

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1524

By: Taylor

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to the Production Revenue Standards
9 Act; amending 52 O.S. 2021, Sections 570.10 and
10 570.11, which relate to payment of proceeds from
11 certain sales and division orders; requiring division
12 or transfer order be submitted to receive certain
13 proceeds; modifying interest rate for oil and gas
14 proceeds not timely paid; modifying conditions by
15 which interest for certain proceeds shall not accrue;
16 establishing time period for payment once certain
17 conditions are cured; requiring division or transfer
18 order contain certain provisions; providing that
19 payment of proceeds may be withheld without penalty
20 of interest under certain circumstances; establishing
21 process for remitting payment upon receipt of
22 completed division or transfer order; updating
23 statutory language; and providing an effective date.

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

SECTION 1. AMENDATORY 52 O.S. 2021, Section 570.10, is
amended to read as follows:

Section 570.10. A. All proceeds from the sale of production
shall be regarded as separate and distinct from all other funds of
any person receiving or holding the same until such time as such
proceeds are paid to the owners legally entitled thereto. Any

1 person holding revenue or proceeds from the sale of production shall
2 hold such revenue or proceeds for the benefit of the owners legally
3 entitled thereto. Nothing in this subsection shall create an
4 express trust.

5 B. Except as otherwise provided in this section:

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

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

10 b. thereafter not later than the last day of the second
11 succeeding month after the end of the month within
12 which such production is sold.

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

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

19 b. thereafter not later than the last day of the third
20 succeeding month after the end of the month within
21 which such production is sold; provided, however, when
22 proceeds are received by the operator in its capacity
23 as a producing owner, the operator may pay the royalty
24 share of such proceeds to the royalty interest owners

1 legally entitled thereto at the same time that it pays
2 the royalty proceeds received from other producing
3 owners for the same production month, but not later
4 than the last day of the third succeeding month after
5 the end of the month within which such production was
6 sold.

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

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

21 c. Before proceeds greater than Twenty-five Dollars
22 (\$25.00) may be accumulated, the payor shall provide
23 notice to the person owning interest as defined in
24 Section 570.2 of this title, entitled to such proceeds

1 that there is an option to be paid monthly for
2 proceeds greater than Twenty-five Dollars (\$25.00).
3 Such notice to the person shall also provide
4 directions for requesting monthly payment, and
5 constitutes notice to all heirs, successors,
6 representatives, and assigns of the person.

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

11 C. 1. A first purchaser that pays or causes to be paid
12 proceeds from production to the producing owner of such production
13 or, at the direction of the producing owner, pays or causes to be
14 paid royalty proceeds from production to:

- 15 a. the royalty interest owners legally entitled thereto,
16 or
17 b. the operator of the well,

18 shall not thereafter be liable for such proceeds so paid and shall
19 have thereby discharged its duty to pay those proceeds on such
20 production.

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

- 23 a. the royalty interest owners legally entitled thereto,
24 or

1 b. the operator of the well,
2 shall not thereafter be liable for such proceeds so paid and shall
3 have thereby discharged its duty to pay those proceeds on such
4 production.

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

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

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

22 2. a. ~~Where such proceeds are not paid because the title~~
23 ~~thereto is not marketable, such proceeds shall earn~~
24 ~~interest at the rate of (i) six percent (6%) per annum~~

1 ~~to be compounded annually for time periods prior to~~
2 ~~November 1, 2018, and (ii) the prime interest rate as~~
3 ~~reported in the Wall Street Journal for time periods~~
4 ~~on or after November 1, 2018, calculated from the end~~
5 ~~of the month in which such production was sold until~~
6 ~~such time as the title to such interest becomes~~
7 ~~marketable or the holder has received an acceptable~~
8 ~~affidavit of death and heirship in conformity with~~
9 ~~Section 67 of Title 16 of the Oklahoma Statutes, or as~~
10 ~~set forth in subparagraph b of this paragraph.~~

11 ~~Marketability of title shall be determined in~~
12 ~~accordance with the then current title examination~~
13 ~~standards of the Oklahoma Bar Association.~~

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

1 ~~legally entitled thereto. Upon payment into court the~~
2 ~~holder of such proceeds shall be relieved of any~~
3 ~~further liability for the proper payment of such~~
4 ~~proceeds and interest thereon~~

5 Notwithstanding any other provisions of this subsection,
6 proceeds that are not paid on time pursuant to this section will not
7 accrue interest if the proceeds are subject to any of the following
8 conditions:

- 9 a. the owner legally entitled to the proceeds has not
10 requested in writing to the person holding revenue or
11 proceeds from the sale of production that interest be
12 paid,
- 13 b. the proceeds have been paid to any state, county, or
14 municipal government or agency thereof under any act
15 governing unclaimed or abandoned property including
16 but not limited to Section 552 et seq. of this title
17 and Section 651 et seq. of Title 60 of the Oklahoma
18 Statutes,
- 19 c. the proceeds are held in suspense by the producing
20 owner, operator, or first purchaser due to the filing
21 of an oil and gas lien pursuant to Section 144 et seq.
22 of Title 42 of the Oklahoma Statutes,
- 23 d. the party responsible for remitting proceeds from the
24 sale of production:

1 (1) elects to send the owner a division order or
2 transfer order,
3 (2) sends the division order or transfer order in
4 accordance with Section 570.11 of this title, and
5 (3) the person legally entitled to the proceeds does
6 not submit a properly executed division order in
7 accordance with Section 570.11 of this title, or
8 e. the title is not free from apparent defects, grave
9 doubts and litigious uncertainty, and does not consist
10 of both legal and equitable title fairly deducible of
11 record.

