

49 U.S.C.A. §§ 60101 et seq. (Natural Gas Pipeline Safety Act)

**KeyCite®:** Cases and other legal materials listed in KeyCite Scope can be researched through West's KeyCite service on Westlaw®. Use KeyCite to check citations for form, parallel references, prior and later history, and comprehensive citator information, including citations to other decisions and secondary materials.

## Volume 55

### I. IN GENERAL (§§ 1 TO 5)

### II. PROPERTY RIGHTS (§§ 6 TO 42)

- A. IN GENERAL; SEVERANCE OF SURFACE AND MINERAL ESTATES (§§ 6 TO 13)
- B. PARTICULAR INTERESTS (§§ 14 TO 18)
  - 1. Concurrent Interests (§§ 14 to 15)
  - 2. Successive Interests (§§ 16 to 18)
- C. ACQUISITION OF TITLE BY ADVERSE POSSESSION (§§ 19 TO 25)
- D. REMEDIES TO PROTECT (§§ 26 TO 42)
  - 1. In General (§§ 26 to 28)
  - 2. Partition (§§ 29 to 36)
  - 3. Receivership (§§ 37 to 42)

### III. CONTRACTS AND CONVEYANCES (§§ 43 TO 49)

- A. IN GENERAL (§§ 43 TO 45)
- B. AGREEMENTS OR TRANSFERS INVOLVING PARTICULAR PARTIES (§§ 46 TO 49)

### IV. MINERAL DEEDS, RESERVATIONS, AND EXCEPTIONS (§§ 50 TO 86)

- A. IN GENERAL; MINERAL DEEDS (§§ 50 TO 62)
  - 1. In General (§§ 50 to 57)

OIL AND GAS

- 2. Construction (§§ 58 to 62)
- B. RESERVATION OR EXCEPTION OF MINERALS (§§ 63 TO 67)
- C. OPERATION AND EFFECT (§§ 68 TO 81)
  - 1. In General (§§ 68 to 75)
  - 2. Conditions and Covenants (§§ 76 to 78)
  - 3. Use of Surface by Mineral Owner (§§ 79 to 81)
- D. JUDICIAL RELIEF (§§ 82 TO 86)
  - 1. In General (§§ 82 to 83)
  - 2. Cancellation and Rescission (§§ 84 to 86)

**V. LEASES (§§ 87 TO 216)**

- A. IN GENERAL (§§ 87 TO 88)
- B. POWER TO GRANT; PARTIES (§§ 89 TO 106)
  - 1. In General (§§ 89 to 97)
  - 2. Executors, Administrators, and Guardians (§§ 98 to 106)
    - a. In General (§§ 98 to 99)
    - b. Leases Authorized by Probate Court (§§ 100 to 106)
- C. CONTRACT FOR LEASE (§§ 107 TO 114)
- D. EXECUTION, FORM, AND SUFFICIENCY (§§ 115 TO 129)
  - 1. In General (§§ 115 to 126)
  - 2. Special Types of Leasing (§§ 127 to 129)
- E. CONSTRUCTION (§§ 130 TO 134)
- F. OPERATION AND EFFECT (§§ 135 TO 154)
  - 1. In General (§§ 135 to 137)
  - 2. Estates or Interests Under Lease (§§ 138 to 146)
    - a. In General (§§ 138 to 143)
    - b. Property Included (§§ 144 to 146)

3. Use of Surface of and Substances from or on Premises (§§ 147 to 154)
  - a. In General; Use by Lessor (§§ 147 to 148)
  - b. Use by Lessee (§§ 149 to 154)
- G. RIGHTS, OBLIGATIONS, AND PERFORMANCE (§§ 155 TO 188)
  1. In General (§§ 155 to 158)
  2. Exploration, Development, and Production (§§ 159 to 188)
    - a. In General (§§ 159 to 164)
    - b. Covenants of Lessee to Explore and Develop Lease (§§ 165 to 176)
      - (1) In General (§§ 165 to 169)
      - (2) Protection Against Drainage (§§ 170 to 173)
      - (3) Operation and Marketing (§§ 174 to 176)
    - c. Drilling and Rental (§§ 177 to 188)
      - (1) In General (§§ 177 to 178)
      - (2) Drilling Operations (§§ 179 to 184)
      - (3) Payment of Delay Rentals (§§ 185 to 188)
- H. DURATION AND TERMINATION (§§ 189 TO 216)
  1. In General (§§ 189 to 201)
    - a. In General; During Primary Term (§§ 189 to 192)
    - b. After Primary Term (§§ 193 to 201)
  2. Special Provisions Affecting Duration (§§ 202 to 208)
  3. Renewal or Extension; Surrender; Abandonment (§§ 209 to 212)

OIL AND GAS

4. Effect of Termination (§§ 213 to 216)

**Volume 55A**

**V. LEASES (CONTINUED) (§§ 217 TO 253)**

**I. REMEDIES AND PROCEEDINGS (§§ 217 TO 253)**

1. In General (§§ 217 to 226)
2. Recovery of Damages (§§ 227 to 233)
3. Forfeiture (§§ 234 to 242)
  - a. In General (§§ 234 to 236)
  - b. Grounds for Forfeiture (§§ 237 to 239)
  - c. Proceedings (§§ 240 to 242)
4. Cancellation and Rescission (§§ 243 to 253)
  - a. In General (§§ 243 to 245)
  - b. Grounds (§§ 246 to 248)
  - c. Procedure (§§ 249 to 253)

