

Gray Reed Energy and the Law Post

Who Won and Who Didn't: The 2021 Texas Legislature and Energy

By [Charles Sartain](#) on September 9, 2021



Most bills filed in each legislative session fail. For the most part we are thankful for that. But today we summarize a few that survived while you weren't paying attention. As usual, there are winners, losers, and rainouts.

- ❖ [HB 2730](#) beefs up the "[Landowners' Bill of Rights](#)" in eminent domain negotiations and proceedings. It amends the Property Code, Water Code and Occupations Code. The effective date is January 1, 2022. **Winner:** Landowners.
- ❖ [SB 885](#) gives teeth to quitclaim deeds. It used to be that an owner who takes title through a quitclaim could not be a bona fide purchaser and would be on notice of unrecorded conveyances and/or instruments not in their chain of title. **Winner:** Stability of Texas titles.

Civil Practice and Remedies Code §6.025 is amended and §13.006 is added. After the fourth anniversary of the date a quitclaim deed for real property is recorded in the deed records the deed will not affect the question of the good faith of a subsequent purchaser or creditor and is not notice to a subsequent purchaser or creditor of any unrecorded conveyance of or transfer all or encumbrance of the real property. This change applies only to QC's recorded after the effective date of September 1, 2021. Before this amendment, §16.025 applied only to forgeries.

- ❖ [SB 1259](#) hoses (can't think of a dignified term) royalty owners by amending Natural Resources Code §91.402 to deny a common-law cause of action for breach of contract against a payor who withholds payments for a title dispute. The exception is if the contract requiring payment specifies otherwise (which they rarely ever do because it hasn't been necessary). It applies to actions filed after the effective date of the Act, which, piling insult upon injury, was immediately upon the May 24th signing by the Governor. This is a legislative "fix", on the second try, to the 2018 Texas Supreme Court decision in [ConocoPhillips et al v. Koopmann](#). **Loser:** Royalty owners.

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- ❖ [HB 3648](#) requires the Public Utilities Commission and the Railroad Commission to adopt rules to designate natural gas entities as critical during an energy emergency. Here is a summary by the [House Research Organization](#). **Winner:** Consumers, ... or a rainout?
- ❖ [SB 2154](#) requires that members of the Public Utilities Commission be residents of Texas. **Winner:** Consumers, ... or a rainout?
- ❖ [SB 2](#) reorganized ERCOT. The [Texas Tribune](#) can explain it better than I. **Winner:** Consumers, ... or a rainout?
- ❖ [SB 760](#) requires solar energy operators to clean up after their facilities are decommissioned and to provide financial security to see that it gets done. **Winner:** Landowners.
- ❖ Lessees of state lands, pay attention. [SB 1258](#) amends the Natural Resources Code to address a state lessee's duty to drill an offset well or pay compensatory royalties if horizontal wells treated by hydraulic fracturing are located within 1000 feet of a state lease. The Act specifies when an offset well would not be required, which depends on the location of the horizontal drainhole. **Winner:** Taxpayers and the state budget.

[Your musical interlude](#), for old times' sake. Winner: Black Lung disease. Loser: J. D. Vance's relatives and pretty much all the characters in Justified.

This article was originally posted to Gray Reed's Energy & the Law blog, a resource for legal developments, commentary and analysis of the law of oil and gas and alternative energy resources. To read more and to subscribe, visit www.energyandthelaw.com.



More About the Author:

Charles Sartain has been helping clients of all types resolve their commercial disputes for most of his 35 years as a lawyer. Dedicated to helping clients stay current on the best ways to protect their businesses, Charles is the author and editor of [Energy & The Law](#), a blog focused on exploring critical developments in the energy industry and how they impact clients from a legal and business perspective.