

1-1 By: Geren (Senate Sponsor - Hinojosa) H.B. No. 3794
 1-2 (In the Senate - Received from the House May 3, 2021;
 1-3 May 6, 2021, read first time and referred to Committee on Natural
 1-4 Resources & Economic Development; May 11, 2021, reported favorably
 1-5 by the following vote: Yeas 8, Nays 0; May 11, 2021, sent to
 1-6 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 A BILL TO BE ENTITLED
 1-19 AN ACT

1-20 relating to oil and gas liens.
 1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-22 SECTION 1. Section 9.109(d), Business & Commerce Code, is
 1-23 amended to read as follows:
 1-24 (d) This chapter does not apply to:
 1-25 (1) a landlord's lien, other than an agricultural
 1-26 lien;
 1-27 (2) a lien, other than an agricultural lien, given by
 1-28 statute or other rule of law for services or materials, but Section
 1-29 9.333 applies with respect to priority of the lien;
 1-30 (3) an assignment of a claim for wages, salary, or
 1-31 other compensation of an employee;
 1-32 (4) a sale of accounts, chattel paper, payment
 1-33 intangibles, or promissory notes as part of a sale of the business
 1-34 out of which they arose;
 1-35 (5) an assignment of accounts, chattel paper, payment
 1-36 intangibles, or promissory notes that is for the purpose of
 1-37 collection only;
 1-38 (6) an assignment of a right to payment under a
 1-39 contract to an assignee that is also obligated to perform under the
 1-40 contract;
 1-41 (7) an assignment of a single account, payment
 1-42 intangible, or promissory note to an assignee in full or partial
 1-43 satisfaction of a preexisting indebtedness;
 1-44 (8) a transfer of an interest in or an assignment of a
 1-45 claim under a policy of insurance, other than an assignment by or to
 1-46 a health care provider of a health-care-insurance receivable and
 1-47 any subsequent assignment of the right to payment, but Sections
 1-48 9.315 and 9.322 apply with respect to proceeds and priorities in
 1-49 proceeds;
 1-50 (9) an assignment of a right represented by a
 1-51 judgment, other than a judgment taken on a right to payment that was
 1-52 collateral;
 1-53 (10) a right of recoupment or set-off, but:
 1-54 (A) Section 9.340 applies with respect to the
 1-55 effectiveness of rights of recoupment or set-off against deposit
 1-56 accounts; and
 1-57 (B) Section 9.404 applies with respect to
 1-58 defenses or claims of an account debtor;
 1-59 (11) the creation or transfer of an interest in or lien
 1-60 on real property, including a lease or rents, as defined by Section
 1-61 64.001, Property Code, the interest of a vendor or vendee in a

2-1 contract for deed to purchase an interest in real property, or the
 2-2 interest of an optionor or optionee in an option to purchase an
 2-3 interest in real property, except to the extent that provision is
 2-4 made for:

2-5 (A) liens on real property in Sections 9.203 and
 2-6 9.308;

2-7 (B) fixtures in Section 9.334;

2-8 (C) fixture filings in Sections 9.501, 9.502,
 2-9 9.512, 9.516, and 9.519; and

2-10 (D) security agreements covering personal and
 2-11 real property in Section 9.604;

2-12 (12) an assignment of a claim arising in tort, other
 2-13 than a commercial tort claim, but Sections 9.315 and 9.322 apply
 2-14 with respect to proceeds and priorities in proceeds; ~~or~~

2-15 (13) an assignment of a deposit account, other than a
 2-16 nonnegotiable certificate of deposit, in a consumer transaction,
 2-17 but Sections 9.315 and 9.322 apply with respect to proceeds and
 2-18 priorities in proceeds; or

2-19 (14) an oil and gas lien arising under Chapter 67,
 2-20 Property Code.