**VI. ROYALTIES, BONUSES, AND OTHER ECONOMIC INTERESTS (§§ 254 TO 289)**

**A. IN GENERAL; TYPES OF INTERESTS (§§ 254 TO 261)**

1. In General (§§ 254 to 257)
2. Royalties (§§ 258 to 261)

**B. CREATION OR TRANSFER (§§ 262 TO 266)**

**C. EXTENT; AMOUNT PAYABLE (§§ 267 TO 275)**

**D. RIGHT TO PAYMENT (§§ 276 TO 278)**

**E. DISCHARGE OF OBLIGATION; TERMINATION (§§ 279 TO 281)**

**F. REMEDIES AND PROCEEDINGS (§§ 282 TO 289)**

**VII. RIGHTS IN PUBLIC LANDS (§§ 290 TO 348)**

**A. IN GENERAL (§§ 290 TO 299)**

1. Ownership of Minerals; Right to Lease (§§ 290 to 293)
2. Royalties (§§ 294 to 299)
- B. PUBLIC SCHOOL AND GULF LANDS (§§ 300 TO 316)
  1. In General; Awarding of Oil and Gas Leases (§§ 300 to 304)
  2. Duration of Oil and Gas Leases (§§ 305 to 308)
  3. Development and Transfer of Oil and Gas Leases (§§ 309 to 310)
  4. Sales and Leases of Vacancies (§§ 311 to 316)
- C. STREAM BEDS AND CHANNELS (§§ 317 TO 325)
  1. In General (§§ 317 to 318)
  2. Leases or Contracts for Development (§§ 319 to 323)
  3. Actions (§§ 324 to 325)
- D. UNIVERSITY LANDS (§§ 326 TO 334)
  1. In General (§§ 326 to 327)
  2. Leases of Lands (§§ 328 to 334)
- E. RELINQUISHMENT ACT LANDS (§§ 335 TO 348)
  1. In General (§§ 335 to 337)
  2. Leases of Lands (§§ 338 to 348)

**VIII. TRANSFERS BY LESSEE AND LESSOR  
(§§ 349 TO 421)**

- A. IN GENERAL; TRANSFERS OF LEASE OR LESSEE'S INTERESTS (§§ 349 TO 384)
  1. In General (§§ 349 to 353)
  2. Contract to Transfer (§§ 354 to 362)
  3. Form, Execution, and Sufficiency (§§ 363 to 369)

OIL AND GAS

4. Operation and Effect (§§ 370 to 384)
  - a. In General; Rights and Obligations of Assignor (§§ 370 to 376)
  - b. Rights, Interests and Obligations of Assignee of lease (§§ 377 to 384)
- B. TRANSFERS OF LESSOR'S ESTATE OR INTERESTS (§§ 385 TO 399)
  1. In General (§§ 385 to 388)
  2. Form, Execution, and Sufficiency (§§ 389 to 394)
  3. Operation and Effect (§§ 395 to 399)
- C. REMEDIES AND PROCEEDINGS (§§ 400 TO 421)
  1. In General; Remedies Available (§§ 400 to 407)
  2. Recovery of Damages (§§ 408 to 413)
  3. Cancellation (§§ 414 to 421)

**IX. DEVELOPMENT, PRODUCTION, AND DISTRIBUTION (§§ 422 TO 461)**

- A. IN GENERAL (§§ 422 TO 435)
  1. Forms of Organization or Association (§§ 422 to 429)
    - a. In General (§§ 422 to 423)
    - b. Mining Partnerships (§§ 424 to 429)
  2. Remedies and Proceedings (§§ 430 to 435)
- B. DRILLING, DEVELOPMENT AND OPERATING AGREEMENTS (§§ 436 TO 461)
  1. In General; Development and Operating Agreements (§§ 436 to 444)
  2. Drilling Contracts (§§ 445 to 450)
  3. Remedies and Proceedings (§§ 451 to 461)
    - a. In General; Causes of Action (§§ 451 to 455)
    - b. Procedure (§§ 456 to 461)

**Volume 56**

**IX. DEVELOPMENT, PRODUCTION, AND  
DISTRIBUTION (CONTINUED) (§§ 462 TO  
536)**

**C. POOLING AND UNITIZATION (§§ 462 TO  
476)**

1. In General; Authority to Pool or Unitize (§§ 462 to 470)
2. Effect of Pooling or Unitization (§§ 471 to 476)

**D. PIPELINES (§§ 477 TO 488)**

1. In General (§§ 477 to 483)
2. Acquisition of Rights of Way (§§ 484 to 488)

**E. LIENS FOR WORK AND MATERIALS  
(§§ 489 TO 512)**

1. In General (§§ 489 to 495)
2. Proceedings to Secure (§§ 496 to 500)
3. Operation and Effect (§§ 501 to 505)
4. Enforcement; Foreclosure (§§ 506 to 512)

**F. LIABILITY FOR INJURY OR DAMAGE  
(§§ 513 TO 536)**

1. In General (§§ 513 to 518)
  - a. Liability for Injury or Damage On Leased Premises (§§ 513 to 515)
  - b. Liability for Injury or Damage On Neighboring Premises (§§ 516 to 518)
2. Interference with Oil and Gas Rights (§§ 519 to 522)
3. Remedies and Proceedings (§§ 523 to 536)
  - a. In General (§§ 523 to 530)
  - b. Damages; Amount of Recovery (§§ 531 to 534)
  - c. Injunction (§§ 535 to 536)

OIL AND GAS

**X. GOVERNMENTAL REGULATION (§§ 537 TO 668)**

- A. IN GENERAL (§§ 537 TO 543)
- B. TEXAS RAILROAD COMMISSION (§§ 544 TO 556)
  - 1. In General (§§ 544 to 548)
  - 2. Rules and Orders (§§ 549 to 556)
    - a. In General (§§ 549 to 552)
    - b. Proceedings to Adopt (§§ 553 to 556)
- C. REGULATION OF PARTICULAR MATTERS (§§ 557 TO 629)
  - 1. Introduction (§§ 557 to 575)
    - a. In General (§§ 557 to 566)
    - b. Plugging of Wells (§§ 567 to 569)
    - c. Pollution (§§ 570 to 572)
    - d. Waste (§§ 573 to 575)
  - 2. Compulsory Pooling (§§ 576 to 583)
  - 3. Proration of Production (§§ 584 to 594)
    - a. In General (§§ 584 to 587)
    - b. Oil Production (§§ 588 to 589)
    - c. Gas Production (§§ 590 to 594)
  - 4. Spacing and Density of Wells (§§ 595 to 615)
    - a. In General (§§ 595 to 601)
    - b. Special or Exception Permits (§§ 602 to 615)
      - (1) In General; Exception to Prevent Waste (§§ 602 to 604)
      - (2) Exception to Prevent Confiscation of Property (§§ 605 to 610)
      - (3) Proceedings to Obtain Exception Permit (§§ 611 to 615)
  - 5. Transportation, Storage, and Distribution (§§ 616 to 629)



