

By: _____ .B. No. _____

Substitute the following for .B. No. _____:

By: _____ C.S. .B. No. _____

A BILL TO BE ENTITLED

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AN ACT

relating to the allocation of production from a horizontal drainhole oil or gas well to an owner of a nonparticipating royalty interest in production from the well.

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

SECTION 1. Subchapter J, Chapter 91, Natural Resources Code, is amended by adding Section 91.409 to read as follows:

Sec. 91.409. ALLOCATION OF PRODUCTION FROM HORIZONTAL DRAINHOLE WELL TO OWNER OF NONPARTICIPATING ROYALTY INTEREST. (a)

This section does not apply to:

(1) a unit formed under Chapter 102; or

(2) an interest owned by this state.

(b) A payee who owns a nonparticipating royalty interest in a tract that has been penetrated by a horizontal drainhole well for oil, gas, or both oil and gas and who has not ratified a lease or pooling agreement covering the tract is entitled to be paid the payee's allocated share of the proceeds derived from the sale of oil or gas production from the well based on the ratio of the length of the portion of the horizontal drainhole between the first take point and the last take point of the horizontal drainhole that crosses the tract in which the payee owns the nonparticipating royalty interest to the total length of the horizontal drainhole between the first take point and the last take point of the horizontal drainhole. A payor who pays such a payee based on the

1 allocation method provided by this section is presumed to have
2 accurately attributed production to the payee's interest.

3 (c) A payor or payee to whom this section applies may rebut
4 the presumption that the allocation method provided by this section
5 accurately attributes production to the payee's nonparticipating
6 royalty interest by obtaining a final order of the commission
7 establishing another method of allocation of production to the
8 payee's interest. The payor or payee may obtain such an order only
9 after application, notice to each payee owning an interest in the
10 tract that is subject to the nonparticipating royalty interest and
11 the payor, and an opportunity for a hearing. The commission may
12 establish an alternate method of allocation only on a showing by
13 clear and convincing evidence that the method is more accurate in
14 attributing production to the payee's interest than the method
15 provided by Subsection (b). The commission has exclusive primary
16 jurisdiction over such a determination.

17 SECTION 2. This Act applies only to the allocation of
18 production from a horizontal drainhole oil or gas well that is
19 spudded on or after the effective date of this Act. The allocation
20 of production from a horizontal drainhole oil or gas well that is
21 spudded before the effective date of this Act is governed by the law
22 as it existed immediately before the effective date of this Act, and
23 that law is continued in effect for that purpose.

24 SECTION 3. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

1 Act takes effect September 1, 2011.