

1 **SENATE FLOOR VERSION**

2 February 11, 2021

3 SENATE BILL NO. 632

By: Taylor of the Senate

4 and

5 McEntire of the House

6  
7  
8 An Act relating to oil and gas; amending 52 O.S.  
9 2011, Section 549.2, which relates to the Oil and Gas  
10 Owners' Lien Act of 2010; modifying certain  
11 definition; and providing an effective date.

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

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

15 Section 549.2.

16 DEFINITIONS

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

18 1. "Affiliate" means any person:

19 a. who is controlled, directly or indirectly, by a first  
20 purchaser, or

21 b. who controls, directly or indirectly, a first  
22 purchaser.

23 "Control" or "controlled by" means the possession, directly or  
24 indirectly, of the power to direct or cause the direction of the

1 management and policies of a person, whether through ownership, by  
2 contract, or otherwise;

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

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

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

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

19 6. "Interest owner" means a person owning an interest of any  
20 kind or nature in oil and gas rights before the acquisition thereof  
21 by a first purchaser. Interest owner includes a representative and  
22 a transferee interest owner;

23 7. "Oil" means oil and condensate and all constituent parts  
24 thereof whether before or after processing but prior to the time at

1 which a first purchaser transfers title, possession or control  
2 thereto to a purchaser;

3 8. "Oil and gas lien" means the lien granted by this act;

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

- 7 (1) oil,  
8 (2) gas,  
9 (3) proceeds,  
10 (4) an oil and gas lease,  
11 (5) a pooling order, and  
12 (6) an agreement to sell.

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

- 15 (1) oil or gas in place prior to severance,  
16 (2) oil or gas production, or the right to receive a  
17 portion of the proceeds, upon severance,  
18 (3) proceeds owed for oil and gas drilling and  
19 development,  
20 (4) proceeds from the acquisition of oil and gas  
21 rights including but not limited to a lease bonus  
22 or pooling bonus,  
23 (5) proceeds from an unfulfilled contract or  
24 agreement for the purchase of mineral rights,

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

3           ~~(4)~~

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

8           ~~(5)~~

9           (8) a legal or equitable right to receive  
10          consideration of whatsoever nature under an  
11          agreement to sell, or

12          ~~(6)~~

13          (9) a mortgage lien or security interest in any of  
14          the foregoing;

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

18          11. "Permitted lien" means any of the following liens or  
19          security interests:

- 20               a. a mortgage lien or security interest granted by a  
21               first purchaser in favor of a person not an affiliate  
22               of the first purchaser which mortgage lien or security  
23               interest secures payment under a written instrument of  
24               indebtedness signed by the first purchaser and

1           accepted in writing by the payee thereof prior to the  
2           effective date of this act with a principal amount and  
3           a fixed maturity stated therein; provided, however, a  
4           permitted lien does not include a mortgage lien or  
5           security interest which:

6           (1)   secures payment of any indebtedness incurred from  
7                   and after the effective date of this act,

8           (2)   secures payment under a written instrument of  
9                   indebtedness not signed by a first purchaser and  
10                  accepted in writing by the payee thereof prior to  
11                  the effective date of this act,

12          (3)   secures payment under a written instrument of  
13                  indebtedness modified, amended or restated from  
14                  or after the effective date of this act which  
15                  modification, amendment or restatement increases  
16                  the principal amount which was owing at the  
17                  effective date of this act,

18          (4)   secures payment under a written instrument of  
19                  indebtedness modified, amended or restated from  
20                  or after the effective date of this act which  
21                  modification, amendment or restatement extends  
22                  the stated maturity thereof which was in effect  
23                  at the effective date of this act, or  
24

- (5) is not validly perfected with a first priority against the claims of all persons under applicable law other than persons holding a statutory or regulatory lien as to which first priority is granted by statute or regulation, or
- b. a validly perfected and enforceable lien created by statute or by rule or regulation of a governmental agency for storage or transportation charges, including terminal charges, tariffs, demurrage, insurance, labor or other charges, owed by a first purchaser in relation to oil or gas originally purchased under an agreement to sell; provided, however, a permitted lien does not include any such lien:
- (1) which is in favor of an affiliate of a first purchaser unless such lien is authorized by the statute, rule or regulation creating such lien, or
- (2) which is for charges in excess of ninety (90) days from the time the first purchaser delivers such oil or gas for such storage or transportation;

12. "Person" means any individual, executor, administrator, estate, agent, trust, trustee, institution, receiver, business

1 trust, firm, corporation, partnership, limited liability company,  
2 cooperative, joint venture, governmental entity or agency,  
3 association or any other group or combination acting as a unit;

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

8 14. "Proceeds" means any of the following when paid or to be  
9 paid in consideration of, or as a consequence of, the sale of oil or  
10 gas under an agreement to sell: oil or gas on or after severance;  
11 inventory of raw, refined or manufactured oil or gas after  
12 severance; rights to or products of any of the foregoing; cash  
13 proceeds; accounts; chattel paper; instruments; documents; or  
14 payment intangibles with respect to any of the foregoing;

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

18 16. "Representative" means any person who is authorized, either  
19 expressly or by implication, including, without limitation, an  
20 operator or a broker so authorized, to sell oil or gas on behalf of,  
21 or for the benefit of, an interest owner under an agreement to sell  
22 or to receive on behalf of an interest owner the consideration under  
23 an agreement to sell;

1        17. "Sales price" means the proceeds a first purchaser agrees  
2 to pay an interest owner or representative under an agreement to  
3 sell;

4        18. "Security interest" means a security interest governed by  
5 Article 9;

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

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

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

13        SECTION 2. This act shall become effective November 1, 2021.

14        COMMITTEE REPORT BY: COMMITTEE ON ENERGY  
15        February 11, 2021 - DO PASS  
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