

By: Hefner

H.B. No. 1915

Substitute the following for H.B. No. 1915:

By: Goldman

C.S.H.B. No. 1915

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 or easements 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;

1                    (ii) division order functions; and

2                    (iii) lease analyst functions;

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

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

8                    (2) "Mineral" has the meaning assigned by Section  
9 75.001, Property Code. The term includes oil, gas, related  
10 hydrocarbons, coal, lignite, uranium, and substances classified as  
11 base, industrial, precious, or strategic minerals.

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

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

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

24                    (2) the person is not a licensed attorney.

25                    SECTION 2. Section 1101.005, Occupations Code, is amended  
26 to read as follows:

27                    Sec. 1101.005. APPLICABILITY OF CHAPTER. This chapter

1 does not apply to:

2 (1) an attorney licensed in this state;

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

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

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

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

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

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

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

21 (9) a transaction involving:

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

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

26 (C) the lease or management of a hotel or motel;

27 [~~or~~]

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

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

6 SECTION 3. Section 1702.324(a), Occupations Code, is  
7 amended to read as follows:

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

11 (1) acquires or manages petroleum or mineral  
12 interests; ~~or~~

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

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

18 SECTION 4. Section 171.1011(g-11), Tax Code, is amended to  
19 read as follows:

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

27 (1) performing title searches for the purpose of

1 determining ownership of or curing title defects related to oil,  
2 gas, other energy sources, or other related mineral or petroleum  
3 interests;

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

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

13 SECTION 5. The change in law made by this Act to Section  
14 [171.1011\(g-11\)](#), Tax Code, applies only to a report originally due  
15 on or after January 1, 2024.

16 SECTION 6. (a) Except as provided by Subsection (b) of this  
17 section, this Act takes effect:

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

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

23 (b) Section [171.1011\(g-11\)](#), Tax Code, as amended by this  
24 Act, takes effect January 1, 2024.