2-21 SECTION 2. Section 9.310(b), Business & Commerce Code, is
 2-22 amended to read as follows:

2-23 (b) The filing of a financing statement is not necessary to
 2-24 perfect a security interest:

2-25 (1) that is perfected under Section 9.308(d), (e),
 2-26 (f), or (g);

2-27 (2) that is perfected under Section 9.309 when it
 2-28 attaches;

2-29 (3) in property subject to a statute, regulation, or
 2-30 treaty described in Section 9.311(a);

2-31 (4) in goods in possession of a bailee that is
 2-32 perfected under Section 9.312(d)(1) or (2);

2-33 (5) in certificated securities, documents, goods, or
 2-34 instruments which is perfected without filing, control or
 2-35 possession under Section 9.312(e), (f), or (g);

2-36 (6) in collateral in the secured party's possession
 2-37 under Section 9.313;

2-38 (7) in a certificated security that is perfected by
 2-39 delivery of the security certificate to the secured party under
 2-40 Section 9.313;

2-41 (8) in deposit accounts, electronic chattel paper,
 2-42 electronic documents, investment property, or letter-of-credit
 2-43 rights that is perfected by control under Section 9.314;

2-44 (9) in proceeds that is perfected under Section 9.315;

2-45 or

2-46 (10) that is perfected under Section 9.316 ~~[, or~~
 2-47 ~~[(11) in oil or gas production or their proceeds under~~
 2-48 ~~Section 9.343].~~

2-49 SECTION 3. Section 9.324(b), Business & Commerce Code, is
 2-50 amended to read as follows:

2-51 (b) Subject to Subsection (c) and except as otherwise
 2-52 provided in Subsection (g), a perfected purchase-money security
 2-53 interest in inventory has priority over a conflicting security
 2-54 interest in the same inventory, has priority over a conflicting
 2-55 security interest in chattel paper or an instrument constituting
 2-56 proceeds of the inventory and in proceeds of the chattel paper, if
 2-57 so provided in Section 9.330, and, except as otherwise provided in
 2-58 Section 9.327, also has priority in identifiable cash proceeds of
 2-59 the inventory to the extent the identifiable cash proceeds are
 2-60 received on or before the delivery of the inventory to a buyer, if:

2-61 (1) the purchase-money security interest is perfected
 2-62 when the debtor receives possession of the inventory;

2-63 (2) ~~[except where excused by Section 9.343 (oil and~~
 2-64 ~~gas production),]~~ the purchase-money secured party sends an
 2-65 authenticated notification to the holder of the conflicting
 2-66 security interest;

2-67 (3) the holder of the conflicting security interest
 2-68 receives any required notification within five years before the
 2-69 debtor receives possession of the inventory; and

3-1 (4) the notification states that the person sending
 3-2 the notification has or expects to acquire a purchase-money
 3-3 security interest in inventory of the debtor and describes the
 3-4 inventory.

3-5 SECTION 4. Subtitle B, Title 5, Property Code, is amended by
 3-6 adding Chapter 67 to read as follows:

3-7 CHAPTER 67. OIL AND GAS LIENS

3-8 Sec. 67.001. DEFINITIONS. In this chapter:

3-9 (1) "Affiliate" means any person who:

3-10 (A) is controlled, directly or indirectly, by a
 3-11 first purchaser; or

3-12 (B) controls, directly or indirectly, a first
 3-13 purchaser.

3-14 (2) "Agreement to sell" means an enforceable agreement
 3-15 by an interest owner, directly or through a representative, to sell
 3-16 oil or gas on or after severance to a first purchaser. The term
 3-17 includes an agreement that is express or implied, whether oral or
 3-18 written.

3-19 (3) "Control" means the possession, directly or
 3-20 indirectly, of the power to direct or cause the direction of the
 3-21 management and policies of a person, whether through ownership, by
 3-22 contract, or otherwise.

3-23 (4) "First purchaser" means the first person that
 3-24 purchases oil or gas from an interest owner, under an agreement to
 3-25 sell.

3-26 (5) "Gas" means natural gas, casinghead gas, and all
 3-27 constituent parts of natural gas and casinghead gas before and
 3-28 after processing but before a first purchaser transfers title,
 3-29 possession, or control of the gas to a purchaser.

3-30 (6) "Interest owner" means a person, including a
 3-31 transferee interest owner, owning an interest of any kind in oil and
 3-32 gas rights before acquisition by a first purchaser.

3-33 (7) "Oil" means oil, condensate, and all constituent
 3-34 parts of the oil, before or after processing but before a first
 3-35 purchaser transfers title, possession, or control of the oil to a
 3-36 purchaser.

3-37 (8) "Oil and gas lien" means the lien described by
 3-38 Section 67.002.

