

1-1 By: Seliger S.B. No. 1823
1-2 (In the Senate - Filed March 11, 2009; March 20, 2009, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 16, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 10, Nays 0; April 16, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1823 By: Seliger

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the state's statutory and contractual liens to secure
1-11 the payment of unpaid royalty and other amounts due under oil and
1-12 gas leases of state land.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 52.136, Natural Resources Code, is
1-15 amended by amending Subsection (b) and adding Subsections (b-1),
1-16 (b-2), (b-3), and (d) to read as follows:

1-17 (b) By acceptance of a lease, the lessee grants to the state
1-18 an express contractual lien on and security interest in all oil and
1-19 gas in and extracted from the area covered by the lease, all
1-20 proceeds which may accrue to the lessee from the sale of the oil and
1-21 gas extracted from the area covered by the lease or from the area
1-22 covered by any other lease of state land or minerals held by the
1-23 lessee, whether the proceeds are held by the lessee or another
1-24 person, and all fixtures on and improvements to the area covered by
1-25 the lease used in connection with the production or processing of
1-26 the oil and gas, to secure the payment of royalties and other
1-27 amounts due or to become due under the lease or this subchapter and
1-28 to secure payment of damages or loss that the state may suffer by
1-29 reason of the lessee's breach of a covenant or condition of the
1-30 lease or of another lease of state land or minerals held by the
1-31 lessee, whether express or implied.

1-32 (b-1) The commissioner shall determine whether to foreclose
1-33 a lien established by Subsection (b) securing the payment of
1-34 royalties and other amounts due or to become due under a lease or
1-35 this subchapter and securing payment of damages or loss that the
1-36 state may suffer by reason of the lessee's breach of a covenant or
1-37 condition of the lease, whether express or implied, including the
1-38 lien on all proceeds which may accrue to the lessee from the sale of
1-39 the oil and gas extracted from the area covered by any other lease
1-40 of state land or minerals held by the lessee.

1-41 (b-2) The commissioner shall determine the amount of a lien
1-42 established by Subsection (b). The amount shall be based on the
1-43 final audit billing notice, or similar order or notice, sent to the
1-44 lessee and any penalty and interest that may have accrued after the
1-45 date the final billing notice, or similar order or notice, was sent.

1-46 (b-3) The commissioner may adjust the amount of a lien
1-47 established by Subsection (b) to account for the lessee's
1-48 proportionate ownership interest in the lease.

1-49 (d) The commissioner may temporarily suspend enforcement of
1-50 a lien established by Subsection (b) if the commissioner determines
1-51 that, because of extenuating circumstances beyond the control of
1-52 the lessee, the lessee did not receive payment from the first
1-53 purchaser of the oil or gas produced from the lease area.

1-54 SECTION 2. This Act takes effect September 1, 2009.

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