

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1674

By: Lerblance

AS INTRODUCED

An Act relating to oil and gas; amending 52 O.S. 2001, Section 570.12, which relates to information to be included with royalty payments; modifying information required to be given to interest owners; amending 52 O.S. 2001, Section 570.10, which relates to payment of proceeds from sale of oil or gas production; stating procedure relating to unmarketable title; providing for certain interest rate for certain payments; stating procedure for payment of interest due for certain late payments; amending 68 O.S. 2001, Section 1024, which relates to information released by the Tax Commission; removing requirement for certain affidavit necessary to release certain information; and providing an effective date.

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

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

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

1. Lease or well identification;
2. Month and year of sales included in the payment;
3. Total barrels or MCF attributed to such payment and, if different, the total barrels or MCF produced as reported for payment of gross production taxes;
4. Price per barrel or MCF, including British Thermal Unit adjustment of gas sold and, if different, the price per barrel or MCF, including British Thermal Unit adjustment, paid for the gas at the first point of sale between the producer and an unrelated third party in an arms length transaction;

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

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

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

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

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

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

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

~~10. A specific listing of the amount and purpose of any other deductions from the proceeds attributed to such payment due to the owner upon request by the owner amount or amounts specified in paragraphs 5, 6, 7 and 8 of this subsection.~~

B. For purposes of the Production Revenue Standards Act:

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

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

C. Any purchaser or producing owner remitting proceeds to an operator, designated royalty distributor or producing owner, or to

an affiliate of the operator or producing owner, shall include with each payment the information set forth in subsection A of this section.

SECTION 2. AMENDATORY 52 O.S. 2001, 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 570.4 of this 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. a. Proceeds from production may be remitted to the persons entitled to such proceeds annually for the twelve (12) months accumulation of proceeds totaling at least Ten Dollars (\$10.00) but less than One Hundred Dollars (\$100.00). Amounts less than Ten Dollars (\$10.00) may be held but shall be remitted when production ceases or by the payor upon relinquishment of payment responsibility.
- b. Proceeds totaling less than One Hundred Dollars (\$100.00) but more than Twenty-five Dollars (\$25.00) shall be remitted monthly if requested by the person entitled to the proceeds. Amounts less than Ten Dollars (\$10.00) shall be remitted annually if requested by the person entitled to the proceeds.
- c. Before proceeds greater than Twenty-five Dollars (\$25.00) may be accumulated, payor shall provide notice to the person owning interest as defined in Section 570.2 of this title, entitled to such proceeds that there is an option to be paid monthly for proceeds greater than Twenty-five Dollars (\$25.00). Such notice to the person shall also provide directions for requesting monthly payment, and constitutes notice to all heirs, successors, representatives, and assigns of the person.

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. If an owner has both marketable and unmarketable title, any delay in determining the person legally entitled to the proceeds from production caused by that portion of the title that is unmarketable shall not affect payments to that person for the portion of title that 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 prime rate of twelve percent (12%) per annum, as listed in the first edition of the Wall Street Journal published for each month, plus four percent (4%), 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 prime rate of six percent (6%) per annum, as listed in the first edition of the Wall Street Journal published for each month, 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.

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

- a. any payment of production proceeds are not made within ninety (90) days after the date such payment was due pursuant to subsection B of this section, or
- b. any interest payment due pursuant to paragraphs 1 or 2 of subsection D of this section was not made within thirty (30) days after the date that late production proceeds were paid. Any payment of production proceeds or interest that is unreasonably withheld shall earn interest at the rate of twelve percent (12%) per annum, to be compounded annually, calculated, in the case of payment of production proceeds, from the end of the month in which the production is sold until the date paid, and in the case of interest payments, from the date the production payment was made until the date the interest is paid;

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 570.4 of this 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~~ there from. 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 the Production Revenue Standards Act.

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

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

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

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

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

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

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

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

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

F. It is specifically provided that:

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

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

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

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

G. A duly authorized agent of the Oklahoma Corporation Commission Oil and Gas Conservation Division or Energy Conservation Services Division or of the Oklahoma Geological Survey may examine necessary records and files of the Tax Commission relating to the gross production tax for the purpose of estimating or forecasting reserves or production of oil or gas. Such examination shall be limited to information of volume of production, producing formation and well classification, active or inactive, on a lease by lease basis.

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

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

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

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

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