3-39 (9) "Oil and gas rights" means any legal or equitable
 3-40 right, title, or interest in or to oil or gas from land in this
 3-41 state. The term includes:

3-42 (A) oil or gas in place before severance;

3-43 (B) oil or gas production, or the right to
 3-44 receive a portion of the proceeds, on severance;

3-45 (C) any interest or estate in, by, through, or
 3-46 under an oil and gas lease;

3-47 (D) a right acquired under a pooling order
 3-48 relating to:

3-49 (i) ownership of oil or gas;

3-50 (ii) the right to proceeds; or

3-51 (iii) the right to enter into an agreement
 3-52 to sell;

3-53 (E) a right to receive consideration under an
 3-54 agreement to sell oil or gas; and

3-55 (F) a mortgage lien or security interest in oil
 3-56 and gas rights.

3-57 (10) "Operator" means a person engaged in the
 3-58 severance of oil or gas for that person only, for other persons
 3-59 only, or for that person and others.

3-60 (11) "Permitted lien" means a perfected and
 3-61 enforceable lien created by statute or rule of a governmental
 3-62 agency for storage or transportation charges, including terminal
 3-63 charges, tariffs, demurrage, insurance, labor, or other charges,
 3-64 owed by a first purchaser in relation to oil or gas originally
 3-65 purchased under an agreement to sell. The term does not include a
 3-66 lien that is:

3-67 (A) in favor of an affiliate of a first purchaser
 3-68 unless the lien is authorized by the statute or rule creating the
 3-69 lien; or

4-1 (B) for charges incurred after the 90th day after
4-2 the date the first purchaser delivers the oil or gas for storage or
4-3 transportation.

4-4 (12) "Pooling order" means an order issued by the
4-5 Railroad Commission of Texas that requires the owners of the right
4-6 to drill for oil or gas in a drilling and spacing unit to pool the
4-7 owner's interests for the development of the drilling and spacing
4-8 unit.

4-9 (13) "Proceeds" means, when paid or to be paid in
4-10 consideration of, or as a consequence of, the sale of oil or gas
4-11 under an agreement to sell:

4-12 (A) oil or gas on or after severance;

4-13 (B) inventory of raw, refined, or manufactured
4-14 oil or gas after severance;

4-15 (C) rights to or products of any of the oil or gas
4-16 described by Paragraph (A) or inventory described by Paragraph (B);

4-17 (D) cash proceeds;

4-18 (E) accounts;

4-19 (F) chattel paper;

4-20 (G) instruments;

4-21 (H) documents; or

4-22 (I) payment intangibles with respect to any of
4-23 the preceding.

4-24 (14) "Purchaser" means a person who:

4-25 (A) is not an affiliate of a first purchaser; and

4-26 (B) takes, receives, or purchases oil or gas from
4-27 a first purchaser.

4-28 (15) "Representative" means a person who is
4-29 authorized, expressly or by implication, including an operator or
4-30 an authorized broker, to:

4-31 (A) sell oil or gas on behalf of, or for the
4-32 benefit of, an interest owner under an agreement to sell; or

4-33 (B) receive on behalf of an interest owner the
4-34 consideration under an agreement to sell.

4-35 (16) "Sales price" means the proceeds a first
4-36 purchaser agrees to pay an interest owner or representative under
4-37 an agreement to sell.

4-38 (17) "Security interest" means a security interest
4-39 governed by Chapter 9, Business & Commerce Code.

4-40 (18) "Severance" means the point in time oil or gas is
4-41 possessed at the mouth of the wellbore of an oil and gas well.

4-42 (19) "Transferee interest owner" means a person that
4-43 acquires oil and gas rights from a transferor interest owner.

4-44 (20) "Transferor interest owner" means an interest
4-45 owner that transfers or conveys oil and gas rights, wholly or
4-46 partly.

4-47 Sec. 67.002. OIL AND GAS LIEN. (a) To secure the
4-48 obligations of a first purchaser to pay the sales price, each
4-49 interest owner has an oil and gas lien to the extent of the interest
4-50 owner's interest in oil and gas rights. The oil and gas lien exists
4-51 as part of and incident to the ownership of oil and gas rights.

4-52 (b) An oil and gas lien:

4-53 (1) exists in and attaches to all oil and gas before
4-54 severance;

4-55 (2) continues uninterrupted and without lapse in all
4-56 oil and gas on and after severance; and

4-57 (3) continues uninterrupted and without lapse in and
4-58 to all proceeds from the sale of the oil or gas.

4-59 (c) Except as provided by Subsection (d), an oil and gas
4-60 lien exists until the interest owner or representative first
4-61 entitled to receive the sales price has received the sales price for
4-62 the oil or gas production, but the lien does not continue to attach
4-63 to the production after the production is sold by the first
4-64 purchaser, unless the first subsequent purchaser:

4-65 (1) is an affiliate of the first purchaser; or

4-66 (2) has actual knowledge, not constructive notice or
4-67 inquiry notice, that the first purchaser has not paid the interest
4-68 owner or representative first entitled to receive the sales price.

