

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2697
Page _____ Section _____ Lines _____
Of the printed Bill
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Randy McDaniel _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2697

By: McDaniel (Randy)

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to oil and gas; amending 52 O.S.
9 2001, Section 570.10, which relates to payment of
10 proceeds from the sale of oil and gas production;
11 allowing for the payment of royalty proceeds using an
12 electronic payment mechanism; requiring mutual
13 consent for an electronic payment; amending 52 O.S.
14 2001 Section 520.12, which relates to information to
15 be included with payment to interest owners; allowing
16 information to be provided by electronic means; and
17 declaring an emergency.

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

19 SECTION 1. AMENDATORY 52 O.S. 2001, Section 570.10, is
20 amended to read as follows:

21 Section 570.10 A. All proceeds from the sale of production
22 shall be regarded as separate and distinct from all other funds of
23 any person receiving or holding the same until such time as such
24 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

1 entitled thereto. Nothing in this subsection shall create an
2 express trust.

3 B. Except as otherwise provided in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 2. a. Where such proceeds are not paid because the title
22 thereto is not marketable, such proceeds shall earn
23 interest at the rate of six percent (6%) per annum to
24 be compounded annually, calculated from the end of the

1 month in which such production was sold until such
2 time as the title to such interest becomes marketable.
3 Marketability of title shall be determined in
4 accordance with the then current title examination
5 standards of the Oklahoma Bar Association.

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

17 E. 1. Except as provided in paragraph 2 of this subsection, a
18 first purchaser or holder of proceeds who fails to remit proceeds
19 from the sale of oil or gas production to owners legally entitled
20 thereto within the time limitations set forth in paragraph 1 of
21 subsection B of this section shall be liable to such owners for
22 interest as provided in subsection D of this section on that portion
23 of the proceeds not timely paid. When two or more persons fail to
24 remit within such time limitations, liability for such interest

1 shall be shared by those persons holding said proceeds in proportion
2 to the time each person held such proceeds.

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

5 a. A first purchaser that causes such proceeds to be
6 received by the operator or by a producing owner in
7 the well for distribution to the royalty interest
8 owner legally entitled thereto within the first month
9 following the month in which such production was sold
10 shall not be liable for interest on such proceeds.

11 b. A producing owner receiving royalty proceeds that
12 causes such proceeds to be received by the royalty
13 interest owner legally entitled thereto or by the
14 operator for distribution to the royalty interest
15 owner legally entitled thereto not later than the end
16 of the first month following the month in which
17 proceeds for such production was received by the
18 producing owner from the purchaser shall not be liable
19 for interest on such proceeds.

20 c. An operator receiving royalty proceeds that causes
21 such proceeds to be received by the royalty interest
22 owner legally entitled thereto, not later than the end
23 of the first month following the month in which
24 proceeds for such production was received by the

1 operator from the purchaser or producing owner shall
2 not be liable for interest on such proceeds.

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

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

22 G. All payments under the Production Revenue Standards Act to
23 owners or any other person or governmental entity legally entitled
24 to the payment may be made by electronic means including but not

1 limited to electronic funds transfer, Automated Clearing House
2 (ACH), direct deposit, wire transfer, or any other similar form of
3 transfer, upon the mutual written consent of the payor and payee.

4 SECTION 2. AMENDATORY 52 O.S. 2001, Section 570.12, is
5 amended to read as follows:

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

- 9 1. Lease or well identification;
- 10 2. Month and year of sales included in the payment;
- 11 3. Total barrels or MCF attributed to such payment;
- 12 4. Price per barrel or MCF, including British Thermal Unit
13 adjustment of gas sold;
- 14 5. Total amount attributed to such payment of severance and
15 other production taxes, with the exception of windfall profit tax;
- 16 6. Net value of total sales attributed to such payment after
17 taxes are deducted;
- 18 7. Owner's interest, expressed as a decimal, in production from
19 the property;
- 20 8. Owner's share of the total value of sales attributed to such
21 payment prior to any deductions;
- 22 9. Owner's share of the sales value attributed to such payment
23 less owner's share of the production and severance taxes; and
24

1 10. A specific listing of the amount and purpose of any other
2 deductions from the proceeds attributed to such payment due to the
3 owner upon request by the owner.

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

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

8 2. Gas volumes reported to any owner shall be measured as
9 required by Section 474 of ~~Title 52 of the Oklahoma Statutes~~ this
10 title.

11 C. All information required to be included under subsection A
12 of this section may be provided or made available to an owner by
13 electronic means including but not limited to electronic mail or a
14 website or database accessible to the owner, upon the mutual written
15 consent of the information provider and the owner.

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

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