

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2233

By: Russ

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5
6 AS INTRODUCED

7 An Act relating to oil and gas; amending 52 O.S.
8 2011, Section 570.10, as amended by Section 1,
9 Chapter 6, O.S.L. 2018 (52 O.S. Supp. 2018, Section
10 570.10), which relates to payment of proceeds from
11 sale of oil and gas; limiting expense deduction
12 amounts from certain individuals' royalty proceeds;
13 and providing an effective date.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 52 O.S. 2011, Section 570.10, as
16 amended by Section 1, Chapter 6, O.S.L. 2018 (52 O.S. Supp. 2018,
17 Section 570.10), is amended to read as follows:

18 Section 570.10 A. All proceeds from the sale of production
19 shall be regarded as separate and distinct from all other funds of
20 any person receiving or holding the same until such time as such
21 proceeds are paid to the owners legally entitled thereto. Any
22 person holding revenue or proceeds from the sale of production shall
23 hold such revenue or proceeds for the benefit of the owners legally
24 entitled thereto. Nothing in this subsection shall create an
express trust.

1 B. Except as otherwise provided in this section:

2 1. Proceeds from the sale of oil or gas production from an oil
3 or gas well shall be paid to persons legally entitled thereto:

4 a. commencing not later than six (6) months after the
5 date of first sale, and

6 b. thereafter not later than the last day of the second
7 succeeding month after the end of the month within
8 which such production is sold.

9 2. Notwithstanding paragraph 1 of this subsection, royalty
10 proceeds from the sale of gas production from an oil or gas well
11 remitted to the operator pursuant to subsection B of Section 570.4
12 of this title shall be paid to persons legally entitled thereto:

13 a. commencing not later than six (6) months after the
14 date of first sale, and

15 b. thereafter not later than the last day of the third
16 succeeding month after the end of the month within
17 which such production is sold; provided, however, when
18 proceeds are received by the operator in its capacity
19 as a producing owner, the operator may pay the royalty
20 share of such proceeds to the royalty interest owners
21 legally entitled thereto at the same time that it pays
22 the royalty proceeds received from other producing
23 owners for the same production month, but not later
24 than the last day of the third succeeding month after

1 the end of the month within which such production was
2 sold.

3 3. a. Proceeds from production may be remitted to the
4 persons entitled to such proceeds annually for the
5 twelve (12) months accumulation of proceeds totaling
6 at least Ten Dollars (\$10.00) but less than One
7 Hundred Dollars (\$100.00). Amounts less than Ten
8 Dollars (\$10.00) may be held but shall be remitted
9 when production ceases or by the payor upon
10 relinquishment of payment responsibility.

11 b. Proceeds totaling less than One Hundred Dollars
12 (\$100.00) but more than Twenty-five Dollars (\$25.00)
13 shall be remitted monthly if requested by the person
14 entitled to the proceeds. Amounts less than Ten
15 Dollars (\$10.00) shall be remitted annually if
16 requested by the person entitled to the proceeds.

17 c. Before proceeds greater than Twenty-five Dollars
18 (\$25.00) may be accumulated, payor shall provide
19 notice to the person owning interest as defined in
20 Section 570.2 of this title, entitled to such proceeds
21 that there is an option to be paid monthly for
22 proceeds greater than Twenty-five Dollars (\$25.00).
23 Such notice to the person shall also provide
24 directions for requesting monthly payment, and

1 constitutes notice to all heirs, successors,
2 representatives, and assigns of the person.

3 4. Any delay in determining the persons legally entitled to
4 proceeds from production caused by unmarketable title shall not
5 affect payments to persons whose title is marketable, or that
6 portion of a person's interest which is marketable.

7 C. 1. A first purchaser that pays or causes to be paid
8 proceeds from production to the producing owner of such production
9 or, at the direction of the producing owner, pays or causes to be
10 paid royalty proceeds from production to:

11 a. the royalty interest owners legally entitled thereto,

12 or

13 b. the operator of the well,

14 shall not thereafter be liable for such proceeds so paid and shall
15 have thereby discharged its duty to pay those proceeds on such
16 production.

17 2. A working interest owner that pays or causes to be paid
18 royalty proceeds from production to:

19 a. the royalty interest owners legally entitled thereto,

20 or

21 b. the operator of the well,

22 shall not thereafter be liable for such proceeds so paid and shall
23 have thereby discharged its duty to pay those proceeds on such
24 production.

1 3. An operator that pays or causes to be paid royalty proceeds
2 from production, received by it as operator, to the royalty interest
3 owners legally entitled thereto shall not thereafter be liable for
4 such proceeds so paid and shall have thereby discharged its duty to
5 pay those proceeds on such production.

6 4. Where royalty proceeds are paid incorrectly as a result of
7 an error or omission, the party whose error or omission caused the
8 incorrect royalty payments shall be liable for the additional
9 royalty proceeds on such production and all resulting costs or
10 damages incurred by the party making the incorrect payment.

