

By: Guillen

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 74.601, Property Code, is amended by
14 amending Subsection (b) and adding Subsection (h) to read as
15 follows:

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

19 (1) all funds, including marketable securities,
20 delivered to the comptroller under this chapter or any other
21 statute requiring the delivery of unclaimed property to the
22 comptroller;

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

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

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

6 (h) Not later than the 90th day after the end of each fiscal
7 year, the comptroller shall deposit unclaimed land grant mineral
8 proceeds delivered under this chapter to the credit of the
9 unclaimed land grant mineral proceeds account in the general
10 revenue fund. Money in the unclaimed land grant mineral proceeds
11 account may be distributed only as provided by Subchapter C,
12 Chapter 75.

13 SECTION 3. Section 75.001(a), Property Code, is amended by
14 adding Subdivisions (4), (5), and (6) to read as follows:

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

18 (A) the Crown of Spain;

19 (B) Mexico;

20 (C) the Republic of Texas; or

21 (D) this state.

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

25 (6) "Commission" means the Railroad Commission of
26 Texas.

27 SECTION 4. Section 75.001(c), Property Code, is amended to

1 read as follows:

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

5 SECTION 5. Chapter 75, Property Code, is amended by adding
6 Subchapter C to read as follows:

7 SUBCHAPTER C. UNCLAIMED LAND GRANT MINERAL PROCEEDS

8 Sec. 75.151. APPLICABILITY. This subchapter applies to all
9 mineral proceeds that are:

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

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

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

16 (4) reportable to the comptroller under Subchapter B,
17 Chapter 74.

18 Sec. 75.152. CALCULATION OF MINERAL ESTATE. The Railroad
19 Commission of Texas shall determine and report to the comptroller
20 the extent of the mineral estate of each original land grant based
21 on:

22 (1) information from commission records submitted by a
23 land surveyor registered, licensed, or certified as provided by
24 Chapter 1071, Occupations Code;

25 (2) commission archives and records;

26 (3) General Land Office records; and

27 (4) any other information that the commission by rule

1 requires or approves.

2 Sec. 75.153. COMMISSION RULES. (a) The commission shall
3 adopt rules and procedures reasonably required for the performance
4 of its powers, duties, and functions under this subchapter,
5 including rules for providing any notice and procedures for any
6 public hearings. The rules for providing notice must include
7 procedures for providing notice to affected persons. The
8 commission by rule shall define who qualifies as an affected person
9 for purposes of claiming unclaimed land grant mineral proceeds.

10 (b) The commission shall send copies of proposed rules to
11 the comptroller and any other persons the commission determines
12 appropriate. The commission shall allow any agency or person to
13 whom the commission sends copies a reasonable period to submit
14 comments and recommendations.

15 Sec. 75.154. CLAIM AGAINST UNCLAIMED LAND GRANT MINERAL
16 PROCEEDS. (a) A person may submit a claim for the person's net
17 mineral estate against unclaimed land grant mineral proceeds held
18 by the comptroller by filing with the comptroller a form prescribed
19 by rule adopted by the comptroller. In addition to the form, a
20 person must submit:

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

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

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

27 (2) a copy of a final, unappealable judgment

1 establishing:

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

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

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

8 (c) The comptroller shall approve a claim that complies with
9 Subsection (a).

10 Sec. 75.155. CALCULATION OF NET MINERAL ESTATE. (a) An
11 approved claim under Section 75.154 must be paid in an amount
12 calculated under Subsection (b).

13 (b) The comptroller shall calculate the amount of an
14 approved claim in accordance with rules and procedures adopted by
15 the comptroller and based on:

16 (1) the application form and other information
17 submitted under Section 75.154(a);

18 (2) the mineral estate calculation report required
19 under Section 75.152; and

20 (3) other relevant factors as determined by the
21 comptroller.

22 Sec. 75.156. COMPTROLLER RULES. (a) The comptroller shall
23 adopt rules and procedures reasonably required for the performance
24 of the comptroller's powers, duties, and functions under this
25 subchapter, including rules for providing notice and procedures for
26 any public hearings. The rules for notice must include procedures
27 for providing notice to affected persons, as defined by commission

1 rule.

2 (b) The comptroller shall send copies of proposed rules to
3 the commission and any other persons the comptroller determines
4 appropriate. The comptroller shall allow any agency or person to
5 whom the comptroller sends copies a reasonable period to submit
6 comments and recommendations.

7 Sec. 75.157. ATTORNEY'S FEES. (a) An attorney licensed in
8 this state may represent a claimant under this subchapter or in a
9 judicial or administrative proceeding related to this subchapter.

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

15 SECTION 6. (a) Not later than January 1, 2012, the Railroad
16 Commission of Texas shall file the report described by Section
17 75.152, Property Code, as added by this Act.

18 (b) Not later than March 1, 2012, the Railroad Commission of
19 Texas shall adopt rules and procedures as required by Section
20 75.153, Property Code, as added by this Act.

21 (c) Not later than April 1, 2012, the comptroller shall
22 adopt rules and procedures as required by Section 75.156, Property
23 Code, as added by this Act.

24 (d) Not later than the 30th day after the effective date of
25 this Act, the comptroller shall transfer to the unclaimed land
26 grant mineral proceeds account created under Section 74.601,
27 Property Code, as amended by this Act, all unclaimed land grant

1 mineral proceeds delivered to and held by the comptroller under
2 Chapter 74, Property Code.

3 SECTION 7. (a) The change in law made by Section 75.157,
4 Property Code, as added by this Act, applies to a contract executed
5 before, on, or after the effective date of this Act.

6 (b) The changes in law made by Subchapter C, Chapter 75, as
7 added by this Act, apply only to a claim filed on or after the
8 effective date of this Act. A claim filed before the effective date
9 of this Act is covered by the law in effect when the claim was filed,
10 and the former law is continued in effect for that purpose.

11 SECTION 8. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2011.