

BILL ANALYSIS

C.S.H.B. 3838
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Energy Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Reports indicate incidents in which mineral and royalty interest owners, primarily the elderly and less educated, have been the target of a scam by which they are presented with a document that purports to lease those interests, but instead authorizes their sale. Concerns have been raised that existing fraud statutes do not provide adequate protection for these mineral and royalty interest owners. C.S.H.B. 3838 seeks to provide protection for these owners by requiring a specific disclosure in certain offers to purchase a mineral or royalty interest.

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. 3838 amends the Property Code to require a mineral or royalty interest conveyance instrument to which the bill applies to include certain conspicuous statements in a specified format and in specified locations within the instrument relating to the fact that the instrument is not an oil and gas lease and that the owner is selling all or a portion of the owner's mineral or royal interests in the property. The bill makes a conveyance for which the conveyance instrument does not include such statements void and authorizes a person who has conveyed a royalty or mineral interest in such a voided conveyance to bring suit against the purchaser of the interest for the removal of the conveyance as a cloud on title and to recover the following from the purchaser:

- all royalties and bonuses paid to the purchaser;
- court costs;
- reasonable attorney's fees; and
- exemplary damages if the trier of fact determines the purchaser's conduct is a violation of certain Business & Commerce Code fraud provisions.

The bill requires a person to bring suit not later than the fourth anniversary of the date the person executed the conveyance.

C.S.H.B. 3838 applies only to a conveyance of a mineral or royalty interest by an instrument that:

- is presented to the owner of the interest by the person acquiring the interest;

- is titled an oil and gas lease or an oil and gas royalty lease or has other words in the caption or other prominently displayed label that indicate that the transaction is a lease of a mineral or royalty interest; and
- has the effect of conveying, permanently or for a term, all or a portion of the owner's mineral interest in lands covered by an existing oil, gas, or mineral lease or the owner's royalty interest in production from an existing oil, gas, or mineral lease.

The bill does not apply to a conveyance of a mineral or royalty interest by an instrument that:

- is an oil, gas, or mineral lease;
- conveys a mineral or royalty interest for a term; and
- provides that the interest conveyed vests in possession after the expiration or termination of all or a portion of the interest conveyed by an existing oil, gas, or mineral lease in effect at the time of the execution of the instrument, commonly referred to as a top lease.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3838 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include revisions of statutory provisions relating to a disclosure in an offer to purchase a mineral interest, but the substitute establishes similar provisions instead relating to certain purchases of mineral or royalty interests that are void when certain disclosures are not contained in, or in specified locations within, the conveyance instrument.