

## **BILL ANALYSIS**

Senate Research Center

H.B. 3582  
By: Keffer (Haywood)  
Natural Resources  
5/14/1999  
Engrossed

### **DIGEST**

Under current law, pooling a nonparticipating royalty interest is prohibited without the written consent of the nonparticipating royalty interest owner. This prevents a unit from being pooled if the identity or location of a nonparticipating royalty interest owner is unknown. H.B.3582 authorizes a district court to appoint a receiver for a royalty interest that is owned by an absent or unknown royalty owner if a particular action is brought against the royalty owner and if certain requirements are met. In addition, this bill sets out pleading and notice requirements and addresses the receiver's duties regarding ratification, pooling, and unitization agreements.

### **PURPOSE**

As proposed, H.B. 3582 authorizes a district court to appoint a receiver for a royalty interest that is owned by an absent or unknown royalty owner if a particular action is brought against the royalty owner and if certain requirements are met.

### **RULEMAKING AUTHORITY**

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

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 64F, Civil Practice and Remedies Code, by adding Section 64.093, as follows:

Sec. 64.093. RECEIVER FOR ROYALTY INTERESTS OWNED BY NONRESIDENT OR ABSENTEE. (a) Authorizes a district court to appoint a receiver for the royalty interest owned by a nonresident or absent defendant in certain actions.

(b) Requires the defendant for whom the receiver is sought to be a person whose residence or identity is unknown or a nonresident who has not paid taxes on the interest or rendered it for taxes during the five-year period immediately preceding the filing of the action.

(c) Requires the plaintiff to allege by verified petition and prove that the plaintiff has made a diligent but unsuccessful effort to locate the defendant and will suffer substantial damage or injury unless the receiver is appointed.

(d) Provides that in an action under Subsection (a): (1) the plaintiff must name the last known owner or last record owner of the interest as the defendant in the petition; (2) the plaintiff must serve notice on the defendant by publication pursuant to the Texas Rules of Civil Procedure (TRCP); (3) the court is authorized to appoint specified persons as the receiver; (4) the applicant is not required to post bond; and (5) the receiver is not required to post bond.

(e) Provides that a receivership created under this section continues as long as the defendant or the defendant's heirs, assigns, or personal representatives fail to appear in court to claim the interest.

(f) Requires the receiver, as ordered by the court, to immediately ratify a mineral lease or pooling agreement or enter into a unitization agreement subject to certain conditions.

(g) Authorizes a lease ratified by a receiver under this section to authorize the lessee to pool and unitize land subject to the lease with adjacent land into a unit meeting certain specifications.

Authorizes a receiver to ratify a pooling agreement to allow a pooled unit which meets certain specifications.

(h) Requires any money consideration for the execution of a ratification, pooling agreement, or unitization agreement by the receiver to be paid to the clerk of the court in which the case is pending before the instrument is executed. Requires the court to apply the money to the costs accruing in the case and to retain any balance for the owner of the royalty interest. Requires payments made at a later time under the lease, pooled unit, or unitization agreement to be paid into the registry of the court and impounded for the owner of the royalty interest.

(i) Provides that this section is cumulative of other laws relating to removal of a cloud from title or appointment of a receiver.

(j) Defines "mineral lease," "leasehold interest," "pooling agreement," and "royalty interest."

(k) Provides that if there is a conflict between Subsection (d)(2) and TRCP, Subsection (d)(2) controls to the extent of the conflict. Prohibits the supreme court from amending or adopting rules in conflict with Subsection (d)(2), notwithstanding Section 22.004, Government Code.

SECTION 2. Amends Section 53.001, Natural Resources Code, by adding Subdivision (4), to define "surface mining."

SECTION 3. Amends Sections 53.065(b) and (c), Natural Resources Code, to require a lessee under a lease executed under this subchapter after the effective date of this Act for certain purposes to pay a certain percentage of bonuses and rentals and royalties in certain situations. Makes conforming and nonsubstantive changes.

SECTION 4. Amends Chapter 91J, Natural Resources Code, by adding Section 91.408, as follows:

Sec. 91.408. INFORMATION FOR PAYEES OF PROCEEDS OF PRODUCTION FROM CERTAIN GAS WELLS. Requires certain payors to annually furnish the payee a statement with certain information. Requires a payor to furnish the required statement by March 15 each year.

SECTION 5. Effective date: September 1, 1999.

SECTION 6. Emergency clause.