

BILL ANALYSIS

C.S.H.B. 2349

By: Darby

Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

During the 88th Regular Session, the Texas Legislature enacted legislation codifying the American Association of Professional Landmen's updated bylaws into the Occupations Code, aligning the state's statutes with the broader scope of landmen's duties. However, the bill author has informed the committee that a drafting oversight inadvertently required landmen negotiating non-mineral leases to obtain a license from the Texas Real Estate Commission, despite the commission historically not issuing such licenses. The bill author has also informed the committee that, under Opinion No. KP-0467 (2024), the attorney general interpreted the law as mandating these licenses, disrupting the industry. C.S.H.B. 2349 seeks to correct this oversight by providing a clear and concise definition of minerals and other energy sources and by clarifying that certain transactions by limited partnerships and limited liability companies are exempt from the applicability of The Real Estate License Act.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2349 amends the Occupations Code to exempt the following transactions from the applicability of The Real Estate License Act:

- the sale, lease, or transfer of real estate owned or leased by or being acquired by or leased to a limited partnership by:
 - a general partner of the limited partnership;
 - an employee of a general partner of the limited partnership who negotiates the transaction in the course of employment; or
 - an employee of the limited partnership who negotiates the transaction in the course of employment; and
- the sale, lease, or transfer of real estate owned or leased by or being acquired by or leased to a limited liability company by:
 - a manager or managing member of the limited liability company;
 - an employee of a manager or managing member of the limited liability company who negotiates the transaction in the course of employment; or
 - an employee or member of the limited liability company who negotiates the transaction in the course of employment.

The bill changes the exemption for a transaction involving the sale, lease, or transfer of mineral or mining interest in real property to make the exemption applicable instead to a transaction involving the sale, lease, or transfer of a real property interest in the following:

- minerals, mining, or a quarry;
- standing timber; or
- other energy sources.

C.S.H.B. 2349 defines "other energy source" as a natural resource other than water or a mineral that is necessary to produce energy, including geothermal, nuclear, solar, and wind energy. The bill defines "mineral" by reference to the meaning assigned the term in Property Code provisions relating to Texas minerals and specifies that the term includes oil, gas, related hydrocarbons, coal, lignite, uranium, and substances classified as base, industrial, precious, or strategic minerals. The bill defines "water" as diffused surface water, water percolating below the surface of the earth, or state water as described by Water Code provisions governing the state's water rights.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 2349 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced defined "other energy source" as a natural resource other than a mineral that is necessary to produce certain energies, the substitute defines that term as a natural resource other than water or a mineral that is necessary to produce those energies. The substitute includes a definition for the term "water," which was not present in the introduced.

The substitute omits the introduced version's provision exempting a transaction involving the sale, lease, or transfer of a real property interest in water from the applicability of The Real Estate License Act. Whereas the introduced exempted certain sales, leases, or transfers of real estate for a limited partnership or for a limited liability company from the applicability of that act, the substitute instead exempts certain sales, leases, or transfers of real estate owned or leased by, or being acquired by or leased to, a limited partnership or a limited liability company.