

By: Orr, Smithee, Vo

H.B. No. 1355

A BILL TO BE ENTITLED

AN ACT

relating to title insurance coverage for minerals and surface damage resulting from mineral extraction and development.

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

SECTION 1. Subchapter B, Chapter 2703, Insurance Code, is amended by adding Section 2703.0515 to read as follows:

Sec. 2703.0515. CERTAIN REQUIREMENTS PROHIBITED. (a) A title insurance company is not required to offer or provide in connection with a title insurance policy an endorsement insuring a loss from damage resulting from the use of the surface of the land for the extraction or development of coal, lignite, oil, gas, or another mineral if the policy includes a general exception or exclusion from coverage a loss from damage resulting from the use of the surface of the land for the extraction or development of coal, lignite, oil, gas, or another mineral.

(b) In this section, "general exception or exclusion" means a provision in a title insurance policy or other title insuring form that provides that title insurance coverage under the policy or form:

(1) is subject to, and the title insurer does not insure title to, and excepts from the description of the covered property, coal, lignite, oil, gas, and other minerals in and under and that may be produced from the covered property, together with related rights, privileges, and immunities; or

1 (2) does not cover a lease, grant, exception, or
2 reservation of coal, lignite, oil, gas, or other minerals, or
3 related rights, privileges, and immunities, appearing in the public
4 records.

5 (c) An additional premium or other amount may not be charged
6 for an endorsement to a loan policy of title insurance if the
7 endorsement:

8 (1) insures against loss from damage to improvements
9 or permanent buildings located on land that results from the future
10 exercise of any right existing on the date of the loan policy to use
11 the surface of the land for the extraction or development of coal,
12 lignite, oil, gas, or another mineral;

13 (2) expressly does not insure against loss resulting
14 from subsidence; and

15 (3) was promulgated by the commissioner in calendar
16 year 2009.

17 SECTION 2. Subchapter B, Chapter 2703, Insurance Code, is
18 amended by adding Sections 2703.055 and 2703.056 to read as
19 follows:

20 Sec. 2703.055. REQUIREMENT OF CERTAIN PROVISIONS
21 PROHIBITED. The commissioner may not require by rule or through
22 adoption of a title insurance policy or other insuring form that a
23 title insurance policy delivered or issued for delivery in this
24 state:

25 (1) insure against a loss that a person with an
26 interest in real property sustains from damage to the property by
27 reason of severance of minerals from the surface estate; or

1 (2) provide insurance as to ownership of minerals.

2 Sec. 2703.056. EXCEPTIONS; MINERAL INTERESTS. (a) Subject
3 to the underwriting standards of the title insurance company, a
4 title insurance company may in a commitment for title insurance or a
5 title insurance policy include a general exception or a special
6 exception to except from coverage a mineral estate or an instrument
7 which purports to reserve or transfer all or part of a mineral
8 estate.

9 (b) The inclusion in a title insurance policy of a general
10 exception or a special exception described by Subsection (a) does
11 not create title insurance coverage as to the condition or
12 ownership of the mineral estate.

13 SECTION 3. Sections 2703.055 and 2703.056, Insurance Code,
14 as added by this Act, apply only to a title insurance policy that is
15 delivered or issued for delivery on or after January 1, 2012. A
16 policy delivered or issued for delivery before January 1, 2012, is
17 governed by the law as it existed immediately before the effective
18 date of this Act, and that law is continued in effect for that
19 purpose.

20 SECTION 4. This Act applies only to a title insurance policy
21 that is delivered or issued for delivery on or after January 1,
22 2012. A policy delivered or issued for delivery before January 1,
23 2012, is governed by the law as it existed immediately before the
24 effective date of this Act, and that law is continued in effect for
25 that purpose.

26 SECTION 5. This Act takes effect September 1, 2011.