

By: Seliger

S.B. No. 1823

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the state's statutory and contractual liens to secure
3 the payment of unpaid royalty and other amounts due under oil and
4 gas leases of state land.

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

6 SECTION 1. Section 52.136, Natural Resources Code, is
7 amended by amending Subsection (b) and adding Subsections (b-1),
8 (b-2), (b-3), and (d) to read as follows:

9 (b) By acceptance of a lease, the lessee grants to the state
10 an express contractual lien on and security interest in all oil and
11 gas in and extracted from the area covered by the lease, all
12 proceeds which may accrue to the lessee from the sale of the oil and
13 gas extracted from the area covered by the lease or from the area
14 covered by any other lease of state land or minerals held by the
15 same lessee, whether the proceeds are held by the lessee or another
16 person, and all fixtures on and improvements to the area covered by
17 the lease used in connection with the production or processing of
18 the oil and gas, to secure the payment of royalties and other
19 amounts due or to become due under the lease or this subchapter and
20 to secure payment of damages or loss that the state may suffer by
21 reason of the lessee's breach of a covenant or condition of the
22 lease or of another lease of state land or minerals held by the
23 lessee, whether express or implied.

24 (b-1) The commissioner shall determine whether to foreclose

1 a lien established by Subsection (b) securing the payment of
2 royalties and other amounts due or to become due under a lease or
3 this subchapter and securing payment of damages or loss that the
4 state may suffer by reason of the lessee's breach of a covenant or
5 condition of the lease, whether express or implied, including the
6 lien on all proceeds which may accrue to the lessee from the sale of
7 the oil and gas extracted from the area covered by any other lease
8 of state land or minerals held by the lessee.

9 (b-2) The commissioner shall determine the amount of a lien
10 established by Subsection (b). The amount shall be based on the
11 final audit billing notice, or similar order or notice, sent to the
12 lessee and any penalty and interest that may have accrued after the
13 date the final billing notice, or similar order or notice, was sent.

14 (b-3) The commissioner may adjust the amount of a lien
15 established by Subsection (b) to account for the lessee's
16 proportionate ownership interest in the lease.

17 (d) The commissioner may temporarily suspend enforcement of
18 a lien established by Subsection (b):

19 (1) if the commissioner determines that the lessee did
20 not receive payment from the first purchaser of the oil or gas
21 produced from the lease area; or

22 (2) because of other extenuating circumstances beyond
23 the control of the lessee.

24 SECTION 2. This Act takes effect September 1, 2009.