11 D. 1. Except as otherwise provided in paragraph 2 of this
12 subsection, where proceeds from the sale of oil or gas production or
13 some portion of such proceeds are not paid prior to the end of the
14 applicable time periods provided in this section, that portion not
15 timely paid shall earn interest at the rate of twelve percent (12%)
16 per annum to be compounded annually, calculated from the end of the
17 month in which such production is sold until the day paid.

18 2. a. Where such proceeds are not paid because the title
19 thereto is not marketable, such proceeds shall earn
20 interest at the rate of (i) six percent (6%) per annum
21 to be compounded annually for time periods prior to
22 November 1, 2018, and (ii) the prime interest rate as
23 reported in the Wall Street Journal for time periods
24 on or after November 1, 2018, calculated from the end

1 of the month in which such production was sold until
2 such time as the title to such interest becomes
3 marketable or the holder has received an acceptable
4 affidavit of death and heirship in conformity with
5 Section 67 of Title 16 of the Oklahoma Statutes, or as
6 set forth in subparagraph b of this paragraph.

7 Marketability of title shall be determined in
8 accordance with the then current title examination
9 standards of the Oklahoma Bar Association.

10 b. Where marketability has remained uncured, or the
11 holder has not been provided an acceptable affidavit
12 of death and heirship in conformity with Section 67 of
13 Title 16 of the Oklahoma Statutes, for a period of one
14 hundred twenty (120) days from the date payment is due
15 under this section, any person claiming to own the
16 right to receive proceeds which have not been paid
17 because of unmarketable title may require the holder
18 of such proceeds, or the holder of such proceeds may
19 elect, to interplead the proceeds and all accrued
20 interest into court for a determination of the persons
21 legally entitled thereto. Upon payment into court the
22 holder of such proceeds shall be relieved of any
23 further liability for the proper payment of such
24 proceeds and interest thereon.

1 E. 1. Except as provided in paragraph 2 of this subsection, a
2 first purchaser or holder of proceeds who fails to remit proceeds
3 from the sale of oil or gas production to owners legally entitled
4 thereto within the time limitations set forth in paragraph 1 of
5 subsection B of this section shall be liable to such owners for
6 interest as provided in subsection D of this section on that portion
7 of the proceeds not timely paid. When two or more persons fail to
8 remit within such time limitations, liability for such interest
9 shall be shared by those persons holding the proceeds in proportion
10 to the time each person held such proceeds.

11 2. When royalty proceeds on gas production are remitted
12 pursuant to subsection B of Section 570.4 of this title:

13 a. A first purchaser that causes such proceeds to be
14 received by the operator or by a producing owner in
15 the well for distribution to the royalty interest
16 owner legally entitled thereto within the first month
17 following the month in which such production was sold
18 shall not be liable for interest on such proceeds.

19 b. A producing owner receiving royalty proceeds that
20 causes such proceeds to be received by the royalty
21 interest owner legally entitled thereto or by the
22 operator for distribution to the royalty interest
23 owner legally entitled thereto not later than the end
24 of the first month following the month in which

1 proceeds for such production was received by the
2 producing owner from the purchaser shall not be liable
3 for interest on such proceeds.

4 c. An operator receiving royalty proceeds that causes
5 such proceeds to be received by the royalty interest
6 owner legally entitled thereto, not later than the end
7 of the first month following the month in which
8 proceeds for such production was received by the
9 operator from the purchaser or producing owner, shall
10 not be liable for interest on such proceeds.

11 d. Liability for interest provided in subsection D of
12 this section shall be borne solely by the person, or
13 persons, failing to remit royalty proceeds within the
14 time limitations set forth in subsection B of this
15 section. When two or more persons fail to remit
16 within such time limitations, liability for such
17 interest shall be shared by such persons in proportion
18 to the time each person held such proceeds.

19 F. Nothing in this section shall be construed to impair or
20 amend existing or future contractual rights provided for in gas
21 balancing agreements or other written agreements which expressly
22 provide for the taking, sharing, marketing or balancing of gas or
23 the proceeds therefrom. Any proceeds to be paid pursuant to any
24 such agreement shall not commence to earn interest until the sooner

1 of the time provided in such agreement for the payment of such
2 proceeds or ninety (90) days from the date of the depletion of the
3 well. Nothing herein shall be deemed to alter or limit the payment
4 of royalty proceeds as provided in the Production Revenue Standards
5 Act.

6 G. All payments under the Production Revenue Standards Act to
7 owners or any other person or governmental entity legally entitled
8 to the payment may be made by electronic means including but not
9 limited to electronic funds transfer, Automated Clearing House
10 (ACH), direct deposit, wire transfer, or any other similar form of
11 transfer, upon the mutual written consent of the payor and payee.

12 H. Royalty interest owners who are over the age of sixty-five
13 (65) and who are receiving royalty checks from a producing oil and
14 gas well shall have no expense deduction greater than ten percent
15 (10%) deducted from their royalty proceed payments.

16 SECTION 2. This act shall become effective November 1, 2019.

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