- a. In General; Transportation of Crude Oil and Petroleum Products (§§ 616 to 618)
  - b. Pipelines (§§ 619 to 627)
  - c. Storage Facilities (§§ 628 to 629)
- D. JUDICIAL REVIEW OF AND RELIEF FROM STATUTES AND TEXAS RAILROAD COMMISSION ORDERS (§§ 630 TO 657)
  - 1. In General; Nature of Action and Jurisdiction of Court to Review (§§ 630 to 635)
  - 2. Nature and Scope of Review (§§ 636 to 640)
  - 3. Procedural Matters (§§ 641 to 652)
    - a. In General (§§ 641 to 648)
    - b. Evidence (§§ 649 to 651)
    - c. Appeal of Determination on Review (§ 652)
  - 4. Injunctive Relief (§§ 653 to 657)
- E. ENFORCEMENT (§§ 658 TO 668)
  - 1. In General; Recordkeeping and Reporting (§§ 658 to 662)
  - 2. Penalties and Forfeitures (§§ 663 to 666)
  - 3. Judicial Proceedings (§§ 667 to 668)

**XI. TAXATION (§§ 669 TO 685)**

- A. IN GENERAL (§§ 669 TO 670)
- B. SEVERANCE TAXES (§§ 671 TO 685)
  - 1. In General; Oil Production (§§ 671 to 678)
  - 2. Gas Production (§§ 679 to 685)

**Volume 55**

**I. IN GENERAL**

- § 1 Generally; definitions

## OIL AND GAS

- § 2 —Kinds and uses of gas
- § 3 Oil and gas wells
- § 4 Pools, reservoirs, and fields
- § 5 Oil and gas as minerals; physical nature of oil and gas in place

## II. PROPERTY RIGHTS

### A. IN GENERAL; SEVERANCE OF SURFACE AND MINERAL ESTATES

- § 6 Generally; title to oil and gas in place
- § 7 —Property subject to right of way; riparian land
- § 8 Rights of holder of mineral interest; right to extract and reduce to possession
- § 9 Rule of capture; correlative rights of adjoining owners
- § 10 —Land adjacent to highway
- § 11 Abandoned or waste oil
- § 12 Stored gas
- § 13 Severance of surface and mineral estates

### B. PARTICULAR INTERESTS

#### 1. Concurrent Interests

- § 14 Generally
- § 15 Right to develop minerals; sharing of proceeds and expenses

#### 2. Successive Interests

- § 16 Generally
- § 17 Open mine or well doctrine
- § 18 Rights in proceeds of development

### C. ACQUISITION OF TITLE BY ADVERSE POSSESSION

- § 19 Generally; unsevered mineral estate
- § 20 Severed mineral estate
- § 21 —Effect of severance by owner of property
- § 22 —Effect of severance by adverse possessor
- § 23 —What constitutes severance
- § 24 —Exercise of dominion over severed estate

§ 25 —Merger with surface estate

## D. REMEDIES TO PROTECT

### 1. In General

§ 26 Generally

§ 27 Venue

§ 28 Remedies of concurrent owners

### 2. Partition

§ 29 Generally; voluntary partition

§ 30 Judicial partition

§ 31 —Loss of right to judicial partition by agreement

§ 32 —Who may compel judicial partition

§ 33 —Manner of dividing property

§ 34 —Equitable partition

§ 35 —Operation and effect

§ 36 —Proceedings to obtain

### 3. Receivership

§ 37 Generally

§ 38 Appointment to protect interests of concurrent owners

§ 39 —Interest owned by nonresident or absentee

§ 40 Appointment to protect interests of successive owners

§ 47 Appointment pending determination of adverse claims

§ 42 Assessment of costs

## III. CONTRACTS AND CONVEYANCES

### A. IN GENERAL

§ 43 Generally

§ 44 Conveyance of entire estate

§ 45 Acquisition or reservation of drilling privileges

### B. AGREEMENTS OR TRANSFERS INVOLVING PARTICULAR PARTIES

§ 46 Generally; concurrent owners

§ 47 Successive owners

§ 48 Spouses

§ 49 Corporations

#### **IV. MINERAL DEEDS, RESERVATIONS, AND EXCEPTIONS**

##### **A. IN GENERAL; MINERAL DEEDS**

###### **1. In General**

- § 50 Generally
- § 51 Execution and delivery of mineral deed
- § 52 Recordation of mineral deed
- § 53 Form and content of mineral deed
- § 54 —Description of property
- § 55 —Small adjacent parcels; “Mother Hubbard” clauses
- § 56 Consideration
- § 57 Conveyance of decedent’s property

###### **2. Construction**

- § 58 Generally
- § 59 Preference in favor of grantee and against drafter
- § 60 Preference in favor of validity
- § 61 Consideration of other writings
- § 62 Consideration of extrinsic evidence

##### **B. RESERVATION OR EXCEPTION OF MINERALS**

- § 63 Generally
- § 64 Distinction between reservation and exception
- § 65 Form and sufficiency
- § 66 —Inclusion of oil and gas in reservation or exception
- § 67 Construction

##### **C. OPERATION AND EFFECT**

###### **1. In General**

- § 68 Generally
- § 69 Resulting estate or interest of grantor
- § 70 Resulting estate or interest of grantee
- § 71 —Effect of reservation or exception
- § 72 After-acquired title
- § 73 Overconveyance
- § 74 Encumbrances

