ENGROSSED SENATE
BILL NO. 470 By: Marlatt of the Senate

and

Osborn of the House

An Act relating to oil and gas; amending 52 O.S. 570.10, and Section 3, Chapter 201, O.S.L. 2012 (52 O.S. Supp. 2014, Section 903), which relate to payment of proceeds from oil and gas and interest rates for certain payments; clarifying statutory language relating to certain royalty payments; removing requirement for interest to be compounded annually; authorizing holders of certain proceeds to file court action to determine legal entitlement; providing process for proceeds due to unmarketable title after certain time period; stating exceptions; modifying remedy for interest on certain payments of proceeds from production; and providing an effective date.

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

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

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 or withheld 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 or withholding 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 rate of twelve percent (12%) per annum ~~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 rate of six percent (6%) per annum ~~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, the holder of such proceeds may, and 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.

c. In the event title remains unmarketable for two (2) years after an operator provides written notice of the unmarketable title, the operator may presume the accrued proceeds to be abandoned and remit payment pursuant to the Unclaimed Property Act, Section 651 et seq. of Title 60 of the Oklahoma Statutes.

d. Interest on proceeds that has not been paid prior to the applicable time periods provided in this section shall not apply in the following circumstances:

(1) when mineral owners or their assignees elect to take their proportionate share of production in kind, or

(2) when a mineral owner or assignee cannot be located after reasonable inquiry by the operator and the proceeds have been remitted to the state pursuant to the Unclaimed Property Act.

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~~ the 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. 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.

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

SECTION 2. AMENDATORY Section 3, Chapter 201, O.S.L. 2012 (52 O.S. Supp. 2014, Section 903), is amended to read as follows:

Section 903. Except for the right to enforce lien rights under private agreement or under Sections 548 through 549.12 of Title 52 of the Oklahoma Statutes and except where specific remedies are provided by private agreement, ~~and as long as paragraph 1 of subsection D of Section 570.10 of Title 52 of the Oklahoma Statutes provides for an interest rate equal to or greater than twelve percent (12%) compounded annually,~~ the Production Revenue Standards Act shall provide the exclusive remedy to a person entitled to proceeds from production for failure of a holder to pay the proceeds within the time periods required for payment. The interest amounts set forth in subsection D of Section 570.10 and the remedies set forth in subsection C of Section 570.14 of ~~Title 52 of the Oklahoma Statutes~~ this title, with the term "actual damages" as used therein being limited to the proceeds due and the interest as provided in subsection D of Section 570.10 of ~~Title 52 of the Oklahoma Statutes~~ this title, are deemed to be adequate remedies for failure to pay proceeds within the time periods required for payment and no other penalty or damages shall be recoverable in any litigation involving a claim for unpaid or underpaid proceeds from production including, without limitation, punitive or exemplary damages or disgorgement damages, unless there shall be a determination by the finder of fact upon clear and convincing evidence that the holder who failed to pay such proceeds did so with the actual, knowing and willful intent: (a) to deceive the person to whom the proceeds were due, or (b) to

deprive proceeds from the person the holder knows, or is aware, is legally entitled thereto.

SECTION 3. This act shall become effective November 1, 2015.

Passed the Senate the 12th day of March, 2015.

_____
Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2015.

_____
Presiding Officer of the House
of Representatives