4-69 (d) As between an interest owner and a representative of an

5-1 interest owner or any person claiming adversely to the interest
 5-2 owner or representative, the interest owner's oil and gas lien
 5-3 continues uninterrupted and without lapse in proceeds in the
 5-4 possession or control of a representative until the interest owner
 5-5 on whose behalf the representative acts receives the proceeds in
 5-6 full.

5-7 (e) Except as provided by Subsection (f), a first purchaser
 5-8 takes free of an oil and gas lien if the first purchaser:

5-9 (1) in good faith, paid the sales price for the oil or
 5-10 gas to an interest owner or representative otherwise apparently
 5-11 entitled to receive the sales price; and

5-12 (2) is without actual knowledge that the interest
 5-13 owner or representative is not entitled to receive the sales price
 5-14 paid.

5-15 (f) Notwithstanding Subsection (e), the oil and gas lien
 5-16 continues uninterrupted in the proceeds paid to or otherwise due
 5-17 the interest owner or representative.

5-18 Sec. 67.003. TRANSFER OF OIL AND GAS RIGHTS. (a) The
 5-19 validity of an oil and gas lien is not dependent on possession of
 5-20 the oil or gas by an interest owner or representative. An oil and
 5-21 gas lien is not void or expired because of a change or transfer of
 5-22 the actual or constructive possession of or title to the oil or gas
 5-23 from the interest owner or representative to a first purchaser or
 5-24 other purchaser.

5-25 (b) On the conveyance or transfer of any oil and gas rights
 5-26 by a transferor interest owner, the oil and gas lien vested in the
 5-27 transferor interest owner immediately before the conveyance or
 5-28 transfer remains with the transferor interest owner to the extent
 5-29 of any oil and gas rights retained by the transferor interest owner.

5-30 (c) On the conveyance or transfer of any oil and gas rights
 5-31 by a transferor interest owner, the oil and gas lien vested in the
 5-32 transferor interest owner immediately before the conveyance or
 5-33 transfer is transferred to and attaches automatically to the oil
 5-34 and gas rights acquired by the transferee interest owner
 5-35 uninterrupted and without lapse and as part of and incident to the
 5-36 oil and gas rights that are conveyed or transferred.

5-37 Sec. 67.004. AUTOMATIC PERFECTION OF LIEN. An oil and gas
 5-38 lien of an interest owner is perfected automatically without the
 5-39 need to file a financing statement or any other type of
 5-40 documentation.

5-41 Sec. 67.005. COMMINGLING. (a) If oil or gas in which there
 5-42 exists more than one oil and gas lien is commingled with other oil
 5-43 or gas in a manner that the identity of the specific oil or gas is
 5-44 lost, the oil and gas lien:

5-45 (1) continues without interruption into and attaches
 5-46 to any resulting commingled product; and

5-47 (2) is perfected automatically on the date of the oil
 5-48 and gas lien's original perfection but only for the volume of the
 5-49 commingled product that is equal to the volume of product to which
 5-50 the oil and gas lien originally attached.

5-51 (b) If commingling described by Subsection (a) occurs, the
 5-52 oil and gas lien in the commingled product has priority over any
 5-53 security interest or other lien that is not an oil and gas lien or
 5-54 permitted lien, regardless of whether the security interest or
 5-55 other lien has been properly perfected.

5-56 (c) If more than one oil and gas lien attaches to the
 5-57 commingled product, the oil and gas liens rank equally in the
 5-58 proportion that the respective sales prices secured by each oil and
 5-59 gas lien bears as a percentage of the total of the sales prices
 5-60 secured by all oil and gas liens applicable to the production at the
 5-61 time the production was commingled.

5-62 (d) This section is intended to recognize the continuation
 5-63 of oil and gas lien rights of an interest owner in the commingled
 5-64 product stream only as to a volume of oil or gas proportionate to
 5-65 the volume of oil or gas that originated from the interest owner,
 5-66 with that volume of the commingled product being considered to have
 5-67 maintained a distinct identity as being available for sale or
 5-68 transportation under the specific contractual arrangements
 5-69 applicable to the production at the time the oil or gas entered the

6-1 commingled product stream.