§ 75 Revocation by parties

## 2. Conditions and Covenants

§ 76 Generally

§ 77 Exploration, drilling, and development

§ 78 Title

## 3. Use of Surface by Mineral Owner

§ 79 Generally

§ 80 Scope of use

§ 81 —Effect of provisions in grant or reservation

# D. JUDICIAL RELIEF

## 1. In General

§ 82 Generally

§ 83 Reformation

## 2. Cancellation and Rescission

§ 84 Generally

§ 85 Defenses

§ 86 Procedure

# V. LEASES

## A. IN GENERAL

§ 87 Generally

§ 88 Nature and purpose

## B. POWER TO GRANT; PARTIES

### 1. In General

§ 89 Generally; concurrent owners

§ 90 —Ratification by nonjoining cotenants

§ 91 Successive owners

§ 92 Owners of interests in land burdened with particular uses

§ 93 Owners of land subject to encumbrances

§ 94 Husband and wife

§ 95 Corporations

§ 96 Persons acting in fiduciary or representative capacity

## OIL AND GAS

§ 97 —Holders of exclusive power to grant lease

### 2. Executors, Administrators, and Guardians

#### a. In General

§ 98 Generally

§ 99 Independent executors and community administrators

#### b. Leases Authorized by Probate Court

§ 100 Generally; application requirement

§ 101 Notice of application, hearing, and order

§ 102 Execution of lease; bond

§ 103 Authorization of lease at private sale

§ 104 Term of lease

§ 105 Execution of ancillary instruments

§ 106 Procedure on failure to apply for authority

## C. CONTRACT FOR LEASE

§ 107 Generally

§ 108 Form and content; execution

§ 109 Consideration

§ 110 Escrow transactions

§ 111 Construction

§ 112 Performance; breach

§ 113 Remedies

§ 114 —Specific performance

## D. EXECUTION, FORM, AND SUFFICIENCY

### 1. In General

§ 115 Generally

§ 116 Requirement that lease be in writing and signed; effect of blanks on form

§ 117 Statement of date

§ 118 Identification of parties

§ 119 Description of property

§ 120 Acknowledgment

§ 121 Delivery and acceptance; escrow arrangements

§ 122 Recordation

§ 123 Consideration

- § 124 —Mutuality of obligation
- § 125 Ratification, waiver, and estoppel
- § 126 Second or substituted lease

## 2. Special Types of Leasing

- § 127 Generally; lease on large tract
- § 128 Lease on multiple tracts
- § 129 Leases in unproven territory

## E. CONSTRUCTION

- § 130 Generally; intention of parties
- § 131 Controlling nature and construction of language of lease
- § 132 Preference in favor of lessor or of lessee
- § 133 Consideration of other writings and extrinsic evidence
- § 134 —Acts of parties

## F. OPERATION AND EFFECT

### 1. In General

- § 135 Generally
- § 136 Homestead property
- § 137 Encumbered property

### 2. Estates or Interests Under Lease

#### a. In General

- § 138 Generally
- § 139 Lessor's interest
- § 140 Lessee's interest
- § 141 —Time of and conditions on vesting of title
- § 142 —Community or separate character of interest
- § 143 Lessee as bona fide purchaser

#### b. Property Included

- § 144 Generally
- § 145 Under general and particular descriptions
- § 146 Boundary agreements or settlements

## OIL AND GAS

### 3. Use of Surface of and Substances from or on Premises

#### a. In General; Use by Lessor

§ 147 Generally

§ 148 Use of surface by lessor or other owner

#### b. Use by Lessee

§ 149 Generally

§ 150 Limitation or expansion by terms of lease

§ 151 Particular rights

§ 152 —Use of oil, gas, and water

§ 153 Reasonableness of use; accommodation to surface use

§ 154 Damage to and restoration of surface

## G. RIGHTS, OBLIGATIONS, AND PERFORMANCE

### 1. In General

§ 155 Generally

§ 156 Covenants and conditions

§ 157 —Implied covenants

§ 158 Divisibility of lease

### 2. Exploration, Development, and Production

#### a. In General

§ 159 Generally

§ 160 Express covenants or other provisions

§ 161 —Provision committing development to lessee's judgment or requiring lessee to proceed with due diligence

§ 162 Implied covenants

§ 163 —Implied covenants distinguished from special limitations

§ 164 —Underlying standard of care in performing implied covenants

#### b. Covenants of Lessee to Explore and Develop Lease

##### (1) In General

§ 165 Generally; duty to test



- § 166 Duty to reasonably develop after discovery
- § 167 —Application of duty to reasonably develop to large tracts
- § 168 —Determining compliance with duty to reasonably develop
- § 169 Duty to further explore

## (2) Protection Against Drainage

- § 170 Generally
- § 171 Where lessee is operating on adjoining premises
- § 172 Actions required to protect against drainage
- § 173 Determining compliance with duty to protect against drainage

## (3) Operation and Marketing

- § 174 Generally
- § 175 Obligation with respect to price of natural gas
- § 176 Duty to seek administrative action

## c. Drilling and Rental

### (1) In General

- § 177 Generally; option to drill or pay delay rental
- § 178 “Unless” and “or” leases distinguished

### (2) Drilling Operations

- § 179 Generally; time of commencement
- § 180 Sufficiency of operations
- § 181 —Requirements of good faith and diligence
- § 182 Second and additional wells
- § 183 Location of wells
- § 184 —Proximity to house or other structure

### (3) Payment of Delay Rentals

- § 185 Generally
- § 186 By and to whom payment made
- § 187 Time of payment
- § 188 Manner of tender or payment

OIL AND GAS

H. DURATION AND TERMINATION

1. In General

a. In General; During Primary Term

- § 189 Generally
- § 190 During primary term
- § 191 Notice of termination
- § 192 Waiver and estoppel respecting right to terminate

b. After Primary Term

- § 193 Generally; requirement of production in paying quantities
- § 194 What constitutes production
- § 195 What constitutes paying quantities
- § 196 —Costs which may be considered in making determination
- § 197 —Effect of marketing considerations on determination of whether production in paying quantities exists
- § 198 —Nature of determination of whether production in paying quantities exists
- § 199 What constitutes and effect of cessation of production
- § 200 —Effect of lessor's actions on consequences of cessation of production
- § 201 —Implied temporary cessation of production provisions

