

By: Guillen

H.B. No. 77

A BILL TO BE ENTITLED

AN ACT

relating to claims for and distribution of unclaimed land grant mineral proceeds.

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

SECTION 1. Subchapter E, Chapter 74, Property Code, is amended by adding Section 74.405 to read as follows:

Sec. 74.405. UNCLAIMED LAND GRANT MINERAL PROCEEDS. (a) In this section, "unclaimed land grant mineral proceeds" are mineral proceeds governed by Subchapter C, Chapter 75.

(b) Unclaimed land grant mineral proceeds delivered to the comptroller under this chapter may be distributed only under Subchapter C, Chapter 75.

SECTION 2. Section 74.507, Property Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Section 75.155, a [A] person who informs a potential claimant that the claimant may be entitled to claim property that is reportable to the comptroller under this chapter, that has been reported to the comptroller, or that is in the possession of the comptroller may not contract for or receive from the claimant for services an amount that exceeds 10 percent of the value of the property recovered. If the property involved is mineral proceeds, the amount for services may not include a portion of the underlying minerals or any production payment, overriding

1 royalty, or similar payment.

2 (c) Notwithstanding Subsection (b), a person who informs a  
3 potential claimant of a claim under Subchapter C, Chapter 75, may  
4 file or receive a form to claim on behalf of the claimant as  
5 provided by contract or other written agreement between the  
6 potential claimant and the person.

7 SECTION 3. Section 74.601, Property Code, is amended by  
8 amending Subsection (b) and adding Subsection (h) to read as  
9 follows:

10 (b) Except as provided by Subsection (h), the ~~[The]~~  
11 comptroller shall deposit to the credit of the general revenue  
12 fund:

13 (1) all funds, including marketable securities,  
14 delivered to the comptroller under this chapter or any other  
15 statute requiring the delivery of unclaimed property to the  
16 comptroller;

17 (2) all proceeds from the sale of any property,  
18 including marketable securities, under this chapter;

19 (3) all funds that have escheated to the state under  
20 Chapter 71, except that funds relating to escheated real property  
21 shall be deposited according to Section 71.202; and

22 (4) any income derived from investments of the  
23 unclaimed money.

24 (h) Not later than the 90th day after the end of each fiscal  
25 year, the comptroller shall deposit unclaimed land grant mineral  
26 proceeds delivered under this chapter to the credit of the  
27 unclaimed land grant mineral proceeds revenue account in the

1 general revenue fund. Money in the unclaimed land grant mineral  
2 proceeds revenue account may be distributed only as provided by  
3 Subchapter C, Chapter 75.

4 SECTION 4. Section 75.001(a), Property Code, is amended by  
5 adding Subdivisions (4), (5), and (6) to read as follows:

6 (4) "Original land grant" means the initial conveyance  
7 of real property in this state, as evidenced by a certificate,  
8 title, or patent, from:

9 (A) the Crown of Spain;

10 (B) Mexico;

11 (C) the Republic of Texas; or

12 (D) this state.

13 (5) "Net mineral estate" means the percentage portion  
14 of mineral proceeds derived from an original land grant owned by a  
15 descendent of an original grantee.

16 (6) "Third-party data provider" means a data provider  
17 approved under rules adopted by the comptroller.

18 SECTION 5. Section 75.001(c), Property Code, is amended to  
19 read as follows:

20 (c) Except as provided by Subchapter C, a [A] holder of  
21 property presumed abandoned under this chapter is subject to the  
22 procedures of Chapter 74.

23 SECTION 6. Chapter 75, Property Code, is amended by adding  
24 Subchapter C to read as follows:

25 SUBCHAPTER C. UNCLAIMED LAND GRANT MINERAL PROCEEDS

26 Sec. 75.151. APPLICABILITY. This subchapter applies to all  
27 mineral proceeds that are:

1           (1) derived directly or indirectly from real property  
2 located in this state regardless of the location of the holder's  
3 formation, organization, incorporation, or domicile;

4           (2) unclaimed and presumed abandoned under this  
5 chapter or Chapter 72, 73, or 74;

6           (3) held by a holder or the comptroller; and

7           (4) reportable to the comptroller under Subchapter B,  
8 Chapter 74.

