

BILL ANALYSIS

Senate Research Center

S.B. 785
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Natural Resources & Economic Development
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas statute does not currently state whether geothermal energy and associated resources are owned by the surface owner of real property or the owner of the mineral estate of that same property.

S.B. 785 clarifies this by simply providing that the landowner owns the geothermal energy and associated resources below their land, and the landowner, landowner's lessee, heir, or assignee are entitled to drill for or produce those resources. The bill also makes clear that geothermal energy and by-products do not include minerals, oil, gas, or products of oil or gas.

S.B. 785 amends current law relating to the ownership of and certain insurance policy provisions regarding the geothermal energy and associated resources below the surface of land.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2703.056, Insurance Code, as follows:

Sec. 2703.056. New heading: EXCEPTIONS; MINERAL AND GEOTHERMAL ENERGY INTERESTS. (a) Authorizes a title insurance company, subject to the underwriting standards of the title insurance company, in a commitment for title insurance or a title insurance policy, to include a general exception or a special exception to except from coverage:

(1) a mineral estate or the geothermal energy and associated resources below the surface of the land; or

(2) an instrument that purports to reserve or transfer all or part of a mineral estate or the geothermal energy and associated resources below the surface of the land.

(b)-(c) Makes conforming changes to these subsections.

SECTION 2. Amends Section 141.003(5), Natural Resources Code, to redefine "by-product."

SECTION 3. Amends Subchapter A, Chapter 141, Natural Resources Code, by adding Section 141.004, as follows:

Sec. 141.004. OWNERSHIP OF GEOTHERMAL ENERGY AND ASSOCIATED RESOURCES. (a) Provides that the geothermal energy and associated resources below the surface of land, except as otherwise expressly provided by a conveyance, contract, deed, reservation, exception, limitation, lease, or other binding obligation, are owned as real property by:

(1) the landowner; or

(2) if the surface estate and the mineral estate of the land have been severed, the owner of the surface estate of the land.

(b) Provides that the property rights described by this section, subject to the provisions of Chapter 141 (Geothermal Resources), entitle the owner of the geothermal energy and associated resources below the surface of land and the owner's lessee, heir, or assignee to drill for and produce the geothermal energy and associated resources.

(c) Provides that this section does not:

(1) apply to minerals dissolved or otherwise contained in groundwater, including in hot brines; or

(2) change existing law regarding:

(A) oil, gas, or mineral extraction regardless of its heat or energy potential;

(B) the rights of the dominant and servient estates; or

(C) the ownership and use of groundwater.

SECTION 4. Effective date: upon passage or September 1, 2023.