2. Special Provisions Affecting Duration

- § 202 Generally; dry hole clauses
- § 203 Cessation of production clauses
- § 204 Continuous drilling or operations clauses
- § 205 Shut-in royalty clauses
- § 206 —Payment of shut-in royalties
- § 207 Surrender clauses
- § 208 Force majeure clauses

3. Renewal or Extension; Surrender;  
Abandonment

- § 209 Generally; renewal or extension
- § 210 Surrender, relinquishment, or release
- § 211 —Form and sufficiency
- § 212 Abandonment

#### 4. Effect of Termination

- § 213 Generally
- § 214 Removal of equipment
- § 215 —Time for removal
- § 216 —Failure to remove

### Volume 55A

## V. LEASES (CONTINUED)

### I. REMEDIES AND PROCEEDINGS

#### 1. In General

- § 217 Generally
- § 218 Reformation
- § 219 Injunction
- § 220 Specific performance
- § 221 Quieting title and trespass to try title
- § 222 Declaratory relief; suits to declare termination of lease
- § 223 —Procedure
- § 224 Recovery of sums due or made under lease
- § 225 Receivership
- § 226 Venue

#### 2. Recovery of Damages

- § 227 Generally
- § 228 Pleading
- § 229 Evidence
- § 230 —Expert and opinion evidence; proving drainage
- § 231 —Injury to surface
- § 232 Verdict or findings; judgment
- § 233 —Measure of damages

#### 3. Forfeiture

##### a. In General

- § 234 Generally
- § 235 Contractual provisions against
- § 236 Force and effect

##### b. Grounds for Forfeiture

- § 237 Generally

## OIL AND GAS

§ 238 Under drilling and delay rental clause

§ 239 Breach of implied covenants

### c. Proceedings

§ 240 Enforcement of forfeiture

§ 241 Notice of forfeiture

§ 242 Suit to declare forfeiture

## 4. Cancellation and Rescission

### a. In General

§ 243 Generally

§ 244 Conditions precedent to relief

§ 245 —Restoration of consideration

### b. Grounds

§ 246 Generally

§ 247 Mistake and fraud

§ 248 Nonperformance; abandonment

### c. Procedure

§ 249 Generally

§ 250 Parties

§ 251 Pleading

§ 252 Evidence

§ 253 Trial, verdict and judgment

## **VI. ROYALTIES, BONUSES, AND OTHER ECONOMIC INTERESTS**

### **A. IN GENERAL; TYPES OF INTERESTS**

#### **1. In General**

§ 254 Generally

§ 255 Bonuses

§ 256 Rentals

§ 257 Oil or production payments

#### **2. Royalties**

§ 258 Generally

- § 259 Interest as realty
- § 260 Mineral interest distinguished
- § 261 Overriding royalties

## B. CREATION OR TRANSFER

- § 262 Generally
- § 263 Construction of instrument conveying or reserving interest
- § 264 —Conveyance or reservation of fraction by owner of fraction
- § 265 —Conveyance subject to outstanding lease and designating interest
- § 266 —Conveyance subject to outstanding lease and not designating interest

## C. EXTENT; AMOUNT PAYABLE

- § 267 Generally
- § 268 Oil royalties
- § 269 —Casinghead gas
- § 270 Gas royalties
- § 271 —Valuing of gas; market value
- § 272 Bonuses
- § 273 Oil or production payments
- § 274 Effect of division order
- § 275 Proportionate reduction of payments

## D. RIGHT TO PAYMENT

- § 276 Generally
- § 277 Nonparticipating royalties
- § 278 Apportionment; entirety clauses

## E. DISCHARGE OF OBLIGATION; TERMINATION

- § 279 Generally; discharge of payment obligation
- § 280 When payment required; interest on late payments
- § 281 Duration, extension, and termination of interest

## F. REMEDIES AND PROCEEDINGS

- § 282 Generally; actions

## OIL AND GAS

- § 283 Actions to recover rentals
- § 284 Actions for injunctive relief
- § 285 Time to sue; notice
- § 286 Jurisdiction; venue
- § 287 Parties and pleading
- § 288 Trial; issues and proof
- § 289 Verdict or findings; judgment

## VII. RIGHTS IN PUBLIC LANDS

### A. IN GENERAL

#### 1. Ownership of Minerals; Right to Lease

- § 290 Generally
- § 291 Reservation of minerals by state
- § 292 Permits and leasing
- § 293 Lands of cities, counties, and other political subdivisions

#### 2. Royalties

- § 294 Payment of royalties
- § 295 —Payment of royalties in kind
- § 296 Penalties for late payment of royalties
- § 297 Determination of royalties due
- § 298 —Effect of determination of royalties due on further proceedings
- § 299 Recovery of unpaid royalties

### B. PUBLIC SCHOOL AND GULF LANDS

#### 1. In General; Awarding of Oil and Gas Leases

- § 300 Generally
- § 301 Authority of School Land Board to grant leases
- § 302 Manner of awarding leases
- § 303 —Disposition of bids
- § 304 Consideration for lease

#### 2. Duration of Oil and Gas Leases

- § 305 Generally
- § 306 Effect of drilling or reworking operations
- § 307 Effect of shut-in provisions

