

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 974

By: Daniels

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to oil and gas; amending 52 O.S.
9 2011, Sections 570.10 and Section 3, Chapter 201,
10 O.S.L. 2012 (52 O.S. Supp. 2017, Section 903), which
11 relate to payment of proceeds from sale of oil and
12 gas production and failure to pay proceeds from
13 production; expanding liability for payment of
14 royalty proceeds to include incorrect withholdings;
15 removing requirement that interest rates on certain
16 proceeds be compounded annually; authorizing the
17 holder of certain proceeds to interplead such
18 proceeds in court; applying the Unclaimed Property
19 Act to proceeds from certain unmarketable titles;
20 providing exceptions for the application of interest
21 in certain circumstances; updating statutory
22 language; and providing an effective date.

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

24 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

1 person holding revenue or proceeds from the sale of production shall
2 hold such revenue or proceeds for the benefit of the owners legally
3 entitled thereto. Nothing in this subsection shall create an
4 express trust.

5 B. Except as otherwise provided in this section:

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

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

10 b. thereafter not later than the last day of the second
11 succeeding month after the end of the month within
12 which such production is sold.

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

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

19 b. thereafter not later than the last day of the third
20 succeeding month after the end of the month within
21 which such production is sold; provided, however, when
22 proceeds are received by the operator in its capacity
23 as a producing owner, the operator may pay the royalty
24 share of such proceeds to the royalty interest owners

1 legally entitled thereto at the same time that it pays
2 the royalty proceeds received from other producing
3 owners for the same production month, but not later
4 than the last day of the third succeeding month after
5 the end of the month within which such production was
6 sold.

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

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

21 c. Before proceeds greater than Twenty-five Dollars
22 (\$25.00) may be accumulated, payor shall provide
23 notice to the person owning interest as defined in
24 Section 570.2 of this title, entitled to such proceeds

1 that there is an option to be paid monthly for
2 proceeds greater than Twenty-five Dollars (\$25.00).
3 Such notice to the person shall also provide
4 directions for requesting monthly payment, and
5 constitutes notice to all heirs, successors,
6 representatives, and assigns of the person.

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

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

14 a. the royalty interest owners legally entitled thereto,

15 or

16 b. the operator of the well,

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

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

22 a. the royalty interest owners legally entitled thereto,

23 or

24 b. the operator of the well,

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

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

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

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

22 2. a. Where such proceeds are not paid because the title
23 thereto is not marketable, such proceeds shall earn
24 interest at the rate of six percent (6%) per annum ~~to~~

1 ~~be compounded annually~~, calculated from the end of the
2 month in which such production was sold until such
3 time as the title to such interest becomes marketable.
4 Marketability of title shall be determined in
5 accordance with the then current title examination
6 standards of the Oklahoma Bar Association.

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

19 c. In the event title remains unmarketable for two (2)
20 years after an operator provides written notice of the
21 unmarketable title, the operator may deem all accrued
22 proceeds related to such interest to be abandoned and
23 remit such proceeds as payment pursuant to the
24 Unclaimed Property Act, Section 651 et seq. of Title

1 60 of the Oklahoma Statutes until such time as title
2 is marketable.

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

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

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

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

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

3 a. A first purchaser that causes such proceeds to be
4 received by the operator or by a producing owner in
5 the well for distribution to the royalty interest
6 owner legally entitled thereto within the first month
7 following the month in which such production was sold
8 shall not be liable for interest on such proceeds.

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

18 c. An operator receiving royalty proceeds that causes
19 such proceeds to be received by the royalty interest
20 owner legally entitled thereto, not later than the end
21 of the first month following the month in which
22 proceeds for such production was received by the
23 operator from the purchaser or producing owner shall
24 not be liable for interest on such proceeds.

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

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

20 G. All payments under the Production Revenue Standards Act to
21 owners or any other person or governmental entity legally entitled
22 to the payment may be made by electronic means including but not
23 limited to electronic funds transfer, Automated Clearing House
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1 (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 Section 3, Chapter 201, O.S.L.
4 2012 (52 O.S. Supp. 2017, Section 903), is amended to read as
5 follows:

6 Section 903. Except for the right to enforce lien rights under
7 private agreement or under Sections 548 through 549.12 of ~~Title 52~~
8 ~~of the Oklahoma Statutes~~ this title and except where specific
9 remedies are provided by private agreement, and as long as paragraph
10 1 of subsection D of Section 570.10 of ~~Title 52 of the Oklahoma~~
11 ~~Statutes~~ this title provides for an interest rate equal to or
12 greater than twelve percent (12%) ~~compounded annually~~, the
13 Production Revenue Standards Act shall provide the exclusive remedy
14 to a person entitled to proceeds from production for failure of a
15 holder to pay the proceeds within the time periods required for
16 payment. The interest amounts set forth in subsection D of Section
17 570.10 of this title and the remedies set forth in subsection C of
18 Section 570.14 of ~~Title 52 of the Oklahoma Statutes~~ this title, with
19 the term "actual damages" as used therein being limited to the
20 proceeds due and the interest as provided in subsection D of Section
21 570.10 of ~~Title 52 of the Oklahoma Statutes~~ this title, are deemed
22 to be adequate remedies for failure to pay proceeds within the time
23 periods required for payment and no other penalty or damages shall
24 be recoverable in any litigation involving a claim for unpaid or

1 underpaid proceeds from production including, without limitation,
2 punitive or exemplary damages or disgorgement damages, unless there
3 shall be a determination by the finder of fact upon clear and
4 convincing evidence that the holder who failed to pay such proceeds
5 did so with the actual, knowing and willful intent: (a) to deceive
6 the person to whom the proceeds were due, or (b) to deprive proceeds
7 from the person the holder knows, or is aware, is legally entitled
8 thereto.

9 SECTION 3. This act shall become effective November 1, 2018.

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