12 3. If the conditions in subparagraph a, c, d, or e of paragraph
13 2 of this subsection exist and are cured, the proceeds shall be paid
14 to persons legally entitled to payment by the last day of the
15 succeeding month after the condition is cured. If proceeds are not
16 paid prior to that date, the portion not timely paid shall earn
17 interest at the rate of twelve percent (12%) per annum to be
18 compounded annually calculated from the first date that the proceeds
19 are late under this subsection until the date that the proceeds are
20 paid.

21 4. Interest payments as set forth in paragraph 1 of subsection
22 D of this section shall be calculated from the first date that the
23 proceeds are late pursuant to paragraph 1 of subsection D of this
24 section until the date that the proceeds are paid.

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. Nothing in this section shall be construed as repealing
13 Section 901 et seq. of this title.

14 I. The provisions of this section shall apply to all production
15 taking place on or after the effective date of this act.

16 SECTION 2. AMENDATORY 52 O.S. 2021, Section 570.11, is
17 amended to read as follows:

18 Section 570.11. A. A division order is an instrument for the
19 purpose of directing the distribution of proceeds from the sale of
20 oil, gas, casinghead gas or other related hydrocarbons which
21 ~~warrants~~ states in writing the division of interest and the name,
22 address and tax identification number of each interest owner with a
23 provision requiring notice of change of ownership. A division order
24 or transfer order is executed to enable the first purchaser of the

1 production or holder of proceeds to make remittance of proceeds
2 directly to the owners legally entitled thereto and does not relieve
3 the lessee of any liabilities or obligations under the oil and gas
4 lease. Terms of a division order which conflict with the terms of
5 any oil and gas lease are invalid, unless previously agreed to by
6 the affected parties. This subsection shall only apply to division
7 orders or transfer orders executed on or after July 1, 1989.

8 B. If the party remitting production proceeds from the sale of
9 production sends a division order to the owner in accordance with
10 this section, then, as a condition precedent to the payment of
11 proceeds from such sale, the party remitting production proceeds
12 shall be entitled to receive a signed division or transfer order
13 from each owner that contains the following provisions:

14 1. The effective date of the division order, transfer order, or
15 other instrument;

16 2. A description of the property from which the oil or gas is
17 being produced and the type of production;

18 3. The name, address, and taxpayer identification number of the
19 owner;

20 4. The fractional or decimal ownership interest in the
21 property;

22 5. The owner's confirmation of title to the share of production
23 claimed, and requirement that owner provide notice to the party
24 remitting proceeds from the sale of production at least one (1)

1 month in advance of the effective date of any change in the interest
2 in production owned by the owner;

3 6. A notification to the owner that other statutory rights may
4 be available to an owner regarding payments;

5 7. The owner agrees to release, hold harmless, and reimburse
6 the party remitting production proceeds, and reimburse the party for
7 payments made if the owner does not have marketable title to the
8 production sold; and

9 8. The division order does not amend any lease, operating
10 agreement, farmout, development agreement, or any other agreement
11 related to mineral rights and rights belonging thereto, between the
12 undersigned and the lessee or operator or any other contracts for
13 the purchase of oil or gas.

14 C. If the party remitting proceeds elects to send a division or
15 transfer order to the person legally entitled to receive proceeds
16 from the sale of oil or gas production, then it must deliver the
17 order to the owner by registered first class mail, certified mail,
18 or electronic mail with proof of delivery at least sixty (60) days
19 before the proceeds are due pursuant to Section 570.10 of this
20 title. If the order is timely delivered to the owner and the owner
21 does not return the order with the provisions specified in
22 subsection B of this section within forty-five (45) days of the date
23 that the order is sent from the person remitting proceeds, then the
24 party remitting proceeds may withhold payment without penalty of

1 interest in accordance with subsection D of Section 570.10 of this
2 title until such time as the division or transfer order is received.
3 If the person legally entitled to receive proceeds returns a signed
4 division or transfer order with the provisions specified in
5 subsection B of this section, then the proceeds shall be paid to
6 persons legally entitled to payment by the last day of the
7 succeeding month after the division or transfer order is received.
8 If proceeds are not paid prior to that time, that portion not timely
9 paid shall earn interest at the rate of twelve percent (12%) per
10 annum to be compounded annually calculated from the first date that
11 the proceeds are late pursuant to this subsection until the date
12 that the proceeds are paid.

13 D. A division order received by a party remitting proceeds
14 shall be deemed received by any successors and assigns of such party
15 remitting proceeds and will inure to the benefit of and be binding
16 to the successors and assigns of the party remitting proceeds.

17 E. The provisions of this section shall apply to all production
18 from wells drilled on or after the effective date of this act.

19 SECTION 3. This act shall become effective November 1, 2022.

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