§ 308 Suspension of oil and gas leases

### 3. Development and Transfer of Oil and Gas Leases

§ 309 Transfer

§ 310 Developmental rights and obligations

### 4. Sales and Leases of Vacancies

§ 311 Generally; what constitutes a vacancy

§ 312 Application requirement

§ 313 Application for and effect of good-faith claimant status

§ 314 Post-application procedures

§ 315 Judicial remedies and relief

§ 316 Purchase or lease of vacancy

## C. STREAM BEDS AND CHANNELS

### 1. In General

§ 317 Generally

§ 318 Title to beds and channels

### 2. Leases or Contracts for Development

§ 319 Generally

§ 320 Procedure to obtain

§ 321 Terms of and consideration for lease

§ 322 Duties and liabilities

§ 323 Duration

### 3. Actions

§ 324 Generally; injunction

§ 325 Condemnation of adjoining land

## D. UNIVERSITY LANDS

### 1. In General

§ 326 Generally

§ 327 Board for Lease of University Lands

### 2. Leases of Lands

§ 328 Generally; procedure

## OIL AND GAS

- § 329 Bonus, royalty and other terms of lease
- § 330 Duration of lease; extension and suspension
- § 331 —Effect of drilling or reworking operations
- § 332 Assignment; relinquishment
- § 333 Operation and effect; drainage
- § 334 Remedies of state for violation of lease or statutes

### E. RELINQUISHMENT ACT LANDS

#### 1. In General

- § 335 Generally
- § 336 Validity and construction of act
- § 337 Title to minerals

#### 2. Leases of Lands

- § 338 Generally; agency and authority of landowner
- § 339 Limitations on landowner's authority as agent; fiduciary duties
- § 340 Landowner's right to acquire lease
- § 341 Leasing where landowner unavailable or unknown
- § 342 Consideration; liability for payment
- § 343 Form, contents and construction of lease
- § 344 Operation and effect of lease; offset wells
- § 345 Assignments and transfers; right of landowner to take assignment
- § 346 Repudiation or forfeiture
- § 347 Actions and proceedings
- § 348 —By lessee against landowner

## VIII. TRANSFERS BY LESSEE AND LESSOR

### A. IN GENERAL; TRANSFERS OF LEASE OR LESSEE'S INTERESTS

#### 1. In General

- § 349 Generally; right to transfer
- § 350 —Provision in lease
- § 351 Parties
- § 352 Types of transactions
- § 353 Transaction as assignment or mortgage

#### 2. Contract to Transfer

- § 354 Generally



- § 355 Form and execution; necessity of writing
- § 356 Content
- § 357 Consideration
- § 358 Escrow transactions
- § 359 Construction of contract to transfer
- § 360 —Effect of contract to transfer
- § 361 Performance or breach
- § 362 —As to title and abstract

### 3. Form, Execution, and Sufficiency

- § 363 Generally; form
- § 364 Execution, delivery, and acceptance
- § 365 Acknowledgment and recordation
- § 366 Content
- § 367 Consideration
- § 368 Fraud as invalidating assignment of lease
- § 369 Construction

### 4. Operation and Effect

#### a. In General; Rights and Obligations of Assignor

- § 370 Generally
- § 371 Relationship between assignor and assignee
- § 372 Rights and obligations of assignor
- § 373 Encumbrances
- § 374 Torts
- § 375 Duration and termination
- § 376 Waiver and estoppel

#### b. Rights, Interests and Obligations of Assignee of lease

- § 377 Generally
- § 378 Rights of assignee in surface and equipment
- § 379 Rights or interests transferred before assignment
- § 380 Assignee as bona fide purchaser
- § 381 Obligations of assignee
- § 382 —Development of leasehold
- § 383 —Payment out of production
- § 384 —Under partial assignment

OIL AND GAS

B. TRANSFERS OF LESSOR'S ESTATE OR INTERESTS

1. In General

- § 385 Generally
- § 386 Preliminary contract covering assignment by lessor; construction
- § 387 —Performance or breach of preliminary contract
- § 388 Parties

2. Form, Execution, and Sufficiency

- § 389 Form
- § 390 Execution
- § 391 Consideration
- § 392 Recordation
- § 393 Notice of change of ownership
- § 394 Construction

3. Operation and Effect

- § 395 Generally
- § 396 Effect of assignment on lease claimed to have expired
- § 397 Effect on lessee
- § 398 Effect on transferee
- § 399 —As passing rentals, royalties, and other economic interests

C. REMEDIES AND PROCEEDINGS

1. In General; Remedies Available

- § 400 Generally
- § 401 Recovery of purchase price or sums paid or deposited
- § 402 Specific performance
- § 403 Reformation
- § 404 Forfeiture
- § 405 Injunction
- § 406 Enforcement or establishment of trust
- § 407 Receivership

2. Recovery of Damages

- § 408 Generally

- § 409 Jurisdiction and venue
- § 410 Parties
- § 411 Pleading and proof
- § 412 Trial
- § 413 Judgment

### 3. Cancellation

- § 414 Generally
- § 415 Conditions precedent to relief
- § 416 Parties
- § 417 Pleading
- § 418 Defenses
- § 419 Evidence
- § 420 Trial
- § 421 Judgment

## **IX. DEVELOPMENT, PRODUCTION, AND DISTRIBUTION**

### A. IN GENERAL

#### 1. Forms of Organization or Association

##### a. In General

- § 422 Generally
- § 423 Joint ventures

##### b. Mining Partnerships

- § 424 Generally
- § 425 Formation; elements of mining partnership
- § 426 —Joint operation as essential element of mining partnership
- § 427 —Mining partnerships between assignors and assignees
- § 428 Interests, powers and obligations of partners
- § 429 Termination of mining partnership

#### 2. Remedies and Proceedings

- § 430 Generally
- § 431 Time within suit between partners required to be brought
- § 432 Parties
- § 433 Pleading and proof

