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Longoria

H.B. No. 2207

A BILL TO BE ENTITLED

AN ACT

relating to the foreclosure sale of property subject to an oil or  
gas lease.

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

SECTION 1. Subtitle B, Title 5, Property Code, is amended by  
adding Chapter 66 to read as follows:

CHAPTER 66. SALE OF PROPERTY SUBJECT TO OIL OR GAS LEASE

Sec. 66.001. SALE OF PROPERTY SUBJECT TO OIL OR GAS LEASE.

(a) In this section:

(1) "Mortgagee," "mortgagor," and "security  
instrument" have the meanings assigned by Section 51.0001.

(2) "Oil or gas lease" means an instrument conveying a  
fee simple determinable interest in a mineral estate covering oil,  
gas, or other hydrocarbons or a recorded memorandum of such an  
instrument.

(3) "Real property" means an estate covering the  
mineral interest in hydrocarbons or the mineral interest in  
hydrocarbons together with the surface overlying such mineral  
interest. The term does not include a surface interest or other  
interest that excludes a mineral interest in hydrocarbons.

(b) Notwithstanding any other law, an oil or gas lease  
covering real property subject to a security instrument that has  
been foreclosed remains in effect after the foreclosure sale if the  
oil or gas lease has not terminated or expired on its own terms and

1 was executed and recorded in the real property records of the county  
2 before the foreclosure sale. An interest of the mortgagor or the  
3 mortgagor's assigns in the oil or gas lease, including a right to  
4 receive royalties or other payments that become due and payable  
5 after the date of the foreclosure, passes to the purchaser of the  
6 foreclosed property to the extent that the security instrument  
7 under which the real property was foreclosed had priority over the  
8 interest in the oil or gas lease of the mortgagor or the mortgagor's  
9 assigns.

10 (c) Notwithstanding Subsection (b), if real property that  
11 includes the mineral interest in hydrocarbons together with the  
12 surface overlying such mineral interest is subject to both an oil or  
13 gas lease and a security instrument and the security interest is  
14 foreclosed, the foreclosure sale terminates and extinguishes any  
15 right granted under the oil or gas lease for the lessee to use the  
16 surface of the real property to the extent that the security  
17 instrument under which the real property was foreclosed had  
18 priority over the rights of the lessee under the oil or gas lease.

19 (d) An agreement, including a subordination agreement,  
20 between a lessee of an oil or gas lease and a mortgagee of real  
21 property or the lessee of an oil or gas lease and the purchaser of  
22 foreclosed real property controls over any conflicting provision of  
23 this section. An agreement between a mortgagor and mortgagee may  
24 not modify the application of this section unless the affected  
25 lessee agrees to the modification.

26 (e) This section does not apply to a security instrument  
27 that does not attach to a mineral interest in hydrocarbons in the

1 mortgaged real property.

2           SECTION 2. Chapter 66, Property Code, as added by this Act,  
3 applies only with respect to a foreclosure sale for which the notice  
4 of sale is given under Section 51.002, Property Code, on or after  
5 the effective date of this Act or a judicial foreclosure for which  
6 the judicial foreclosure action commenced on or after the effective  
7 date of this Act.

8           SECTION 3. This Act takes effect January 1, 2016.