

1-1 By: Keffer, et al. (Senate Sponsor - Eltife) H.B. No. 2207
 1-2 (In the Senate - Received from the House May 5, 2015;
 1-3 May 5, 2015, read first time and referred to Committee on Natural
 1-4 Resources and Economic Development; May 13, 2015, reported
 1-5 favorably by the following vote: Yeas 10, Nays 0; May 13, 2015,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to the foreclosure sale of property subject to an oil or
 1-23 gas lease.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Subtitle B, Title 5, Property Code, is amended by
 1-26 adding Chapter 66 to read as follows:

1-27 CHAPTER 66. SALE OF PROPERTY SUBJECT TO OIL OR GAS LEASE

1-28 Sec. 66.001. SALE OF PROPERTY SUBJECT TO OIL OR GAS LEASE.

1-29 (a) In this section:

1-30 (1) "Mortgagee," "mortgagor," and "security
 1-31 instrument" have the meanings assigned by Section 51.0001.

1-32 (2) "Oil or gas lease" means an instrument conveying a
 1-33 fee simple determinable interest in a mineral estate covering oil,
 1-34 gas, or other hydrocarbons or a recorded memorandum of such an
 1-35 instrument.

1-36 (3) "Real property" means an estate covering the
 1-37 mineral interest in hydrocarbons or the mineral interest in
 1-38 hydrocarbons together with the surface overlying such mineral
 1-39 interest. The term does not include a surface interest or other
 1-40 interest that excludes a mineral interest in hydrocarbons.

1-41 (b) Notwithstanding any other law, an oil or gas lease
 1-42 covering real property subject to a security instrument that has
 1-43 been foreclosed remains in effect after the foreclosure sale if the
 1-44 oil or gas lease has not terminated or expired on its own terms and
 1-45 was executed and recorded in the real property records of the county
 1-46 before the foreclosure sale. An interest of the mortgagor or the
 1-47 mortgagor's assigns in the oil or gas lease, including a right to
 1-48 receive royalties or other payments that become due and payable
 1-49 after the date of the foreclosure, passes to the purchaser of the
 1-50 foreclosed property to the extent that the security instrument
 1-51 under which the real property was foreclosed had priority over the
 1-52 interest in the oil or gas lease of the mortgagor or the mortgagor's
 1-53 assigns.

1-54 (c) Notwithstanding Subsection (b), if real property that
 1-55 includes the mineral interest in hydrocarbons together with the
 1-56 surface overlying such mineral interest is subject to both an oil or
 1-57 gas lease and a security instrument and the security interest is
 1-58 foreclosed, the foreclosure sale terminates and extinguishes any
 1-59 right granted under the oil or gas lease for the lessee to use the
 1-60 surface of the real property to the extent that the security
 1-61 instrument under which the real property was foreclosed had

2-1 priority over the rights of the lessee under the oil or gas lease.

2-2 (d) An agreement, including a subordination agreement,
2-3 between a lessee of an oil or gas lease and a mortgagee of real
2-4 property or the lessee of an oil or gas lease and the purchaser of
2-5 foreclosed real property controls over any conflicting provision of
2-6 this section. An agreement between a mortgagor and mortgagee may
2-7 not modify the application of this section unless the affected
2-8 lessee agrees to the modification.

2-9 (e) This section does not apply to a security instrument
2-10 that does not attach to a mineral interest in hydrocarbons in the
2-11 mortgaged real property.

2-12 SECTION 2. Chapter 66, Property Code, as added by this Act,
2-13 applies only with respect to a foreclosure sale for which the notice
2-14 of sale is given under Section 51.002, Property Code, on or after
2-15 the effective date of this Act or a judicial foreclosure for which
2-16 the judicial foreclosure action commenced on or after the effective
2-17 date of this Act.

2-18 SECTION 3. This Act takes effect January 1, 2016.

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