

By: Bailes

H.B. No. 3838

A BILL TO BE ENTITLED

AN ACT

relating to a disclosure in certain offers to purchase or lease a mineral or royalty interest.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 5.151, Property Code, is amended to read as follows:

Sec. 5.151. DISCLOSURE IN CERTAIN OFFERS ~~[OFFER]~~ TO PURCHASE OR LEASE MINERAL OR ROYALTY INTEREST.

SECTION 2. Section 5.151, Property Code, is amended by amending Subsections (a), (b), (c), (e), and (f) and adding Subsections (a-1) and (c-1) to read as follows:

(a) A person who delivers ~~[mails]~~ to the owner of a mineral or royalty interest an offer to purchase all or any portion of only the mineral or royalty interest, it being understood that for the purpose of this section the taking of an oil, gas, or mineral lease other than a lease described by Subsection (a-1) shall not be deemed a purchase of a mineral or royalty interest, and encloses an instrument of conveyance of only the mineral or royalty interest ~~[and a draft or other instrument, as defined in Section 3.104, Business & Commerce Code, providing for payment for that interest]~~ shall include in the offer a conspicuous statement printed in a type style that is approximately the same size as 14-point type style or larger and is in substantially the following form:

BY EXECUTING AND DELIVERING THIS INSTRUMENT YOU

1 ARE SELLING ALL OR A PORTION OF YOUR MINERAL OR ROYALTY  
2 INTEREST IN (DESCRIPTION OF PROPERTY BEING CONVEYED).

3 (a-1) An offer to lease an interest in oil and gas in a  
4 property is considered an offer to purchase a mineral or royalty  
5 interest and must include the statement described by Subsection (a)  
6 if:

7 (1) the property is subject to an existing oil and gas  
8 lease; and

9 (2) the lease being offered has the effect of  
10 conveying all or a portion of the mineral or royalty owner's  
11 interest in production from the underlying oil and gas lease.

12 (b) A person who conveys a mineral or royalty interest as  
13 provided by Subsection (a) or (a-1) may bring suit against the  
14 purchaser or lessor of the interest if:

15 (1) the purchaser or lessor did not give the notice  
16 required by Subsection (a); and

17 (2) the person has given 30 days' written notice to the  
18 purchaser or lessor that a suit will be filed unless the matter is  
19 otherwise resolved.

20 (c) A plaintiff who prevails in a suit under Subsection (b)  
21 may rescind the sale or lease agreement and recover from the  
22 [~~initial~~] purchaser or lessor of the mineral or royalty interest  
23 [~~the greater of~~]:

24 (1) exemplary damages if the purchaser's or lessor's  
25 conduct constitutes fraud under Sections 27.01(a) and (c), Business  
26 & Commerce Code, in addition to any damages awarded under that  
27 section [~~\$100~~]; and [~~or~~]

1           (2) an amount up to the difference between the amount  
2 paid by the purchaser or lessor for the mineral or royalty interest  
3 and the fair market value of the mineral or royalty interest at the  
4 time of the sale or lease.

5           (c-1) Notwithstanding Section 41.004, Civil Practice and  
6 Remedies Code, a court shall award exemplary damages as provided by  
7 Subsection (c)(1) to a plaintiff who prevails in a suit under  
8 Subsection (b) irrespective of whether the plaintiff is awarded  
9 actual damages.

10           (e) A person must bring a suit under Subsection (b) not  
11 later than the fourth [~~second~~] anniversary of the date the person  
12 executed the conveyance.

13           (f) The remedy provided under this section shall be in  
14 addition to any other remedies existing under law[~~, excluding~~  
15 ~~rescission or other remedies that would make the conveyance of the~~  
16 ~~mineral or royalty interest void or of no force and effect~~].

17           SECTION 3. The change in law made by this Act applies only  
18 to an offer to purchase or lease a mineral or royalty interest  
19 delivered on or after the effective date of this Act. An offer to  
20 purchase or lease a mineral or royalty interest delivered before  
21 the effective date of this Act is governed by the law as it existed  
22 immediately before the effective date of this Act, and that law is  
23 continued in effect for that purpose.

24           SECTION 4. This Act takes effect September 1, 2019.