OIL AND GAS

§ 434 Trial; judgment

§ 435 Dissolution

**B. DRILLING, DEVELOPMENT AND  
OPERATING AGREEMENTS**

**1. In General; Development and Operating  
Agreements**

§ 436 Generally

§ 437 Farmout agreements

§ 438 Execution, form, and sufficiency

§ 439 Construction

§ 440 Rights and obligations

§ 441 —Pursuant to nonconsent provision

§ 442 Performance or breach

§ 443 Termination; modification

§ 444 Assignment of contract

**2. Drilling Contracts**

§ 445 Generally

§ 446 Construction

§ 447 Rights and obligations

§ 448 —Rights and obligations of contractor

§ 449 Performance or breach

§ 450 Termination

**3. Remedies and Proceedings**

**a. In General; Causes of Action**

§ 451 Generally

§ 452 Recovery of damages

§ 453 —Amount of damages recoverable

§ 454 Specific performance

§ 455 Indemnity provisions in drilling and development  
agreements

**b. Procedure**

§ 456 Jurisdiction and venue

§ 457 Parties

§ 458 Pleading

- § 459 Evidence
- § 460 Trial
- § 461 Verdict or findings; judgment

## Volume 56

### IX. DEVELOPMENT, PRODUCTION, AND DISTRIBUTION (CONTINUED)

#### C. POOLING AND UNITIZATION

##### 1. In General; Authority to Pool or Unitize

- § 462 Generally
- § 463 Lease provisions
- § 464 Joint leases
- § 465 Lease by cotenant
- § 466 Lease by executive right owner; ratification by  
nonexecutive owners
- § 467 Lease by executor, administrator, or guardian
- § 468 —Procedure for authorizing pooling or unitization
- § 469 Lease or agreement by state
- § 470 Lease or agreement by city, county, or other political  
subdivision

##### 2. Effect of Pooling or Unitization

- § 471 Generally
- § 472 Allocation of production
- § 473 Duration of subject leases
- § 474 Title
- § 475 Modification and termination
- § 476 Remedies and proceedings

#### D. PIPELINES

##### 1. In General

- § 477 Generally; oil and gas purchase agreements
- § 478 Division orders
- § 479 Construction and maintenance of pipeline
- § 480 Abandonment or removal of pipeline
- § 481 Injury to or interference with pipeline
- § 482 Injury resulting from construction or operation of pipeline

## OIL AND GAS

§ 483 —Remedies and proceedings

### 2. Acquisition of Rights of Way

§ 484 Generally

§ 485 Eminent domain

§ 486 Public grant

§ 487 Private grant

§ 488 Size of easement created by condemnation or grant

## E. LIENS FOR WORK AND MATERIALS

### 1. In General

§ 489 Generally; constitutional lien

§ 490 Statutory liens against mineral property

§ 491 Distinguishing between mineral contractors and subcontractors

§ 492 Construction and operation of statutory provisions

§ 493 Property subject to mineral lien

§ 494 Place where services performed or material furnished

§ 495 Waiver and estoppel

### 2. Proceedings to Secure

§ 496 Generally

§ 497 Affidavit required of lien claimant

§ 498 —Content of lien claimant's affidavit

§ 499 —Filing of inventory where property removed from county

§ 500 Notice by subcontractor to property owner

### 3. Operation and Effect

§ 501 Generally

§ 502 Priorities

§ 503 Retention of payments

§ 504 Sale or removal of property

§ 505 Forfeiture of leasehold; failure of equitable or other interest

### 4. Enforcement; Foreclosure

§ 506 Generally

§ 507 Jurisdiction and venue

- § 508 Parties
- § 509 Pleading
- § 510 Evidence
- § 511 Judgment
- § 512 Execution and sale

## F. LIABILITY FOR INJURY OR DAMAGE

### 1. In General

#### a. Liability for Injury or Damage On Leased Premises

- § 513 Generally; on leased premises
- § 514 Injury to livestock at development site
- § 515 Escape of harmful substances

#### b. Liability for Injury or Damage On Neighboring Premises

- § 516 Generally
- § 517 Use of explosives
- § 518 Escape of harmful substances

### 2. Interference with Oil and Gas Rights

- § 519 Generally; unlawful extraction of minerals
- § 520 Unauthorized exploration; liability for geophysical activity
- § 521 —Loss of speculative value of lease
- § 522 Slander of title

### 3. Remedies and Proceedings

#### a. In General

- § 523 Generally
- § 524 Limitations
- § 525 Parties
- § 526 Pleading
- § 527 Evidence
- § 528 —Res ipsa loquitur
- § 529 —Sufficiency
- § 530 Trial

#### b. Damages; Amount of Recovery

- § 531 Generally

## OIL AND GAS

- § 532 Unlawful extraction of minerals
- § 533 Loss of speculative value of lease
- § 534 Exemplary damages

### c. Injunction

- § 535 Generally
- § 536 Operations on adjacent property

## X. GOVERNMENTAL REGULATION

### A. IN GENERAL

- § 537 Generally
- § 538 State conservation legislation, generally
- § 539 Validity and construction of conservation legislation
- § 540 Municipal regulation
- § 541 Federal regulation
- § 542 Regulation under Texas Securities Act
- § 543 Interstate compact

### B. TEXAS RAILROAD COMMISSION

#### 1. In General

- § 544 Generally; purpose of commission
- § 545 Jurisdiction
- § 546 Powers
- § 547 —Discretion in exercise of powers
- § 548 —Adjudication of title to property and contract rights

#### 2. Rules and Orders

##### a. In General

- § 549 Generally; authority of commission
- § 550 Validity
- § 551 Force and effect
- § 552 —Exceptions to rules

##### b. Proceedings to Adopt

- § 553 Generally
- § 554 Notice and hearing; rehearing
- § 555 Revocation, amendment, or renewal



§ 556 Subsequent application

## C. REGULATION OF PARTICULAR MATTERS

### 1. Introduction

#### a. In General

- § 557 Generally
- § 558 Secondary recovery operations
- § 559 —Cooperative agreements
- § 560 Use of oil and gas
- § 561 Gas to oil ratio
- § 562 Joint facilities
- § 563 Refining and manufacture
- § 564 Marking and labeling
- § 565 Sale of used equipment
- § 566 Mineral use of subdivided land

#### b. Plugging of Wells

- § 567 Generally
- § 568 Authority of Texas Railroad Commission to plug well or order well plugged
- § 569 Recovery of costs of plugging wells

#### c. Pollution

- § 570 Generally
- § 571 State oil-field cleanup fund
- § 572 Voluntary cleanup program

#### d. Waste

- § 573 Generally
- § 574 What constitutes waste
- § 575 Proceedings by Texas Railroad Commission to adopt rules or orders regarding occurrence of waste

