

- SUBJECT:** Mineral endorsements in title insurance coverage
- COMMITTEE:** Insurance — committee substitute recommended
- VOTE:** 9 ayes — Smithee, Eiland, Hancock, Nash, Sheets, L. Taylor, Torres, Vo, Walle  
0 nays
- WITNESSES:** For — (*Registered, but did not testify:* Debbra Hastings, Texas Oil and Gas Association)  
Against — Roland Love, Texas Land Title Association  
On — (*Registered, but did not testify:* Robert Carter, Texas Department of Insurance)
- BACKGROUND:** An uptick in mineral drilling led the title insurance industry to issue general exceptions to title insurance policies for minerals, meaning that a title insurance policy would not cover any defects in title related to mineral rights. The Texas Department of Insurance issued a bulletin stating that special exceptions were required instead of general exceptions. An agreement with the title industry was reached whereby general exceptions could be used if two endorsements were offered to property buyers by the title industry. These endorsements would insure against surface damage caused by mineral operations.
- DIGEST:** CSHB 1355 no longer would require a title insurance company to offer an endorsement insuring a loss from damage resulting from the use of the surface of the land for mineral extraction in connection with a title insurance policy if the policy included a general exception or exclusion. A general exception or exclusion would be defined as a provision in a title insurance policy providing that
- the title insurer did not insure title to, and excepted from the description of the covered property, coal, lignite, oil, gas and other minerals in and under the covered property; or

- the policy did not cover a lease, grant, exception, or reservation of coal, lignite, oil, gas, or other minerals appearing in the public records.

The bill would take effect on September 1, 2011, and would apply to a title insurance policy delivered or issued for delivery on or after January 1, 2012.

**SUPPORTERS  
SAY:**

Lenders are requiring title insurance endorsements for minerals even though the endorsements were supposed to be optional for property buyers. Buyers are charged an extra \$50 for the endorsements but get no value from them. Buyers are already covered for this type of damage under a homeowner's policy or could look to the oil and gas company causing surface damage for compensation.

The endorsements are transforming title insurers into property casualty insurers. The endorsements also do not address the problem that a buyer is not covered if there is a defect in title related to mineral rights.

**OPPONENTS  
SAY:**

General exceptions have meant that property buyers are not covered if there is a defect in title related to mineral rights. The compromise negotiated between the Department of Insurance and the title industry ensured that buyers would have some form of mineral coverage in return for allowing the title industry to write general exceptions. HB 1355 would no longer require insurers to offer this protection for consumers.