

BILL ANALYSIS

Senate Research Center

H.B. 1355
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 1355 amends current law relating to title insurance coverage for minerals and surface damage resulting from mineral extraction and development.

RULEMAKING AUTHORITY

Rulemaking authority is expressly restricted in SECTION 2 (Section 2703.055, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 2703, Insurance Code, by adding Section 2703.0515, as follows:

Sec. 2703.0515. CERTAIN REQUIREMENTS PROHIBITED. (a) Provides that a title insurance company is not required to offer or provide in connection with a title insurance policy an endorsement insuring a loss from damage resulting from the use of the surface of the land for the extraction or development of coal, lignite, oil, gas, or another mineral if the policy includes a general exception or exclusion from coverage a loss from damage resulting from the use of the surface of the land for the extraction or development of coal, lignite, oil, gas, or another mineral.

(b) Provides that in this section, "general exception or exclusion" means a provision in a title insurance policy or other title insuring form that provides that title insurance coverage under the policy or form:

(1) is subject to, and the title insurer does not insure title to, and excepts from the description of the covered property, coal, lignite, oil, gas, and other minerals in and under and that may be produced from the covered property, together with related rights, privileges, and immunities; or

(2) does not cover a lease, grant, exception, or reservation of coal, lignite, oil, gas, or other minerals, or related rights, privileges, and immunities, appearing in the public records.

(c) Prohibits an additional premium or other amount from being charged for an endorsement to a loan policy of title insurance if the endorsement:

(1) insures against loss from damage to improvements or permanent buildings located on land that results from the future exercise of any right existing on the date of the loan policy to use the surface of the land for the extraction or development of coal, lignite, oil, gas, or another mineral;

(2) expressly does not insure against loss resulting from subsidence; and

(3) was promulgated by the commissioner of insurance (commissioner) in calendar year 2009.

SECTION 2. Amends Subchapter B, Chapter 2703, Insurance Code, by adding Sections 2703.055 and 2703.056, as follows:

Sec. 2703.055. REQUIREMENT OF CERTAIN PROVISIONS PROHIBITED. Prohibits the commissioner from requiring by rule or through adoption of a title insurance policy or other insuring form that a title insurance policy delivered or issued for delivery in this state:

- (1) insure against a loss that a person with an interest in real property sustains from damage to the property by reason of severance of minerals from the surface estate; or
- (2) provide insurance as to ownership of minerals.

Sec. 2703.056. EXCEPTIONS; MINERAL INTERESTS. (a) Authorizes a title insurance company, subject to the underwriting standards of the title insurance company, to in a commitment for title insurance or a title insurance policy include a general exception or a special exception to except from coverage a mineral estate or an instrument which purports to reserve or transfer all or part of a mineral estate.

- (b) Provides that the inclusion in a title insurance policy of a general exception or a special exception described by Subsection (a) does not create title insurance coverage as to the condition or ownership of the mineral estate.

SECTION 3. Makes application of Sections 2703.055 and 2703.056, Insurance Code, as added by this Act, prospective to January 1, 2012.

SECTION 4. Makes application of this Act prospective January 1, 2012.

SECTION 5. Effective date: September 1, 2011.