### 2. Compulsory Pooling

- § 576 Generally
- § 577 Interests which may be forcibly pooled
- § 578 Persons entitled to invoke forced pooling; application requirement

## OIL AND GAS

- § 579 Notice and hearing requirements; order
- § 580 Requirement that applicant make fair and reasonable offer to pool
- § 581 Review of determination of Texas Railroad Commission on application for compulsory pooling
- § 582 Rights in pooled unit
- § 583 Modification or dissolution of pooled unit

### 3. Proration of Production

#### a. In General

- § 584 Generally
- § 585 Authority of Texas Railroad Commission with respect to production
- § 586 —Validity of rules and orders
- § 587 Formula or basis

#### b. Oil Production

- § 588 Generally
- § 589 Marginal wells

#### c. Gas Production

- § 590 Generally
- § 591 Regulation of gas reservoirs
- § 592 —Zoning of reservoirs
- § 593 Regulation of well production
- § 594 —Authorizing overproduction and underproduction from gas wells

### 4. Spacing and Density of Wells

#### a. In General

- § 595 Generally
- § 596 Drilling permits
- § 597 —Application requirement for drilling permit
- § 598 Spacing requirements
- § 599 —Validity, construction, effect, and amendment
- § 600 Density requirements
- § 601 —Exceptions to general density requirements

b. Special or Exception Permits

(1) In General; Exception to Prevent Waste

- § 602 Generally
- § 603 Exception to prevent waste
- § 604 —“More wells, more oil” theory

(2) Exception to Prevent Confiscation of Property

- § 605 Generally
- § 606 Right to first well
- § 607 Density of drilling on surrounding area
- § 608 Effect of subdivision of property on right to exception permit
- § 609 —What constitutes a subdivision; voluntariness requirement
- § 610 —Reconstruction of original tract for spacing; century doctrine

(3) Proceedings to Obtain Exception Permit

- § 611 Generally; application requirement
- § 612 Parties; notice and hearing requirement
- § 613 Determination
- § 614 Rehearing
- § 615 Term of order; effect of denial

5. Transportation, Storage, and Distribution

a. In General; Transportation of Crude Oil and Petroleum Products

- § 616 Generally
- § 617 Requirement that petroleum products be transported under proper tenders, manifests, and receipts
- § 618 Form of tender; application requirement; judicial review of denial

b. Pipelines

- § 619 Generally; what is a common carrier

## OIL AND GAS

- § 620 Powers and duties of Texas Railroad Commission
- § 621 —Powers with respect to gas pipelines
- § 622 Rates
- § 623 —Adjustment of rates
- § 624 Discrimination
- § 625 —Discrimination by common purchasers; ratable taking
- § 626 Records and reports
- § 627 Enforcement of regulations; receivership

### c. Storage Facilities

- § 628 Generally; public utilities
- § 629 Underground storage of oil and natural gas

## D. JUDICIAL REVIEW OF AND RELIEF FROM STATUTES AND TEXAS RAILROAD COMMISSION ORDERS

### 1. In General; Nature of Action and Jurisdiction of Court to Review

- § 630 Statutory authorization to seek judicial review of statute or order of Texas Railroad Commission
- § 631 Prohibition on collateral attack
- § 632 Mandamus
- § 633 Time to sue
- § 634 Estoppel to attack regulation
- § 635 Prior resort to Texas Railroad Commission

### 2. Nature and Scope of Review

- § 636 Generally
- § 637 Standard of review; substantial evidence rule
- § 638 Questions of law and fact
- § 639 Time of conditions considered
- § 640 Questions of title

### 3. Procedural Matters

#### a. In General

- § 641 Jurisdiction and venue
- § 642 —Jurisdiction of federal courts
- § 643 Parties

- § 644 —Change of parties
- § 645 Joinder or severance of suits
- § 646 Pleading
- § 647 Conduct of trial
- § 648 Judgment

#### b. Evidence

- § 649 Generally
- § 650 Introduction at review hearing
- § 651 Weight and sufficiency

#### c. Appeal of Determination on Review

- § 652 Generally

### 4. Injunctive Relief

- § 653 Generally; requirement of notice and hearing
- § 654 Evidence
- § 655 Judgment or order
- § 656 Bond requirement
- § 657 Appeal from decision granting or denying injunctive relief

## E. ENFORCEMENT

### 1. In General; Recordkeeping and Reporting

- § 658 Generally
- § 659 Examination and inspection by Texas Railroad Commission
- § 660 Records and reports
- § 661 —Reports required of principals and agents; bond requirement
- § 662 Certificates of compliance

### 2. Penalties and Forfeitures

- § 663 Generally
- § 664 Penalty with respect to safety and pollution violations
- § 665 Proceedings to recover penalties
- § 666 Forfeiture

### 3. Judicial Proceedings

- § 667 Injunction

§ 668 Receivership

## **XI. TAXATION**

### **A. IN GENERAL**

§ 669 Generally

§ 670 Well service tax

### **B. SEVERANCE TAXES**

#### **1. In General; Oil Production**

§ 671 Generally

§ 672 Imposition and amount of tax

§ 673 Exemptions from tax

§ 674 Liability for tax

§ 675 —Allocation by contract

§ 676 Records and reports

§ 677 Collection and payment

§ 678 Enforcement

#### **2. Gas Production**

§ 679 Generally

§ 680 Rate and computation of tax

§ 681 Liability for tax

§ 682 Records and reports

§ 683 Collection and payment

§ 684 Enforcement

§ 685 —Offenses

## **I. IN GENERAL**

### *Statutory References*

Tex. Nat. Res. Code Ann. §§ 85.001, 86.002, 86.003

Tex. Tax Code Ann. § 201.001

### **Research References**

#### *Text References*

West's A.L.R. Digest, Mines and Minerals ¶47, 48

Am. Jur. 2d, Gas and Oil §§ 1, 2, 4

#### *West's Digest References*

Gas ¶1; Mines and Minerals ¶47, 48