while  
7 conducting the sale of real estate by auction if the auctioneer does  
8 not perform another act of a broker or salesperson;
- 9           (5) a person conducting a real estate transaction  
10 under a court order or the authority of a will or written trust  
11 instrument;
- 12           (6) a person employed by an owner in the sale of  
13 structures and land on which structures are located if the  
14 structures are erected by the owner in the course of the owner's  
15 business;
- 16           (7) an on-site manager of an apartment complex;
- 17           (8) an owner or the owner's employee who leases the  
18 owner's improved or unimproved real estate;
- 19           (9) a partnership or limited liability partnership  
20 acting as a broker or salesperson through a partner who is a  
21 licensed broker; or
- 22           (10) a transaction involving:
  - 23               (A) the sale, lease, or transfer of a mineral or  
24 mining interest in real property subject to Section 1101.3515;
  - 25               (B) the sale, lease, or transfer of a cemetery  
26 lot;
  - 27               (C) the lease or management of a hotel or motel;

1 or

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

4 SECTION 3. Subchapter H, Chapter 1101, Occupations Code, is  
5 amended by adding Section 1101.3515 to read as follows:

6 Sec. 1101.3515. LANDMAN LICENSE REQUIRED. (a) A person may  
7 not act as or represent that the person is a landman in this state  
8 unless the person holds a landman license under this chapter.

9 (b) An applicant for a landman license shall submit an  
10 application to the commission on the form prescribed by the  
11 commission, pay the fee established by commission rule, and comply  
12 with any other requirements established by commission rule,  
13 including eligibility and examination requirements. An applicant  
14 for a landman license may not act as a landman until the person  
15 receives a license issued by the commission.

16 (c) To protect the public, the commission by rule shall:

17 (1) establish the eligibility requirements for a  
18 landman license holder, including education, experience, and  
19 examination requirements as appropriate;

20 (2) establish the moral character requirements,  
21 including honesty, trustworthiness, and integrity, an applicant or  
22 license holder must satisfy to hold a landman license;

23 (3) establish the form and procedures for applying for  
24 a landman license;

25 (4) set the application and license fees;

26 (5) establish the term of the license and renewal  
27 procedures and fees;

1           (6) establish continuing education requirements;

2           (7) determine the scope of practice by a landman  
3 license holder; and

4           (8) require a landman license holder to comply with  
5 the standards of conduct and ethics established by the commission  
6 for a person licensed under this chapter.

7           (d) A landman license is valid for the term established by  
8 commission rule. A landman may renew a landman license by  
9 submitting a renewal application to the commission on the form  
10 prescribed by the commission, paying the required renewal fee, and  
11 complying with any other requirements established by commission  
12 rule, including continuing education requirements.

13           (e) A licensed landman or person required to be licensed as  
14 a landman who violates this chapter or rules adopted under this  
15 chapter is subject to disciplinary action under this chapter.

16           SECTION 4. (a) Not later than January 1, 2010, the Texas  
17 Real Estate Commission shall adopt the rules necessary to implement  
18 Section 1101.3515, Occupations Code, as added by this Act.

19           (b) Notwithstanding Section 1101.3515, Occupations Code, as  
20 added by this Act, a person is not required to hold a landman  
21 license to act as a landman in this state until March 1, 2010.

22           SECTION 5. This Act takes effect September 1, 2009.