

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 HOUSE BILL 2646

By: Kouplen

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5
6 AS INTRODUCED

7 An Act relating to oil and gas; amending 52 O.S.
8 2011, Section 570.10, which relates to payment of
9 proceeds from the sale of oil and gas production;
10 changing interest rate applied to unpaid oil and gas
11 production proceeds; providing an effective date; and
12 declaring an emergency.

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

14 SECTION 1. AMENDATORY 52 O.S. 2011, 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.

24 B. Except as otherwise provided in this section:

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

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

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

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

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

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

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

11 b. Proceeds totaling less than One Hundred Dollars
12 (\$100.00) but more than Twenty-five Dollars (\$25.00)
13 shall be remitted monthly if requested by the person
14 entitled to the proceeds. Amounts less than Ten
15 Dollars (\$10.00) shall be remitted annually if
16 requested by the person entitled to the proceeds.

17 c. Before proceeds greater than Twenty-five Dollars
18 (\$25.00) may be accumulated, payor shall provide
19 notice to the person owning interest as defined in
20 Section 570.2 of this title, entitled to such proceeds
21 that there is an option to be paid monthly for
22 proceeds greater than Twenty-five Dollars (\$25.00).
23 Such notice to the person shall also provide
24 directions for requesting monthly payment, and

1 constitutes notice to all heirs, successors,
2 representatives, and assigns of the person.

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

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

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

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

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

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

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

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

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

11 D. 1. Except as otherwise provided in paragraph 2 of this
12 subsection, where proceeds from the sale of oil or gas production or
13 some portion of such proceeds are not paid prior to the end of the
14 applicable time periods provided in this section, that portion not
15 timely paid shall earn interest at ~~the a rate of twelve percent~~
16 ~~(12%) per annum to be compounded annually, which is equal to the~~
17 prime rate, as listed in the first edition of the Wall Street
18 Journal published for each calendar year and as certified by the
19 State Treasurer on the first regular business day following
20 publication in January of each year, plus three percent (3%).
21 Interest shall be calculated from the end of the month in which such
22 production is sold until the day paid.

23 2. a. Where such proceeds are not paid because the title
24 thereto is not marketable, such proceeds shall earn

1 interest at the rate of six percent (6%) per annum to
2 be compounded annually, calculated from the end of the
3 month in which such production was sold until such
4 time as the title to such interest becomes marketable.
5 Marketability of title shall be determined in
6 accordance with the then current title examination
7 standards of the Oklahoma Bar Association.

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

19 E. 1. Except as provided in paragraph 2 of this subsection, a
20 first purchaser or holder of proceeds who fails to remit proceeds
21 from the sale of oil or gas production to owners legally entitled
22 thereto within the time limitations set forth in paragraph 1 of
23 subsection B of this section shall be liable to such owners for
24 interest as provided in subsection D of this section on that portion

1 of the proceeds not timely paid. When two or more persons fail to
2 remit within such time limitations, liability for such interest
3 shall be shared by those persons holding said proceeds in proportion
4 to the time each person held such proceeds.

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

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

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

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

1 G. All payments under the Production Revenue Standards Act to
2 owners or any other person or governmental entity legally entitled
3 to the payment may be made by electronic means including but not
4 limited to electronic funds transfer, Automated Clearing House
5 (ACH), direct deposit, wire transfer, or any other similar form of
6 transfer, upon the mutual written consent of the payor and payee.

7 SECTION 2. This act shall become effective July 1, 2014.

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

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