

By: Taylor of Collin

S.B. No. 809

A BILL TO BE ENTITLED

AN ACT

relating to governmental actions affecting private property rights
in certain oil and gas wells.

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

SECTION 1. Section 2007.002(4), Government Code, is amended
to read as follows:

(4) "Private real property" means an interest in real
property recognized by common law, including any interest in an oil
or natural gas well or a groundwater or surface water right of any
kind, that is not owned by the federal government, this state, or a
political subdivision of this state.

SECTION 2. Sections 2007.003(a) and (b), Government Code,
are amended to read as follows:

(a) This chapter applies only to the following governmental
actions:

(1) the adoption or issuance of an ordinance, rule,
regulatory requirement, resolution, policy, guideline, or similar
measure;

(2) an action that imposes a physical invasion or
requires a dedication or exaction of private real property;

(3) an action by a municipality that has effect in the
extraterritorial jurisdiction of the municipality, excluding
annexation, and that enacts or enforces an ordinance, rule,
regulation, or plan that does not impose identical requirements or

1 restrictions in the entire extraterritorial jurisdiction of the
2 municipality; ~~and~~

3 (4) enforcement of a governmental action listed in
4 Subdivisions (1) through (3), whether the enforcement of the
5 governmental action is accomplished through the use of permitting,
6 citations, orders, judicial or quasi-judicial proceedings, or
7 other similar means; and

8 (5) an action by a political subdivision that imposes
9 or enforces a limitation that has the effect of preventing or
10 prohibiting the development of an oil or gas well that has been
11 permitted by the Texas Railroad Commission under Chapter 91,
12 Natural Resources Code.

13 (b) This chapter does not apply to the following
14 governmental actions:

15 (1) an action by a municipality except as provided by
16 Subsection (a)(3) or (5);

17 (2) a lawful forfeiture or seizure of contraband as
18 defined by Article 59.01, Code of Criminal Procedure;

19 (3) a lawful seizure of property as evidence of a crime
20 or violation of law;

21 (4) an action, including an action of a political
22 subdivision, that is reasonably taken to fulfill an obligation
23 mandated by federal law or an action of a political subdivision that
24 is reasonably taken to fulfill an obligation mandated by state law;

25 (5) the discontinuance or modification of a program or
26 regulation that provides a unilateral expectation that does not
27 rise to the level of a recognized interest in private real property;

1 (6) an action taken to prohibit or restrict a
2 condition or use of private real property if the governmental
3 entity proves that the condition or use constitutes a public or
4 private nuisance as defined by background principles of nuisance
5 and property law of this state;

6 (7) an action taken out of a reasonable good faith
7 belief that the action is necessary to prevent a grave and immediate
8 threat to life or property;

9 (8) a formal exercise of the power of eminent domain;

10 (9) an action taken under a state mandate to prevent
11 waste of oil and gas, protect correlative rights of owners of
12 interests in oil or gas, or prevent pollution related to oil and gas
13 activities;

14 (10) a rule or proclamation adopted for the purpose of
15 regulating water safety, hunting, fishing, or control of
16 nonindigenous or exotic aquatic resources;

17 (11) an action taken by a political subdivision:

18 (A) to regulate construction in an area
19 designated under law as a floodplain;

20 (B) to regulate on-site sewage facilities;

21 (C) under the political subdivision's
22 [~~subdivisions's~~] statutory authority to prevent waste or protect
23 rights of owners of interest in groundwater; or

24 (D) to prevent subsidence;

25 (12) the appraisal of property for purposes of ad
26 valorem taxation;

27 (13) an action that:

1 (A) is taken in response to a real and
2 substantial threat to public health and safety;

3 (B) is designed to significantly advance the
4 health and safety purpose; and

5 (C) does not impose a greater burden than is
6 necessary to achieve the health and safety purpose; ~~or~~

7 (14) an action or rulemaking undertaken by the Public
8 Utility Commission of Texas to order or require the location or
9 placement of telecommunications equipment owned by another party on
10 the premises of a certificated local exchange company; or

11 (15) an action described by Subsection (a)(5) that
12 imposes or enforces a reasonable standard established by the
13 political subdivision for oil or gas wells relating to:

14 (A) visual aesthetics;

15 (B) noise abatement; or

16 (C) hours of operation.

17 SECTION 3. This Act takes effect September 1, 2015.