

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2775

By: Osburn (Mike)

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to oil and gas; amending 52 O.S.
10 2011, Section 570.10, which relates to the payment of
11 proceeds from the sale of oil and gas production;
12 providing production proceeds be paid to title
13 holder's marketable portion; specifying interest rate
14 to be paid on certain interests; and providing an
15 effective date.

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

17 SECTION 1. AMENDATORY 52 O.S. 2011, Section 570.10, is
18 amended to read as follows:

19 Section 570.10 A. All proceeds from the sale of production
20 shall be regarded as separate and distinct from all other funds of
21 any person receiving or holding the same until such time as such
22 proceeds are paid to the owners legally entitled thereto. Any
23 person holding revenue or proceeds from the sale of production shall
24 hold such revenue or proceeds for the benefit of the owners legally

1 entitled thereto. Nothing in this subsection shall create an
2 express trust.

3 B. Except as otherwise provided in this section:

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

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

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

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

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.

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 (i) six percent (6%) per annum
24 to be compounded annually for time periods prior to

1 November 1, 2018, and (ii) the prime interest rate as
2 reported in the Wall Street Journal for time periods
3 on or after November 1, 2018, calculated from the end
4 of the month in which such production was sold until
5 such time as the title to such interest becomes
6 marketable or the holder has received an acceptable
7 affidavit of death and heirship in conformity with
8 Section 67 of Title 16 of the Oklahoma Statutes, or as
9 set forth in subparagraph b of this paragraph.

10 Marketability of title shall be determined in
11 accordance with the then current title examination
12 standards of the Oklahoma Bar 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

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

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

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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17 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03/05/2018 - DO PASS,
18 As Amended.
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