

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

No. _____

COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 632, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Taylor

Taylor-APW-FS-Req#1898
3/9/2021 9:41 AM

(Floor Amendments Only) Date and Time Filed: _____

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 FLOOR SUBSTITUTE
4 FOR

5 SENATE BILL NO. 632

By: Taylor of the Senate

and

McEntire of the House

7
8
9 FLOOR SUBSTITUTE

10 An Act relating to the Oil and Gas Owners' Lien Act
11 of 2010; amending 52 O.S. 2011, Sections 549.2 and
12 549.3, which relate to definitions and oil and gas
13 liens; modifying definition; granting lien right to
secure obligation to pay certain proceeds; specifying
duration of certain lien; and providing an effective
date.

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15
16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY 52 O.S. 2011, Section 549.2, is
18 amended to read as follows:

19 Section 549.2.

20 DEFINITIONS

21 As used in the Oil and Gas Owners' Lien Act of 2010:

22 1. "Affiliate" means any person:

- 23 a. who is controlled, directly or indirectly, by a first
24 purchaser, or

1 b. who controls, directly or indirectly, a first
2 purchaser.

3 "Control" or "controlled by" means the possession, directly or
4 indirectly, of the power to direct or cause the direction of the
5 management and policies of a person, whether through ownership, by
6 contract, or otherwise;

7 2. "Agreement to sell" means any enforceable agreement, whether
8 express or implied, whether oral or written, by which an interest
9 owner, either directly or through a representative, agrees to sell
10 or is deemed by applicable contract or law to have agreed to sell
11 oil or gas upon or after severance to a first purchaser;

12 3. "Article 9" means Article 9 of the Oklahoma Uniform
13 Commercial Code in effect as of the relevant date or a comparable
14 article under the uniform commercial code of another state to the
15 extent applicable;

16 4. "First purchaser" means the first person that purchases oil
17 or gas from an interest owner, either directly or through a
18 representative, under an agreement to sell;

19 5. "Gas" means natural gas and casinghead gas and all
20 constituent parts thereof both before and after processing but prior
21 to the time at which a first purchaser transfers title, possession
22 or control thereof to a purchaser;

23 6. "Interest owner" means a person owning an interest of any
24 kind or nature in oil and gas rights before the acquisition thereof

1 by a first purchaser. Interest owner includes a representative and
2 a transferee interest owner;

3 7. "Oil" means oil and condensate and all constituent parts
4 thereof whether before or after processing but prior to the time at
5 which a first purchaser transfers title, possession or control
6 thereto to a purchaser;

7 8. "Oil and gas lien" means the lien granted by ~~this act~~ the
8 Oil and Gas Owners' Lien Act of 2010;

9 9. a. "Oil and gas rights" means, as to any lands within the
10 State of Oklahoma, any right, title or interest,
11 whether legal or equitable, in and to:

- 12 (1) oil,
- 13 (2) gas,
- 14 (3) proceeds,
- 15 (4) an oil and gas lease,
- 16 (5) a pooling order, and
- 17 (6) an agreement to sell.

18 b. By way of illustration and not limitation, oil and gas
19 rights include, but are not limited to:

- 20 (1) oil or gas in place prior to severance,
- 21 (2) oil or gas production, or the right to receive a
22 portion of the proceeds, upon severance,
- 23 (3) proceeds owed for oil and gas drilling and
24 development,

1 (4) proceeds from the acquisition of oil and gas
2 rights including but not limited to a lease bonus
3 or pooling bonus,

4 (5) proceeds from an unfulfilled contract or
5 agreement for the purchase of mineral rights,

6 (6) any interest or estate in, by, through or under
7 an oil and gas lease,

8 ~~(4)~~

9 (7) rights acquired under a pooling order insofar as
10 such rights relate to: ownership of oil and gas,
11 the right to proceeds, or the right to enter into
12 an agreement to sell,

13 ~~(5)~~

14 (8) a legal or equitable right to receive
15 consideration of whatsoever nature under an
16 agreement to sell, or

