

3 Senate Bill No. 1674
4 As Amended

5 SENATE BILL NO. 1674 - By: LERBLANCE of the Senate and McMULLEN of
6 the House.

7 [oil and gas - royalty payments - effective date]

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

9 SECTION 1. AMENDATORY 52 O.S. 2001, Section 570.12, is
10 amended to read as follows:

11 Section 570.12 A. The following information for each property
12 and month of sale shall be included with each payment made to an
13 interest owner from the sale of oil or gas:

14 1. Lease or well identification;

15 2. Month and year of sales included in the payment;

16 3. Total barrels or MCF attributed to such payment and, if
17 different, the total barrels or MCF produced as reported for payment
18 of gross production taxes;

19 4. Price per barrel or MCF, including British Thermal Unit
20 adjustment of gas sold and, if different, the price per barrel or
21 MCF, including British Thermal Unit adjustment, paid for the gas at
22 the first point of sale between the producer and an unrelated third
23 party in an arms length transaction;

1 5. Gross proceeds for the lease or well and, if different, the
2 gross proceeds at the first point of sale between the producer and
3 an unrelated third party in an arms length transaction;

4 6. Disclosure by line item of any deductions of money or
5 product volume that required reporting more than one volume, prices
6 or gross amount of payment in paragraphs 3, 4 or 5 of this
7 subsection;

8 7. Total amount attributed to such payment of severance and
9 other production taxes, with the exception of windfall profit tax;

10 ~~6.~~ 8. ~~Net value of total sales attributed to such payment after~~
11 ~~taxes are deducted~~ proceeds for the lease or well after deductions
12 provided for in paragraphs 6 and 7 of this subsection from gross
13 proceeds reported pursuant to the requirement of paragraph 5 of this
14 subsection;

15 ~~7.~~ 9. Owner's interest, expressed as a decimal, in production
16 from the property;

17 ~~8.~~ 10. Owner's share of the ~~total value of sales attributed to~~
18 ~~such payment prior to any deductions;~~

19 ~~9.~~ ~~Owner's share of the sales value attributed to such payment~~
20 ~~less owner's share of the production and severance taxes; and~~

21 ~~10.~~ ~~A specific listing of the amount and purpose of any other~~
22 ~~deductions from the proceeds attributed to such payment due to the~~

1 ~~owner upon request by the owner~~ amount or amounts specified in
2 paragraphs 5, 6, 7 and 8 of this subsection.

3 B. For purposes of the Production Revenue Standards Act:

4 1. All revenue decimals shall be calculated to not less than
5 the nearest sixth decimal place, which is the nearest part in one
6 million; and

7 2. Gas volumes reported to any owner shall be measured as
8 required by Section 474 of Title 52 of the Oklahoma Statutes.

9 C. Any purchaser or producing owner remitting proceeds to an
10 operator, designated royalty distributor or producing owner, or to
11 an affiliate of the operator or producing owner, shall include with
12 each payment the information set forth in subsection A of this
13 section.

14 SECTION 2. AMENDATORY 52 O.S. 2001, Section 570.10, is
15 amended to read as follows:

16 Section 570.10 A. All proceeds from the sale of production
17 shall be regarded as separate and distinct from all other funds of
18 any person receiving or holding the same until such time as such
19 proceeds are paid to the owners legally entitled thereto. Any
20 person holding revenue or proceeds from the sale of production shall
21 hold such revenue or proceeds for the benefit of the owners legally
22 entitled thereto. Nothing in this subsection shall create an
23 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 above, royalty proceeds from the
10 sale of gas production from an oil or gas well remitted to the
11 operator pursuant to subsection B of Section 570.4 of this title
12 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

1 than the last day of the third succeeding month after
2 the end of the month within which such production was
3 sold.

