

By: Birdwell, et al.
(Darby, Guerra, Morales of Maverick, Anchía)

S.B. No. 785

Substitute the following for S.B. No. 785:

By: Darby

C.S.S.B. No. 785

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the ownership of and certain insurance policy
3 provisions regarding the geothermal energy and associated
4 resources below the surface of land.

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

6 SECTION 1. Section 2703.056, Insurance Code, is amended to
7 read as follows:

8 Sec. 2703.056. EXCEPTIONS; MINERAL AND GEOTHERMAL ENERGY
9 INTERESTS. (a) Subject to the underwriting standards of the title
10 insurance company, a title insurance company may in a commitment
11 for title insurance or a title insurance policy include a general
12 exception or a special exception to except from coverage:

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

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

18 (b) A reduction to, or credit on a premium charge for, a
19 policy of title insurance or other insuring form may not be directly
20 or indirectly based on an exclusion of, or general or special
21 exception to, a mineral estate or the geothermal energy and
22 associated resources below the surface of the land in the title
23 insurance policy.

24 (c) The inclusion in a title insurance policy of a general

1 exception or a special exception described by Subsection (a) does
2 not create title insurance coverage as to the condition or
3 ownership of the mineral estate or the geothermal energy and
4 associated resources below the surface of the land.

5 SECTION 2. Section 141.003(5), Natural Resources Code, is
6 amended to read as follows:

7 (5) "By-product" means any other element found in a
8 geothermal formation which is brought to the surface, whether or
9 not it is used in geothermal heat or pressure inducing energy
10 generation. The term does not include:

11 (A) a mineral, as defined by Section 75.001,
12 Property Code; or

13 (B) oil, gas, or a product of oil or gas, as
14 defined by Section 85.001.

15 SECTION 3. Subchapter A, Chapter 141, Natural Resources
16 Code, is amended by adding Section 141.004 to read as follows:

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

23 (1) the landowner; or

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

26 (b) Subject to the provisions of this chapter, the property
27 rights described by this section entitle the owner of the

1 geothermal energy and associated resources below the surface of
2 land and the owner's lessee, heir, or assignee to drill for and
3 produce the geothermal energy and associated resources.

4 (c) This section does not:

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

7 (2) change existing law regarding:

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

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

12 (C) the ownership and use of groundwater.

13 SECTION 4. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2023.