17 ~~(6)~~

18 (9) a mortgage lien or security interest in any of
19 the foregoing;

20 10. "Operator" means a person engaged in the severance of oil
21 or gas for that person alone, for other persons only, or for that
22 person and others;

23 11. "Permitted lien" means any of the following liens or
24 security interests:

1 a. a mortgage lien or security interest granted by a
2 first purchaser in favor of a person not an affiliate
3 of the first purchaser which mortgage lien or security
4 interest secures payment under a written instrument of
5 indebtedness signed by the first purchaser and
6 accepted in writing by the payee thereof prior to ~~the~~
7 ~~effective date of this act~~ April 19, 2010, with a
8 principal amount and a fixed maturity stated therein;
9 provided, however, a permitted lien does not include a
10 mortgage lien or security interest which:

11 (1) secures payment of any indebtedness incurred from
12 and after ~~the effective date of this act~~ April
13 19, 2010,

14 (2) secures payment under a written instrument of
15 indebtedness not signed by a first purchaser and
16 accepted in writing by the payee thereof prior to
17 ~~the effective date of this act~~ April 19, 2010,

18 (3) secures payment under a written instrument of
19 indebtedness modified, amended or restated from
20 or after ~~the effective date of this act~~ April 19,
21 2010, which modification, amendment or
22 restatement increases the principal amount which
23 was owing ~~at the effective date of this act~~ on
24 April 19, 2010,

1 (4) secures payment under a written instrument of
2 indebtedness modified, amended or restated from
3 or after ~~the effective date of this act~~ April 19,
4 2010, which modification, amendment or
5 restatement extends the stated maturity thereof
6 which was in effect ~~at the effective date of this~~
7 ~~act~~ on April 19, 2010, or

8 (5) is not validly perfected with a first priority
9 against the claims of all persons under
10 applicable law other than persons holding a
11 statutory or regulatory lien as to which first
12 priority is granted by statute or regulation, or

13 b. a validly perfected and enforceable lien created by
14 statute or by rule or regulation of a governmental
15 agency for storage or transportation charges,
16 including terminal charges, tariffs, demurrage,
17 insurance, labor or other charges, owed by a first
18 purchaser in relation to oil or gas originally
19 purchased under an agreement to sell; provided,
20 however, a permitted lien does not include any such
21 lien:

22 (1) which is in favor of an affiliate of a first
23 purchaser unless such lien is authorized by the
24

1 statute, rule or regulation creating such lien,
2 or

3 (2) which is for charges in excess of ninety (90)
4 days from the time the first purchaser delivers
5 such oil or gas for such storage or
6 transportation;

7 12. "Person" means any individual, executor, administrator,
8 estate, agent, trust, trustee, institution, receiver, business
9 trust, firm, corporation, partnership, limited liability company,
10 cooperative, joint venture, governmental entity or agency,
11 association or any other group or combination acting as a unit;

12 13. "Pooling order" means an order issued by the Corporation
13 Commission that requires the owners of the right to drill for oil or
14 gas in a drilling and spacing unit to pool their interests for the
15 development of such drilling and spacing unit;

16 14. "Proceeds" means any of the following when paid or to be
17 paid in consideration of, or as a consequence of, the sale of oil or
18 gas under an agreement to sell: oil or gas on or after severance;
19 inventory of raw, refined or manufactured oil or gas after
20 severance; rights to or products of any of the foregoing; cash
21 proceeds; accounts; chattel paper; instruments; documents; or
22 payment intangibles with respect to any of the foregoing;

1 15. "Purchaser" means a person which is not an affiliate of a
2 first purchaser and which takes, receives or purchases oil or gas
3 from a first purchaser;

4 16. "Representative" means any person who is authorized, either
5 expressly or by implication, including, without limitation, an
6 operator or a broker so authorized, to sell oil or gas on behalf of,
7 or for the benefit of, an interest owner under an agreement to sell
8 or to receive on behalf of an interest owner the consideration under
9 an agreement to sell;

10 17. "Sales price" means the proceeds a first purchaser agrees
11 to pay an interest owner or representative under an agreement to
12 sell;

13 18. "Security interest" means a security interest governed by
14 Article 9;

15 19. "Severance" means that point in time at which oil or gas is
16 reduced to possession at the mouth of the wellbore of an oil and gas
17 well;

18 20. "Transferor interest owner" means an interest owner that
19 transfers or conveys oil and gas rights, in whole or in part; and

20 21. "Transferee interest owner" means a person that acquires
21 oil and gas rights from a transferor interest owner.

