

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL 1143

By: Pugh of the Senate

and

6 Osburn (Mike) of the House

7  
8  
9 COMMITTEE SUBSTITUTE

10 An Act relating to oil and gas; amending 52 O.S.  
11 2011, Section 570.10, which relates to payment of  
12 proceeds from sale of oil and gas production;  
13 prohibiting nonpayment of certain interest on  
14 proceeds; modifying the interest rate on certain  
15 proceeds; modifying timeline certain proceeds earn  
16 interest; authorizing certain persons to initiate  
17 legal action in certain circumstances; and providing  
18 an effective date.

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24 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

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

4 B. Except as otherwise provided in this section:

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

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

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

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

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

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

1 the royalty proceeds received from other producing  
2 owners for the same production month, but not later  
3 than the last day of the third succeeding month after  
4 the end of the month within which such production was  
5 sold-i

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

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

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

1                   proceeds greater than Twenty-five Dollars (\$25.00).

2                   Such notice to the person shall also provide

3                   directions for requesting monthly payment, and

4                   constitutes notice to all heirs, successors,

5                   representatives, and assigns of the person; and

6           4. Any delay in determining the persons legally entitled to  
7 proceeds from production caused by unmarketable title shall not  
8 affect payments to persons whose title is marketable, or that  
9 portion of a person's interest which 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 incorrectly as a result of  
10 an error or omission, the party whose error or omission caused the  
11 incorrect royalty payments shall be liable for the additional  
12 royalty proceeds on such production and all resulting costs or  
13 damages incurred by the party making the incorrect payment.

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

21 2. a. Where such proceeds are not paid because the title  
22 thereto is not marketable, such proceeds shall earn  
23 interest at the rate of:  
24

1        (1) six percent (6%) per annum to be compounded  
2                annually for time periods prior to November 1,  
3                2018, and

4        (2) the prime interest rate as reported in the Wall  
5                Street Journal for time periods on or after  
6                November 1, 2018,

7        calculated from the end of the month in which such  
8        production was sold until such time as the title to  
9        such interest becomes marketable. Marketability of  
10       title shall be determined in accordance with the then  
11       current title examination standards of the Oklahoma Bar  
12       Association.

13       b.    Where marketability has remained uncured, or the  
14               holder has not been provided an acceptable affidavit  
15               of death and heirship in conformity with Section 67 of  
16               Title 16 of the Oklahoma Statutes, for a period of one  
17       hundred twenty (120) days from the date payment is due  
18       under this section, any person claiming to own the  
19       right to receive proceeds which have not been paid  
20       because of unmarketable title may require the holder  
21       of such proceeds, or the holder of such proceeds may  
22               elect, to interplead the proceeds and all accrued  
23       interest into court for a determination of the persons  
24       legally entitled thereto. Upon payment into court the

1 holder of such proceeds shall be relieved of any  
2 further liability for the proper payment of such  
3 proceeds and interest thereon.

4 E. 1. Except as provided in paragraph 2 of this subsection, a  
5 first purchaser or holder of proceeds who fails to remit proceeds  
6 from the sale of oil or gas production to owners legally entitled  
7 thereto within the time limitations set forth in paragraph 1 of  
8 subsection B of this section shall be liable to such owners for  
9 interest as provided in subsection D of this section on that portion  
10 of the proceeds not timely paid. When two or more persons fail to  
11 remit within such time limitations, liability for such interest  
12 shall be shared by those persons holding ~~said~~ the proceeds in  
13 proportion to the time each person held such proceeds.

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

- 16 a. A first purchaser that causes such proceeds to be  
17 received by the operator or by a producing owner in  
18 the well for distribution to the royalty interest  
19 owner legally entitled thereto within the first month  
20 following the month in which such production was sold  
21 shall not be liable for interest on such proceeds.
- 22 b. A producing owner receiving royalty proceeds that  
23 causes such proceeds to be received by the royalty  
24 interest owner legally entitled thereto or by the

1 operator for distribution to the royalty interest  
2 owner legally entitled thereto not later than the end  
3 of the first month following the month in which  
4 proceeds for such production was received by the  
5 producing owner from the purchaser shall not be liable  
6 for interest on such proceeds.

7 c. An operator receiving royalty proceeds that causes  
8 such proceeds to be received by the royalty interest  
9 owner legally entitled thereto, not later than the end  
10 of the first month following the month in which  
11 proceeds for such production was received by the  
12 operator from the purchaser or producing owner shall  
13 not be liable for interest on such proceeds.

14 d. Liability for interest provided in subsection D of  
15 this section shall be borne solely by the person, or  
16 persons, failing to remit royalty proceeds within the  
17 time limitations set forth in subsection B of this  
18 section. When two or more persons fail to remit  
19 within such time limitations, liability for such  
20 interest shall be shared by such persons in proportion  
21 to the time each person held such proceeds.

22 F. Nothing in this section shall be construed to impair or  
23 amend existing or future contractual rights provided for in gas  
24 balancing agreements or other written agreements which expressly

1 provide for the taking, sharing, marketing or balancing of gas or  
2 the proceeds therefrom. Any proceeds to be paid pursuant to any  
3 such agreement shall not commence to earn interest until the sooner  
4 of the time provided in such agreement for the payment of such  
5 proceeds or ninety (90) days from the date of the depletion of the  
6 well. Nothing herein shall be deemed to alter or limit the payment  
7 of royalty proceeds as provided in the Production Revenue Standards  
8 Act.

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

15 SECTION 2. This act shall become effective November 1, 2018.  
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