

ENGROSSED SENATE AMENDMENT  
TO  
ENGROSSED HOUSE BILL NO. 1245

By: Rice

An Act relating to oil and gas; amending 52 O.S. 1991, Section 540, as amended by Section 10, Chapter 190, O.S.L. 1992, and as renumbered by Section 28, Chapter 190, O.S.L. 1992 (52 O.S. Supp. 1992, Section 570.10), which relates to payment of oil and gas proceeds; providing exemption for certain gas balancing agreements; stating application to certain cash balancing payments; specifying measurement procedure for certain natural gas transactions; providing penalty; providing an effective date; and declaring an emergency.

AUTHOR: Add the following Senate Author: Easley (principal)

AMENDMENT NO. 1. Page 1, strike the title, enacting clause and entire bill and insert

"An Act relating to oil and gas; amending 52 O.S. 1991, Section 540, as amended by Section 10, Chapter 190, O.S.L. 1992, and as renumbered by Section 28, Chapter 190, O.S.L. 1992 (52 O.S. Supp. 1992, Section 570.10), which relates to payment of oil and gas proceeds; providing exemption for certain gas balancing agreements; stating application to certain cash balancing payments; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 52 O.S. 1991, Section 540, as amended by Section 10, Chapter 190, O.S.L. 1992, and as renumbered

by Section 28, Chapter 190, O.S.L. 1992 (52 O.S. Supp. 1992, 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 person holding revenue or proceeds from the sale of production shall hold such revenue or proceeds for the benefit of the owners legally entitled thereto. Nothing in this subsection shall create an express trust.

B. Except as otherwise provided in this section:

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

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

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

2. Notwithstanding paragraph 1 above, royalty proceeds from the sale of gas production from an oil or gas well remitted to the operator pursuant to subsection B of Section 4 570.4 of this ~~act~~ title shall be paid to persons legally entitled thereto:

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

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

owners for the same production month, but not later than the last day of the third succeeding month after the end of the month within which such production was sold.

3. Proceeds from production may be remitted to the persons entitled to such proceeds semiannually for the accumulation of proceeds totaling less than Twenty-five Dollars (\$25.00).

4. Any delay in determining the persons legally entitled to proceeds from production caused by unmarketable title shall not affect payments to persons whose title is marketable.

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

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

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

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

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

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

3. An operator that pays or causes to be paid royalty proceeds from production, received by it as operator, to the royalty interest owners legally entitled thereto shall not thereafter be liable for

such proceeds so paid and shall have thereby discharged its duty to pay those proceeds on such production.

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

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

2. a. Where such proceeds are not paid because the title thereto is not marketable, such proceeds shall earn interest at the rate of six percent (6%) per annum to be compounded annually, calculated from the end of the month in which such production was sold until such time as the title to such interest becomes marketable. Marketability of title shall be determined in accordance with the then current title examination standards of the Oklahoma Bar Association.

b. Where marketability has remained uncured for a period of one hundred twenty (120) days from the date payment is due under this section, any person claiming to own the right to receive proceeds which have not been paid because of unmarketable title may require the holder of such proceeds to interplead the proceeds and all accrued interest into court for a determination of the persons legally entitled thereto. Upon payment into court the holder of such proceeds shall be relieved of

any further liability for the proper payment of such proceeds and interest thereon.

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

2. When royalty proceeds on gas production are remitted pursuant to subsection B of Section 4 570.4 of this ~~act~~ title:

- a. A first purchaser that causes such proceeds to be received by the operator or by a producing owner in the well for distribution to the royalty interest owner legally entitled thereto within the first month following the month in which such production was sold shall not be liable for interest on such proceeds.
- b. A producing owner receiving royalty proceeds that causes such proceeds to be received by the royalty interest owner legally entitled thereto or by the operator for distribution to the royalty interest owner legally entitled thereto not later than the end of the first month following the month in which proceeds for such production was received by the producing owner from the purchaser shall not be liable for interest on such proceeds.
- c. An operator receiving royalty proceeds that causes such proceeds to be received by the royalty interest owner legally entitled thereto, not later than the end

of the first month following the month in which proceeds for such production was received by the operator from the purchaser or producing owner shall not be liable for interest on such proceeds.

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

F. Nothing in this section shall be construed to impair or amend existing or future contractual rights provided for in gas balancing agreements or other written agreements which expressly provide for the taking, sharing, marketing or balancing of gas or the proceeds therefrom. Any proceeds to be paid pursuant to any such agreement shall not commence to earn interest until the sooner of the time provided in such agreement for the payment of such proceeds or ninety (90) days from the date of the depletion of the well. Nothing herein shall be deemed to alter or limit the payment of royalty proceeds as provided in this act.

SECTION 2. This act shall become effective July 1, 1993; provided, however, that subsection F of Section 1 shall have retroactive effect from and after July 1, 1980, and subsection F shall govern all claims and liabilities under this act, under Section 1, Chapter 205, O.S.L. 1980 (52 O.S. 1981, Section 540), and under all other amendments to such act from and after July 1, 1980.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the Senate the 20th day of April, 1993.

President of the Senate

Passed the House of Representatives the \_\_\_\_ day of

\_\_\_\_\_, 1993.

Speaker of the House of  
Representatives