- 4 3. a. Proceeds from production may be remitted to the
5 persons entitled to such proceeds annually for the
6 twelve (12) months accumulation of proceeds totaling
7 at least Ten Dollars (\$10.00) but less than One
8 Hundred Dollars (\$100.00). Amounts less than Ten
9 Dollars (\$10.00) may be held but shall be remitted
10 when production ceases or by the payor upon
11 relinquishment of payment responsibility.
- 12 b. Proceeds totaling less than One Hundred Dollars
13 (\$100.00) but more than Twenty-five Dollars (\$25.00)
14 shall be remitted monthly if requested by the person
15 entitled to the proceeds. Amounts less than Ten
16 Dollars (\$10.00) shall be remitted annually if
17 requested by the person entitled to the proceeds.
- 18 c. Before proceeds greater than Twenty-five Dollars
19 (\$25.00) may be accumulated, payor shall provide
20 notice to the person owning interest as defined in
21 Section 570.2 of this title, entitled to such proceeds
22 that there is an option to be paid monthly for
23 proceeds greater than Twenty-five Dollars (\$25.00).

1 Such notice to the person shall also provide
2 directions for requesting monthly payment, and
3 constitutes notice to all heirs, successors,
4 representatives, and assigns of the person.

5 4. Any delay in determining the persons legally entitled to
6 proceeds from production caused by unmarketable title shall not
7 affect payments to persons whose title is marketable. If an owner
8 has both marketable and unmarketable title, any delay in determining
9 the person legally entitled to the proceeds from production caused
10 by that portion of the title that is unmarketable shall not affect
11 payments to that person for the portion of title that is marketable.

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

16 a. the royalty interest owners legally entitled thereto,
17 or

18 b. the operator of the well,
19 shall not thereafter be liable for such proceeds so paid and shall
20 have thereby discharged its duty to pay those proceeds on such
21 production.

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

1 compounded annually, calculated from the end of the month in which
2 such production is sold until the day paid.

3 2. a. Where such proceeds are not paid because the title
4 thereto is not marketable, such proceeds shall earn
5 interest at the prime rate of six percent (6%) per
6 annum, as listed in the first edition of the Wall
7 Street Journal published for each month, to be
8 compounded annually, calculated from the end of the
9 month in which such production was sold until such
10 time as the title to such interest becomes marketable.
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 for a period
15 of one hundred twenty (120) days from the date payment
16 is due under this section, any person claiming to own
17 the right to receive proceeds which have not been paid
18 because of unmarketable title may require the holder
19 of such proceeds to interplead the proceeds and all
20 accrued interest into court for a determination of the
21 persons legally entitled thereto. Upon payment into
22 court the holder of such proceeds shall be relieved of

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

3 3. Any interest due pursuant to this section shall be paid to
4 the owner within thirty (30) days after the date that the production
5 proceeds are paid. There shall be a rebuttable presumption that
6 payments due pursuant to this act are unreasonably withheld if:

7 a. any payment of production proceeds are not made within
8 ninety (90) days after the date such payment was due
9 pursuant to subsection B of this section, or

10 b. any interest payment due pursuant to paragraphs 1 or 2
11 of subsection D of this section was not made within
12 thirty (30) days after the date that late production
13 proceeds were paid. Any payment of production
14 proceeds or interest that is unreasonably withheld
15 shall earn interest at the rate of twelve percent
16 (12%) per annum, to be compounded annually,
17 calculated, in the case of payment of production
18 proceeds, from the end of the month in which the
19 production is sold until the date paid, and in the
20 case of interest payments, from the date the
21 production payment was made until the date the
22 interest is 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 said 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

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

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

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

20 F. Nothing in this section shall be construed to impair or
21 amend existing or future contractual rights provided for in gas
22 balancing agreements or other written agreements which expressly
23 provide for the taking, sharing, marketing or balancing of gas or

1 the proceeds ~~therefrom~~ there from. Any proceeds to be paid pursuant
2 to any such agreement shall not commence to earn interest until the
3 sooner of the time provided in such agreement for the payment of
4 such proceeds or ninety (90) days from the date of the depletion of
5 the well. Nothing herein shall be deemed to alter or limit the
6 payment of royalty proceeds as provided in the Production Revenue
7 Standards Act.

