

By: Guillen

H.B. No. 2611

Substitute the following for H.B. No. 2611:

By: Miller of Erath

C.S.H.B. No. 2611

A BILL TO BE ENTITLED

AN ACT

1
2 relating to claims for and distribution of unclaimed land grant
3 mineral proceeds.

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

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

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

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

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

16 (a) Except as provided by Section 75.155, a [A] person who
17 informs a potential claimant that the claimant may be entitled to
18 claim property that is reportable to the comptroller under this
19 chapter, that has been reported to the comptroller, or that is in
20 the possession of the comptroller may not contract for or receive
21 from the claimant for services an amount that exceeds 10 percent of
22 the value of the property recovered. If the property involved is
23 mineral proceeds, the amount for services may not include a portion
24 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 September 1, 2011.