PROPERTY CODE

TITLE 4. ACTIONS AND REMEDIES

CHAPTER 31. BAD FAITH WASHOUT OF OVERRIDING ROYALTY INTEREST IN OIL AND GAS LEASE

Sec. 31.001. DEFINITIONS. In this chapter:

(1) "Bad faith" means the conscious taking of action for the purpose of washing out all or part of an overriding royalty interest.

(2) "Washout" means the elimination or reduction of an overriding royalty interest in an oil and gas lease by the forfeiture or surrender of the oil and gas lease by a lessee or the lessee's successors or assigns and the subsequent reacquisition of a lease, or all or part of the mineral estate associated with the lease, by the lessee or the lessee's successors, assigns, contractors, or subsidiaries on all or part of the same land, free of the overriding royalty interest.

Added by Acts 2023, 88th Leg., R.S., Ch. 7 (H.B. 450), Sec. 1, eff. September 1, 2023.

Sec. 31.002. CAUSE OF ACTION FOR BAD FAITH WASHOUT. A person may bring a cause of action for a bad faith washout of the person's overriding royalty interest in an oil and gas lease. The person is entitled to a remedy under this chapter if the person proves by a preponderance of the evidence that:

(1) the person owned or had a legal right to the overriding royalty interest;

(2) the defendant had control over the oil and gas lease burdened by the overriding royalty interest;

(3) the defendant caused a washout of the person's overriding royalty interest; and

(4) the defendant acted in bad faith by knowingly or intentionally causing the washout.

Added by Acts 2023, 88th Leg., R.S., Ch. 7 (H.B. 450), Sec. 1, eff. September 1, 2023.

Sec. 31.003. VENUE. An owner of an overriding royalty

interest in an oil and gas lease may bring an action under this chapter in a district court of a county in which any part of the property subject to the oil and gas lease is located.

Added by Acts 2023, 88th Leg., R.S., Ch. 7 (H.B. 450), Sec. 1, eff. September 1, 2023.

Sec. 31.004. REMEDIES; COSTS AND FEES. (a) An owner of an overriding royalty interest who prevails in an action under this chapter may recover:

(1) actual damages;

(2) enforcement of a constructive trust on the oil and gas lease or mineral estate acquired to accomplish the washout of the overriding royalty interest; and

(3) court costs and attorney's fees.

(b) The remedies provided by this chapter are cumulative of other remedies provided by common law or statute.

Added by Acts 2023, 88th Leg., R.S., Ch. 7 (H.B. 450), Sec. 1, eff. September 1, 2023.

Sec. 31.005. LIMITATION ON FILING ACTION. A person must bring an action under this chapter not later than the second anniversary of the date the person obtained actual knowledge that the washout occurred.

Added by Acts 2023, 88th Leg., R.S., Ch. 7 (H.B. 450), Sec. 1, eff. September 1, 2023.