6-2 Sec. 67.006. RIGHTS OF PURCHASERS. (a) Except as provided
 6-3 by Subsection (b), a purchaser takes free of any oil and gas lien
 6-4 otherwise applicable to the oil or gas purchased if the purchaser:

6-5 (1) is a buyer in the ordinary course of the first
 6-6 purchaser's business under Chapter 9, Business & Commerce Code; or

6-7 (2) has paid all of the consideration due to the first
 6-8 purchaser, including by exchange of oil or gas, net-out, or
 6-9 set-off, under all applicable enforceable contracts in existence at
 6-10 the time of the payment.

6-11 (b) The oil and gas lien continues uninterrupted in the
 6-12 proceeds paid to or otherwise due the first purchaser.

6-13 (c) Except as provided by this section, an oil and gas lien
 6-14 has priority over the rights of any purchaser.

6-15 Sec. 67.007. PRIORITY IN RELATION TO OTHER LIENS OR
 6-16 SECURITY INTERESTS. Except for a permitted lien, an oil and gas
 6-17 lien takes priority over any other lien, whether arising by
 6-18 contract, law, equity, or otherwise, or any security interest.

6-19 Sec. 67.008. TITLE NOT AFFECTED. This chapter does not
 6-20 affect:

6-21 (1) when legal title to oil and gas may pass by
 6-22 agreement or operation of law subject to an oil and gas lien;

6-23 (2) the right of a first purchaser to take or receive
 6-24 oil and gas under the terms of a division order, provided that the
 6-25 division order does not modify, waive, or abrogate in any respect
 6-26 the rights of an interest owner under this chapter; or

6-27 (3) subject to Section 67.009, the right of a first
 6-28 purchaser to take or receive oil and gas under an agreement to sell.

6-29 Sec. 67.009. WAIVER. (a) Except as provided by Subsection
 6-30 (b), an interest owner may not be required, as a condition or term
 6-31 of an agreement to sell or otherwise, to:

6-32 (1) waive or release any oil and gas lien or a right
 6-33 under this chapter, other than on payment in full of the sales
 6-34 price; or

6-35 (2) agree to a provision that would apply the law of
 6-36 another state to a right granted under this chapter.

6-37 (b) An interest owner, or representative acting on behalf of
 6-38 an interest owner, may waive or release any oil and gas lien or any
 6-39 rights under this chapter or agree to apply the law of another state
 6-40 to the interest owner's oil and gas rights granted under this
 6-41 chapter, if the first purchaser:

6-42 (1) posts a letter of credit in a form and amount
 6-43 satisfactory to the interest owner; or

6-44 (2) agrees to prepay or escrow the sales price under an
 6-45 agreement to sell with the interest owner and performs all of the
 6-46 first purchaser's obligations under the agreement.

6-47 (c) Unless waived or released under Subsection (b), a
 6-48 condition or term described by Subsection (a) is void.

6-49 Sec. 67.010. LIMITATION ON FILING ACTION TO ENFORCE LIEN.
 6-50 (a) Except as provided by Subsection (b), an action to enforce the
 6-51 interest owner's oil and gas lien must be brought not later than the
 6-52 first anniversary of the last day of the month after the date
 6-53 proceeds from the sale of oil or gas subject to the lien are
 6-54 required by law or contract to be paid to the interest owner, but
 6-55 only as to the oil or gas sold during that month.

6-56 (b) The commencement of a proceeding by or against any
 6-57 person claiming an interest in any property subject to the oil and
 6-58 gas lien seeking to adjudicate the person as bankrupt or insolvent,
 6-59 or seeking relief of the person's debts under any law relating to
 6-60 bankruptcy, insolvency, reorganization, or relief of debtors, or
 6-61 seeking the entry of an order for relief or the appointment of a
 6-62 receiver, trustee, or other similar official for the person or for
 6-63 any substantial part of the person's property shall toll the
 6-64 one-year period prescribed by Subsection (a) in which to bring an
 6-65 action to enforce the oil and gas lien for an additional period of
 6-66 90 days after the earlier of the date:

6-67 (1) the proceeding is dismissed or otherwise finally
 6-68 concluded; or

6-69 (2) final relief is obtained from the appropriate

7-1 tribunal authorizing the commencement of the action to enforce the
 7-2 oil and gas lien.