8 SECTION 3. AMENDATORY 68 O.S. 2001, Section 1024, is
9 amended to read as follows:

10 Section 1024. A. The Tax Commission may upon written request,
11 release to any person the volume of production, during any specified
12 available period of time, of any substance taxable pursuant to the
13 provisions of this article from any lease lawfully plugged, pursuant
14 to the laws of this state after certification of said plugging by
15 the Oklahoma Corporation Commission.

16 B. The Tax Commission may, upon oral or written request,
17 release the lease name, legal description, Oklahoma Tax Commission
18 assigned production unit number for any lease or unit in this state
19 and the Oklahoma Tax Commission assigned purchaser or producer
20 reporting number and purchaser or producer name to any person.

21 C. The Tax Commission may, upon written request, release the
22 volume of production, producing formation and well classification,
23 active or inactive, on a lease by lease basis to any person.

1 D. The Tax Commission shall, upon written request, release
2 information provided in the Reclaimer's and Transporters Monthly Tax
3 Report of Lease Production Stored and Sold, OTC Form 323A-7-81, or
4 any form succeeding this form, to any person.

5 E. The Tax Commission shall, upon written request, release the
6 following information to any person ~~executing an affidavit, under~~
7 ~~penalty of perjury, declaring that they are an interest owner in the~~
8 ~~well, lease or unit for which the information is requested:~~

9 1. The gross, exempt and net volumes and values of production,
10 tax reimbursements, additional values and taxes remitted thereon,
11 during any available period of time of any substance taxable
12 pursuant to the provisions of this article or the Petroleum Excise
13 Tax of this state.

14 2. The lease name, legal description, industry or company well
15 or lease unique number, Oklahoma Tax Commission assigned production
16 unit number for any lease or unit in this state and the Oklahoma Tax
17 Commission assigned purchaser or producer reporting number and
18 purchaser or producer name.

19 3. The producing formation and well classification, active or
20 inactive, on a lease by lease basis and if available, on a well by
21 well basis, and British Thermal Unit content, NGPA classification,
22 gas code, gravity, tier, category and oil class.

23 F. It is specifically provided that:

1 1. The Tax Commission shall establish a schedule of costs for
2 the furnishing of the information in accordance with the provisions
3 of subsections A ~~and~~, B and E of this section and shall collect said
4 costs;

5 2. No civil or criminal liability shall attach to any member of
6 the Tax Commission, or to any agents, servants, or employees of the
7 Tax Commission for any error or omission in the preparation and
8 publication of the requested information;

9 3. No costs shall be charged to the Oklahoma Corporation
10 Commission Oil and Gas Conservation Division or Energy Conservation
11 Services Division or to the Oklahoma Geological Survey for
12 examination of the files and records of the Tax Commission; and

13 4. All funds collected pursuant to the provisions of this
14 section shall be paid to the State Treasury and deposited to the
15 credit of the Tax Commission Revolving Fund.

16 G. A duly authorized agent of the Oklahoma Corporation
17 Commission Oil and Gas Conservation Division or Energy Conservation
18 Services Division or of the Oklahoma Geological Survey may examine
19 necessary records and files of the Tax Commission relating to the
20 gross production tax for the purpose of estimating or forecasting
21 reserves or production of oil or gas. Such examination shall be
22 limited to information of volume of production, producing formation

1 and well classification, active or inactive, on a lease by lease
2 basis.

3 H. A duly authorized agent of the Commissioners of the Land
4 Office may examine necessary records and files of the Tax Commission
5 relating to the gross production tax for the purpose of determining
6 the amount of erroneous payment of gross production tax made to the
7 Oklahoma Tax Commission after January 1, 1978.

8 I. The provisions of this section shall be exceptions to the
9 provisions of Sections 205 and 205.1 of this title and said sections
10 shall be strictly construed against the disclosure of any other
11 information contained in the records and files of the Tax Commission
12 except as otherwise provided by law.

13 J. Any violation of the provisions of this section shall
14 constitute a misdemeanor and shall be punishable as provided for in
15 Section 205 of this title.

16 SECTION 4. This act shall become effective September 1, 2006.

17 COMMITTEE REPORT BY: COMMITTEE ON ENERGY & ENVIRONMENT, dated
18 2-23-06 - DO PASS, As Amended and Coauthored.