

HB 3838 seeks to put an end to the fraudulent and deceptive “royalty lease” scam, which has been victimizing royalty and mineral owners for the past several years.

The “Royalty Lease” Scam

- Buyers cold call and send mass mailings to royalty owners offering to “lease” their “retained mineral interest”. They are really fishing for unsophisticated owners, typically elderly.
- The victims usually have a valid existing lease or NPRI. The buyer presents the offer as a “top lease” where the royalty owner will receive a cash bonus and a 25% royalty.
- The form presented to the victim is intentionally designed to mimic an oil and gas lease form, down to copying the font and style of a traditional Producers 88 lease form.
- The form is not an oil and gas lease. Buried in the fine print, the royalty owner is selling 75% of their existing royalty interest for a minimal payment.

Scam becoming widespread

- One group of buyers has obtained more than 400 “royalty leases” throughout Texas.
- These buyers have experienced a 75% close rate using their “lease” format and admit they wouldn’t have had such success if they called the instrument a “deed”, which is what it really is—a term royalty deed.
- The scam has netted this group of buyers millions of dollars.

The §5.151 Disclosure Issue

- §5.151 was passed after a similar scheme became prevalent in the 1990s.
- §5.151 requires conspicuous notice in the offer but only applies to offers that are mailed and contain a bank draft or other negotiable instrument.
- The royalty lease buyers are very familiar with the nuances of §5.151 and

have modified the scheme so it does not apply.

Existing Remedies Not Enough

- Scope of §5.151 not broad enough to include current scam.
- Fraud can be difficult and expensive to prove in court.
- Sellers include arbitration provision in their “leases.”
- The royalty owner can’t get their interest back.
- Statute of limitations passes before many victims understand they were taken advantage of.

The Solution—Amend §5.151

- Amendment of §5.151 is supported by mineral and royalty owners, as well as industry groups (NARO, TLMA, TIPRO).
- Amendment will not affect legitimate offers for leases or purchases.
- HB 3838 expands §5.151 to apply to leases, not just purchases.
- Includes royalties, not just mineral interests.
- Requires 14-point type disclosure warning to the owner that they are selling all or a portion of their mineral or royalty interest.
- Expands available remedies so victim can rescind the sale and recover exemplary damages if buyer’s conduct was fraudulent.
- Expands statute of limitations from 2 to 4 years.