By:  King S.B. No. 604

(In the Senate - Filed January 25, 2023; February 17, 2023, read first time and referred to Committee on Natural Resources & Economic Development; April 4, 2023, reported adversely, with favorable Committee Substitute by the following vote: Yeas 8, Nays 0; April 4, 2023, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Birdwell        X

Zaffirini       X

Alvarado        X

Blanco          X

Hancock         X

Hughes          X

Kolkhorst                 X

Miles           X

Sparks          X

COMMITTEE SUBSTITUTE FOR S.B. No. 604 By:  Zaffirini

A BILL TO BE ENTITLED

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" means the performance or supervision of one or more of the following activities:

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

(B)  negotiating business agreements that provide for the exploration for or development of minerals or other energy sources;

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

(D)  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:

(i)  administrative functions;

(ii)  division order functions; and

(iii)  lease analyst functions;

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

(F)  using or pooling mineral interests or rights associated with other energy sources.

(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 1101.005, Occupations Code, is amended to read as follows:

Sec. 1101.005.  APPLICABILITY OF CHAPTER.  This chapter does not apply to:

(1)  an attorney licensed in this state;

(2)  an attorney-in-fact authorized under a power of attorney to conduct not more than three real estate transactions annually;

(3)  a public official while engaged in official duties;

(4)  an auctioneer licensed under Chapter 1802 while conducting the sale of real estate by auction if the auctioneer does not perform another act of a broker;

(5)  a person conducting a real estate transaction under a court order or the authority of a will or written trust instrument;

(6)  a person employed by an owner in the sale of structures and land on which structures are located if the structures are erected by the owner in the course of the owner's business;

(7)  an on-site manager of an apartment complex;

(8)  an owner or the owner's employee who leases the owner's improved or unimproved real estate; or

(9)  a transaction involving:

(A)  the sale, lease, or transfer of a mineral or mining interest in real property;

(B)  the sale, lease, or transfer of a cemetery lot;

(C)  the lease or management of a hotel or motel; [~~or~~]

(D)  the sale of real property under a power of sale conferred by a deed of trust or other contract lien; or

(E)  the sale, lease, or transfer of an interest in real property relating to another energy source, as defined by Section 954.001.

SECTION 3.  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 4.  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 5.  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 6.  (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.

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