7-3 Sec. 67.011. VENUE; JURISDICTION. (a) An action to enforce
 7-4 the interest owner's oil and gas lien may be brought in a district
 7-5 court or other court of competent jurisdiction in the county in
 7-6 which:

7-7 (1) the oil and gas well from which the oil or gas is
 7-8 produced is located;

7-9 (2) the unpaid for oil or gas is located; or

7-10 (3) the proceeds for the oil or gas are located.

7-11 (b) An interest owner may join multiple proceedings to
 7-12 enforce oil and gas liens involving more than one oil and gas well
 7-13 in one county in the same action.

7-14 (c) In cases involving oil or gas from the same oil and gas
 7-15 well or wells:

7-16 (1) any persons claiming oil and gas liens in the oil
 7-17 or gas may join in the same action; or

7-18 (2) a district court may consolidate separate actions
 7-19 related to the oil or gas.

7-20 Sec. 67.012. PAYMENT DISPUTES. In the case of a payment
 7-21 dispute between an operator and another interest owner, a
 7-22 good-faith tender of money in satisfaction of a debt or security
 7-23 interest by one person operates as a tender of the money to both if
 7-24 tender is made:

7-25 (1) to the person who the operator and other interest
 7-26 owner jointly directed the first purchaser in writing to pay;

7-27 (2) to a person who otherwise shows the person is
 7-28 entitled to the money; or

7-29 (3) to a court of competent jurisdiction in the event
 7-30 of litigation or bankruptcy.

7-31 Sec. 67.013. COSTS; ATTORNEY'S FEES. The prevailing party
 7-32 in an action brought under this chapter is entitled to court costs
 7-33 and reasonable attorney's fees.

7-34 Sec. 67.014. CERTAIN RIGHTS OF OPERATOR NOT IMPAIRED. This
 7-35 chapter does not impair an operator's right to be paid, set-off, or
 7-36 withhold funds from another interest owner as security for or in
 7-37 satisfaction of a debt or security interest.

7-38 Sec. 67.015. INTEREST OWNER RIGHTS CUMULATIVE. The
 7-39 provisions of this chapter and the rights granted under this
 7-40 chapter are intended to be cumulative with all other rights an
 7-41 interest owner may otherwise have at law or in equity, including the
 7-42 right of any interest owner to maintain a personal action to recover
 7-43 the debt against any person liable for payment of the sales price of
 7-44 the oil or gas.

7-45 Sec. 67.016. LIBERAL CONSTRUCTION OF INTEREST OWNER RIGHTS.
 7-46 The rights of the interest owner shall be liberally construed to
 7-47 give the interest owner the most comprehensive protection to secure
 7-48 the receipt by the interest owner of the sales price.

7-49 Sec. 67.017. CONFLICT OF LAWS. To the extent of a conflict
 7-50 between the provisions of this chapter and other law, this chapter
 7-51 prevails.

7-52 SECTION 5. Sections 9.203(j) and 9.343, Business & Commerce
 7-53 Code, are repealed.

7-54 SECTION 6. (a) The changes in law made by this Act do not
 7-55 affect the rights of any interest owner that accrued before the
 7-56 effective date of this Act to the extent those rights are not in
 7-57 conflict with the provisions of Chapter 67, Property Code, as added
 7-58 by this Act, and the former law is continued in effect to preserve
 7-59 those rights.

7-60 (b) For purposes of Sections 67.005 and 67.007, Property
 7-61 Code, as added by this Act, a "permitted lien" includes a mortgage
 7-62 lien or security interest in oil or gas that:

7-63 (1) is granted before the effective date of this Act by
 7-64 a first purchaser in favor of a person who is not an affiliate of the
 7-65 first purchaser; and

7-66 (2) secures payment under a written instrument of
 7-67 indebtedness signed by the first purchaser and accepted in writing
 7-68 by the payee before the effective date of this Act with a principal
 7-69 amount and a fixed maturity stated in the instrument, unless:

8-1 (A) the instrument of indebtedness is modified,
8-2 amended, or restated on or after the effective date of this Act to:
8-3 (i) increase the principal amount that was
8-4 owed before the effective date of this Act; or
8-5 (ii) extend the stated maturity of the debt
8-6 that was in effect before the effective date of this Act; or
8-7 (B) the mortgage lien or security interest is not
8-8 validly perfected with a first priority against the claims of all
8-9 persons under applicable law other than persons holding a statutory
8-10 or regulatory lien for which first priority is granted by statute or
8-11 rule.

8-12 SECTION 7. This Act takes effect September 1, 2021.

8-13 * * * * *