

By: Craddick

H.B. No. 2087

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to allocating production from horizontal wells to  
3 non-participating royalty interests.

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

5 SECTION 1. Chapter 91, Natural Resources Code, is amended  
6 by adding the following to Subchapter J, to read as follows:

7 Sec. 91.409. Allocation of Production From Horizontal  
8 Drainhole Wells to Non-Participating Royalty Interests

9 (a) A payee that owns a non-participating royalty interest  
10 in a tract that has been penetrated by a horizontal drainhole well  
11 as defined by the Railroad Commission, for oil or gas, or both, but  
12 who has not ratified a lease or pooling agreement covering such  
13 tract, shall be entitled to be paid its allocated share of  
14 production proceeds from such horizontal drainhole well based upon  
15 the ratio of the length of the horizontal drainhole across the  
16 payee's tract between the first take point and last take point to  
17 the total length of the horizontal drainhole between the first take  
18 point and the last take point. A payor who pays such payee's  
19 non-participating royalty interest based upon the allocation  
20 method set forth in this section shall be presumed to have  
21 accurately attributed production to that interest.

22 (b) A payee or payor under this section may rebut the  
23 presumption that the allocation method set forth in this section  
24 accurately attributes production to the payee's non-participating

1 royalty interest through a final order of the Railroad Commission  
2 establishing another method of allocation of production to the  
3 payee's non-participating royalty interest. Such order may only be  
4 obtained after application, notice to the payees associated with  
5 the tract containing the non-participating royalty interest and the  
6 payor, and an opportunity for hearing. The Railroad Commission may  
7 establish an alternate method of allocation only upon a showing by  
8 clear and convincing evidence that such method is more accurate in  
9 attributing production to the payee's interest than the method set  
10 out in this section. The Railroad Commission shall have exclusive  
11 primary jurisdiction over such a determination.

12 (c) This section shall not apply to units formed under  
13 Chapter 102, Natural Resources Code.

14 SECTION 2. This Act shall apply to production from wells  
15 spudded on or after September 1, 2011.

16 SECTION 3. This Act takes effect immediately if it receives  
17 a vote of two-thirds of all the members elected to each house, as  
18 provided by Section 39, Article III, Texas Constitution. If this  
19 Act does not receive the vote necessary for immediate effect, this  
20 Act takes effect September 1, 2011.