

SUBJECT: Requiring disclosure in certain offers to buy mineral or royalty interest

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 10 ayes — Paddie, Herrero, Anchia, Bailes, Darby, Geren, Gutierrez,  
Harris, Perez, Rosenthal

0 nays

1 absent — Craddick

WITNESSES: For — Wade Caldwell, National Association of Royalty Owners, Texas Chapter; Ed Longanecker, TIPRO; Melanie Cole; Beade Northcut; Joshua Stein; (*Registered, but did not testify*: Jeremy Fuchs, Texas and Southwestern Cattle Raisers Association; Jennifer Bremer, Texas Land & Mineral Owners Association; Russell Hayter)

Against — (*Registered, but did not testify*: Steve Perry, Chevron USA; Tom Sellers, ConocoPhillips; Cory Pomeroy, Texas Oil and Gas Association)

On — Brice Ferguson, Cactus Water Services, LLC; (*Registered, but did not testify*: Bill Stevens, Panhandle Producers and Royalty Owners, Texas Alliance of Energy Producers)

BACKGROUND: Property Code sec. 5.151 requires a person who mails to the owner of a mineral or royalty interest an offer to purchase said interest to include in the offer a conspicuous statement that the contract or instrument of conveyance would sell all or a portion of the owner's interest. Instruments without the required conspicuous statement are not deemed legitimate purchases.

Concerns have been raised that this disclosure requirement is not robust enough to protect mineral or royalty interest owners from fraudulent lease offers that in effect sell all or part of the owner's interest to the offering party.

**DIGEST:** CSHB 3838 would require a mineral or royalty interest conveyance instrument specified by the bill to include a conspicuous statement printed at the top of each page in a type size of at least 14 points. The statement would be required to provide that the offer was not a lease and that the owner would be selling all or a portion of the owner's mineral or royalty interests. Conveyance instruments without such a statement would be void.

The bill would authorize a person who had conveyed 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. The person could recover from the purchaser:

- all royalties and bonuses paid to the purchaser;
- court costs;
- reasonable attorney's fees; and
- exemplary damages if the judge or jury determined the purchaser's conduct constituted a false representation or false promise.

Suit would have to be brought no later than the fourth anniversary of the date the person executed the conveyance.

The bill would apply only to instruments of conveyance that:

- were presented to the owner of the interest by the person acquiring the interest;
- were titled an oil and gas lease or an oil and gas royalty lease or had other words in the caption or other prominently displayed label that indicated that the transaction was a lease of a mineral or royalty interest; and
- had 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 lease or royalty interest in production from an existing lease.

The bill would not apply to instruments of conveyance that:

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

The bill would take effect September 1, 2019, and would apply only to an agreement entered into on or after that date.