

BILL ANALYSIS

H.B. 450
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

There is an ongoing issue in which oil and gas entities release overriding royalty interests in oil and gas leases only to later reacquire the same lease without the overriding interest. There is currently no mechanism through which a cause of action may be brought for this bad faith washout of a person's overriding royalty interest in an oil and gas lease. H.B. 450 seeks to address this issue by providing for a cause of action for a bad faith washout of overriding royalty interests.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 450 amends the Property Code to authorize a person to bring a cause of action for a bad faith washout of the person's overriding royalty interest in an oil and gas lease in a district court of a county in which any part of the property subject to the lease is located. The bill entitles the person to a remedy from that action if the person proves by a preponderance of the evidence the following:

- that the person owned or had a legal right to the overriding royalty interest;
- that the defendant had control over the oil and gas lease burdened by the overriding royalty interest;
- that the defendant caused a washout of the person's overriding royalty interest; and
- that the defendant acted in bad faith by knowingly or intentionally causing the washout.

H.B. 450 requires the person to bring the action not later than the second anniversary of the date the person obtained actual knowledge that the washout occurred. The bill authorizes an owner who prevails in the action to recover actual damages, court costs and attorney's fees, and the enforcement of a constructive trust on the oil and gas lease or mineral estate acquired to accomplish the washout of the overriding royalty interest. These remedies are cumulative of other remedies provided by common law or statute.

H.B. 450 defines the following terms for purposes of its provisions:

- "bad faith" means the conscious taking of action for the purpose of washing out all or part of an overriding royalty interest; and

- "washout" means the elimination or reduction of an overriding royalty interest in an oil and gas lease by the forfeiture or surrender of the oil and gas lease by a lessee or the lessee's successors or assigns and the subsequent reacquisition of a lease, or all or part of the mineral estate associated with the lease, by the lessee or the lessee's successors, assigns, contractors, or subsidiaries on all or part of the same land, free of the overriding royalty interest.

H.B. 450 applies only to a washout that occurs on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2023.