S.B. No. 604

AN ACT

relating to land services performed by a landman.

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

SECTION 1.  Chapter 954, Occupations Code, is amended to read as follows:

CHAPTER 954. LAND SERVICES FOR PETROLEUM, [~~AND~~] MINERAL, AND OTHER ENERGY SOURCES [~~LAND SERVICES~~]

Sec. 954.001.  DEFINITIONS. In this chapter:

(1)  "Land services":

(A)  means the performance or supervision of one or more of the following activities:

(i)  negotiating the acquisition or divestiture of mineral rights or rights associated with other energy sources;

(ii)  negotiating business agreements or easements to provide for the exploration for or development of minerals or other energy sources;

(iii)  ascertaining ownership in mineral rights or rights associated with other energy sources and related real property through the research of public and private records;

(iv)  reviewing the status of title, curing title defects, providing title due diligence, and otherwise reducing title risk associated with the ownership, acquisition, or divestiture of mineral rights, property associated with minerals, or rights associated with other energy sources, excluding:

(a)  administrative functions;

(b)  division order functions; and

(c)  lease analyst functions;

(v)  managing rights or obligations derived from ownership of interests in minerals or rights associated with other energy sources; or

(vi)  using or pooling mineral interests or rights associated with other energy sources; and

(B)  does not include determining, examining, or reviewing the status of title in connection with transactions that are primarily for:

(i)  the sale, purchase, or encumbrance of the surface of the land unassociated with mineral rights or other energy sources; or

(ii)  the mortgage of real property used or intended to be used primarily for residential purposes.

(2)  "Mineral" has the meaning assigned by Section 75.001, Property Code. The term includes oil, gas, related hydrocarbons, coal, lignite, uranium, and substances classified as base, industrial, precious, or strategic minerals.

(3)  "Other energy source" means a natural resource other than a mineral that is necessary to produce energy, including geothermal, hydroelectric, nuclear, solar, and wind energy.

Sec. 954.002.  EXCEPTION TO PRACTICE OF LAW. For the purposes of the definition in Section 81.101, Government Code, the "practice of law" does not include engaging in land services [~~acts relating to the lease, purchase, sale, or transfer of a mineral or mining interest in real property or an easement or other interest associated with a mineral or mining interest in real property~~] if:

(1)  the acts are performed by a person who does not hold the person out as an attorney licensed to practice law in this state or in another jurisdiction; and

(2)  the person is not a licensed attorney.

SECTION 2.  Section 1702.324(a), Occupations Code, is amended to read as follows:

(a)  For the purposes of this section, "landman" means an individual who, in the course and scope of the individual's business:

(1)  acquires, divests, or manages petroleum or mineral interests; [~~or~~]

(2)  performs title or contract functions related to the exploration, exploitation, or disposition of petroleum or mineral interests; or

(3)  otherwise engages in land services as defined by Section 954.001.

SECTION 3.  Section 171.1011(g-11), Tax Code, is amended to read as follows:

(g-11)  A taxable entity that is primarily engaged in the business of performing landman services shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), subcontracting payments made by the taxable entity to nonemployees for the performance of landman services on behalf of the taxable entity. In this subsection, "landman services" means:

(1)  performing title searches for the purpose of determining ownership of or curing title defects related to oil, gas, other energy sources, or other related mineral or petroleum interests;

(2)  negotiating the acquisition or divestiture of mineral rights for the purpose of the exploration, development, or production of oil, gas, other energy sources, or other related mineral or petroleum interests; or

(3)  negotiating or managing the negotiation of contracts or other agreements related to the ownership of mineral interests for the exploration, exploitation, disposition, development, or production of oil, gas, other energy sources, or other related mineral or petroleum interests.

SECTION 4.  The change in law made by this Act to Section 171.1011(g-11), Tax Code, applies only to a report originally due on or after January 1, 2024.

SECTION 5.  (a) Except as provided by Subsection (b) of this section, this Act takes effect:

(1)  immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution; or

(2)  September 1, 2023, if this Act does not receive the vote necessary for immediate effect.

(b)  Section 171.1011(g-11), Tax Code, as amended by this Act, takes effect January 1, 2024.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_President of the Senate             Speaker of the House

I hereby certify that S.B. No. 604 passed the Senate on April 12, 2023, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 11, 2023, by the following vote: Yeas 30, Nays 0.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Secretary of the Senate

I hereby certify that S.B. No. 604 passed the House, with amendment, on May 8, 2023, by the following vote: Yeas 129, Nays 13, one present not voting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Chief Clerk of the House

Approved:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_             Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_           Governor