

THE HOUSE OF REPRESENTATIVES
Thursday, February 11, 2010

Committee Substitute for
House Bill No. 2697

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 2697 - By: MCDANIEL (RANDY)
of the House.

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

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

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

3 Section 570.10 A. All proceeds from the sale of production shall be regarded as
4 separate and distinct from all other funds of any person receiving or holding the same
5 until such time as such proceeds are paid to the owners legally entitled thereto. Any
6 person holding revenue or proceeds from the sale of production shall hold such revenue
7 or proceeds for the benefit of the owners legally entitled thereto. Nothing in this
8 subsection shall create an express trust.

9 B. Except as otherwise provided in this section:

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

- 3 a. commencing not later than six (6) months after the date of first sale,
- 4 and
- 5 b. thereafter not later than the last day of the second succeeding month
- 6 after the end of the month within which such production is sold.

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

- 10 a. commencing not later than six (6) months after the date of first sale,
- 11 and
- 12 b. thereafter not later than the last day of the third succeeding month
- 13 after the end of the month within which such production is sold;
- 14 provided, however, when proceeds are received by the operator in its
- 15 capacity as a producing owner, the operator may pay the royalty share
- 16 of such proceeds to the royalty interest owners legally entitled thereto
- 17 at the same time that it pays the royalty proceeds received from other
- 18 producing owners for the same production month, but not later than
- 19 the last day of the third succeeding month after the end of the month
- 20 within which such production was sold.

21 3. a. Proceeds from production may be remitted to the persons entitled to
22 such proceeds annually for the twelve (12) months accumulation of

1 proceeds totaling at least Ten Dollars (\$10.00) but less than One
2 Hundred Dollars (\$100.00). Amounts less than Ten Dollars (\$10.00)
3 may be held but shall be remitted when production ceases or by the
4 payor upon relinquishment of payment responsibility.

5 b. Proceeds totaling less than One Hundred Dollars (\$100.00) but more
6 than Twenty-five Dollars (\$25.00) shall be remitted monthly if
7 requested by the person entitled to the proceeds. Amounts less than
8 Ten Dollars (\$10.00) shall be remitted annually if requested by the
9 person entitled to the proceeds.

10 c. Before proceeds greater than Twenty-five Dollars (\$25.00) may be
11 accumulated, payor shall provide notice to the person owning interest
12 as defined in Section 570.2 of this title, entitled to such proceeds that
13 there is an option to be paid monthly for proceeds greater than
14 Twenty-five Dollars (\$25.00). Such notice to the person shall also
15 provide directions for requesting monthly payment, and constitutes
16 notice to all heirs, successors, representatives, and assigns of the
17 person.

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

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

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

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

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

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

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

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

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

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

7 2. a. Where such proceeds are not paid because the title thereto is not
8 marketable, such proceeds shall earn interest at the rate of six percent
9 (6%) per annum to be compounded annually, calculated from the end of
10 the month in which such production was sold until such time as the
11 title to such interest becomes marketable. Marketability of title shall
12 be determined in accordance with the then current title examination
13 standards of the Oklahoma Bar Association.

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

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

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

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

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

6 d. Liability for interest provided in subsection D of this section shall be
7 borne solely by the person, or persons, failing to remit royalty proceeds
8 within the time limitations set forth in subsection B of this section.

9 When two or more persons fail to remit within such time limitations,
10 liability for such interest shall be shared by such persons in proportion
11 to the time each person held such proceeds.

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

20 G. All payments under the Production Revenue Standards Act to owners or any
21 other person or governmental entity legally entitled to the payment may be made by
22 electronic means including but not limited to electronic funds transfer, Automated

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

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

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

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

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

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

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

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

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

12 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND UTILITY
13 REGULATION, dated 02-10-10 - DO PASS, As Amended.