9           Sec. 75.152. NET MINERAL ESTATE CALCULATIONS. (a) In  
10 accordance with rules adopted by the comptroller, a third-party  
11 data provider may:

12           (1) determine the net mineral estate of each original  
13 land grant based on evidence provided by one or more land surveyors  
14 registered, licensed, or certified under Chapter 1071, Occupations  
15 Code; and

16           (2) based on records of the Railroad Commission of  
17 Texas, determine the total amount of mineral production for each  
18 original land grant having a net mineral estate from January 1,  
19 1985, until the date the determination is made.

20           (b) To determine the percentage that each original land  
21 grant constitutes of the whole of the original land grants, the  
22 result of Subsection (a)(1) must be multiplied by the result of  
23 Subsection (a)(2) for each original land grant.

24           (c) The comptroller shall adopt rules for purposes of  
25 Subsection (a).

26           Sec. 75.153. CLAIM AGAINST UNCLAIMED LAND GRANT MINERAL  
27 PROCEEDS. (a) A person may submit a claim for the person's net

1 mineral estate against unclaimed land grant mineral proceeds held  
2 by the comptroller in the unclaimed land grant mineral proceeds  
3 revenue account by filing with the comptroller a form adopted by  
4 comptroller rule. In addition to the form, a person must submit:

5 (1) an affidavit stating that, to the best of the  
6 claimant's information, knowledge, and belief:

7 (A) the claimant does not receive and has never  
8 received mineral proceeds from the original land grant; and

9 (B) the claimant's ancestors do not or did not  
10 receive mineral proceeds from the original land grant; and

11 (2) a copy of a final, unappealable judgment  
12 establishing:

13 (A) the claimant's heirship as a descendent of  
14 the grantee of an original land grant; and

15 (B) the extent of the claimant's interest in the  
16 mineral proceeds of the land grant.

17 (b) A claimant may submit a claim under any line of  
18 descendency established in a final, unappealable judgment.

19 (c) The comptroller shall approve a claim that complies with  
20 Subsection (a).

21 Sec. 75.154. MAXIMUM CLAIM CALCULATION. Beginning on  
22 January 1, 2012, to determine the maximum amount for which a claim  
23 may be made by a claimant for an original land grant, the percentage  
24 figure under Section 75.152(b) for each original land grant having  
25 a net mineral estate must be multiplied by the total amount of money  
26 in the unclaimed land grant mineral proceeds revenue account under  
27 Section 74.601(h).

1       Sec. 75.155. ATTORNEY'S FEES. (a) An attorney licensed in  
2 this state may represent a claimant under this subchapter or in a  
3 judicial or administrative proceeding related to this subchapter.

4       (b) An attorney who represents a claimant under this  
5 subchapter or in a judicial or administrative proceeding related to  
6 this subchapter may contract with the claimant for attorney's fees  
7 on an hourly or contingency basis or otherwise, as prescribed by  
8 Rule 1.04, Texas Disciplinary Rules of Professional Conduct.

9       Sec. 75.156. EXPENDITURES. (a) The expenses of the  
10 comptroller in executing this subchapter may be paid only from the  
11 unclaimed land grant mineral proceeds revenue account described by  
12 Section 74.601(h).

13       (b) The comptroller shall adopt rules as necessary to  
14 administer this section.

15       SECTION 7. (a) Not later than November 1, 2011, the  
16 comptroller shall adopt rules as required by Sections 75.152 and  
17 75.156, Property Code, as added by this Act.

18       (b) Not later than the 30th day after the effective date of  
19 this Act, the comptroller shall transfer to the unclaimed land  
20 grant mineral proceeds revenue account created under Section  
21 74.601, Property Code, as amended by this Act, all unclaimed land  
22 grant mineral proceeds delivered to and held by the comptroller  
23 under Chapter 74, Property Code.

24       SECTION 8. (a) The change in law made by Section 75.155,  
25 Property Code, as added by this Act, applies to a contract executed  
26 before, on, or after the effective date of this Act.

27       (b) The changes in law made by Subchapter C, Chapter 75,

1 Property Code, as added by this Act, apply only to a claim filed on  
2 or after the effective date of this Act. A claim filed before the  
3 effective date of this Act is covered by the law in effect when the  
4 claim was filed, and the former law is continued in effect for that  
5 purpose.

6 SECTION 9. This Act takes effect immediately if it receives  
7 a vote of two-thirds of all the members elected to each house, as  
8 provided by Section 39, Article III, Texas Constitution. If this  
9 Act does not receive the vote necessary for immediate effect, this  
10 Act takes effect on the 91st day after the last day of the  
11 legislative session.