

## **BILL ANALYSIS**

Senate Research Center  
83R29014 JAM-D

C.S.H.B. 2590  
By: Keffer (Eltife)  
Natural Resources  
5/16/2013  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Knowledgeable parties are concerned about situations surrounding foreclosures that occur in a well bore tract on a horizontally drilled well. The parties note that there is a potential that the well will never be able to be developed and produced because the entity that takes ownership, typically a bank or federal agency, rarely shows any interest in leasing to operators. Therefore, the parties claim, a possible trespass situation arises that cannot be remedied. The uncertainties increase, the parties note, because a bank or the federal agency can own a foreclosed property for weeks or for many years. The parties point out that given the unpredictability of when the minerals are likely to be leased, mineral owners in the same pooled unit face these uncertainties regarding whether the minerals will ever be developed. To address this issue, C.S.H.B. 2590 seeks to ensure that mineral owners are protected if a foreclosure occurs in a well bore tract.

C.S.H.B. 2590 amends current law relating to the foreclosure sale of property subject to an oil or gas lease.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle B, Title 5, Property Code, by adding Chapter 66, as follows:

#### **CHAPTER 66. SALE OF PROPERTY SUBJECT TO OIL OR GAS LEASE**

Sec. 66.001. SALE OF PROPERTY SUBJECT TO OIL OR GAS LEASE. (a) Provides that, notwithstanding any other law, an oil or gas lease covering real property subject to a security interest that has been foreclosed remains in effect after the foreclosure sale if the oil or gas lease has not terminated or expired on its own terms and was executed and recorded in the real property records of the county before the date the security interest was recorded, or was executed and recorded in the real property records of the county after the date the security interest was recorded but before the foreclosure sale.

(b) Requires that any royalty payment under an oil or gas lease due to the owner of the real property that was subject to the security interest that has been foreclosed be paid to the purchaser of the foreclosed real property.

(c) Requires that the lessee of the oil or gas lease indemnify the purchaser and any mortgagee of the foreclosed real property from actual damages resulting from the lessee's operations conducted pursuant to the oil or gas lease.

(d) Provides that, if an oil or gas lease is executed and recorded in the real property records of the county after the date a security interest in the affected real property is recorded and the affected real property is subsequently sold in a foreclosure sale, the foreclosure sale terminates and extinguishes the lessee's right to use the surface of the real property pursuant to the oil or gas lease.

(e) Provides that a subordination agreement between a lessee of an oil or gas lease and a mortgagee of real property controls over any conflicting provision of this section.

SECTION 2. Makes application of the change in law made by this Act prospective.

SECTION 3. Effective date: January 1, 2014.