22 SECTION 2. AMENDATORY 52 O.S. 2011, Section 549.3, is
23 amended to read as follows:

24

1 NATURE, EXTENT AND DURATION OF OIL AND GAS LIEN

2 Section 549.3. A. To secure the obligations of a first
3 purchaser to pay the sales price, and to secure the obligation of
4 any person to pay any proceeds, as defined in Section 549.2 of this
5 title, for the acquisition of oil and gas rights, each interest
6 owner is hereby granted an oil and gas lien to the extent of the
7 interest owner's interest in oil and gas rights. The oil and gas
8 lien granted by ~~this act~~ the Oil and Gas Owner' Lien Act of 2010 is
9 granted and shall exist as part of and incident to the ownership of
10 oil and gas rights.

11 B. An oil and gas lien:

12 1. Exists in and attaches immediately to all oil and gas on ~~the~~
13 ~~effective date of this act~~ April 19, 2010;

14 2. Continues uninterrupted and without lapse in all oil and gas
15 upon and after severance; and

16 3. Continues uninterrupted and without lapse in and to all
17 proceeds.

18 C. An oil and gas lien exists until the interest owner or
19 representative first entitled to receive the sales price or any
20 proceeds, as defined in Section 549.2 of this title, for the
21 acquisition of oil and gas rights, has received the sales price or
22 any proceeds, as defined in Section 549.2 of this title, for the
23 acquisition of oil and gas rights. Notwithstanding the immediately
24 preceding sentence, as between an interest owner and a

1 representative of an interest owner or any person claiming adversely
2 to such interest owner or representative, such interest owner's oil
3 and gas lien continues uninterrupted and without lapse in proceeds
4 in the possession or control of a representative until the interest
5 owner on whose behalf such representative acts receives such
6 proceeds in full. When a first purchaser, in good faith, pays the
7 sales price to an interest owner or a representative otherwise
8 apparently entitled to receive the sales price and the first
9 purchaser is without actual knowledge that such interest owner or
10 representative is not entitled to receive the sales price so paid,
11 then such first purchaser takes free of the oil and gas lien
12 otherwise applicable to the oil or gas for which such payment was
13 made. Notwithstanding the immediately preceding sentence, the oil
14 and gas lien will continue uninterrupted in the proceeds paid to or
15 otherwise due the interest owner or representative.

16 D. The validity of an oil and gas lien shall not be dependent
17 on possession of the oil or gas by an interest owner or
18 representative. No oil and gas lien shall become or be deemed to be
19 void or expired by reason of a change or transfer of the actual or
20 constructive possession of or title to the oil or gas from the
21 interest owner or representative to a first purchaser or purchaser.

22 E. On the conveyance or transfer of any oil and gas rights by a
23 transferor interest owner, the oil and gas lien vested in the
24 transferor interest owner immediately before the conveyance or

1 transfer shall remain with the transferor interest owner to the
2 extent of any oil and gas rights retained by the transferor interest
3 owner.

4 F. On the conveyance or transfer of any oil and gas rights by a
5 transferor interest owner, the oil and gas lien vested in the
6 transferor interest owner immediately before the conveyance or
7 transfer shall be transferred to and attach automatically to the oil
8 and gas rights acquired by the transferee interest owner
9 uninterrupted and without lapse and as part of and incident to the
10 oil and gas rights so transferred or conveyed.

11 SECTION 3. This act shall become effective November 1, 2021.

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13 58-1-1898 APW 3/9/2021 9:41:04 AM

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