

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 1232

By: Daniels

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to oil and gas; amending 52 O.S.
9 2011, Sections 570.10, as amended by Section 1,
10 Chapter 6, O.S.L. 2018 and 570.11 (52 O.S. Supp.
11 2019, Section 570.10), which relate to payment of
12 proceeds from sale of oil and gas and division
13 orders; modifying method of calculation for certain
14 interest on proceeds; requiring division order or
15 transfer order for payment of proceeds; specifying
16 information required in division order; adding
17 definition and terms of transfer orders; authorizing
18 certain persons to withhold payment of proceeds if
19 division or transfer order is not complete for
20 specified time period; and providing an effective
21 date.

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

23 SECTION 1. AMENDATORY 52 O.S. 2011, Section 570.10, as
24 amended by Section 1, Chapter 6, O.S.L. 2018 (52 O.S. Supp. 2019,
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 of this subsection, royalty
14 proceeds from the sale of gas production from an oil or gas well
15 remitted to the operator pursuant to subsection B of Section 570.4
16 of this title 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, or that
10 portion of a person's interest which is marketable.

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

- 15 a. the royalty interest owners legally entitled thereto,
16 or
17 b. the operator of the well,

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

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

- 23 a. the royalty interest owners legally entitled thereto,
24 or

1 b. the operator of the well,
2 shall not thereafter be liable for such proceeds so paid and shall
3 have thereby discharged its duty to pay those proceeds on such
4 production.

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

10 4. Where royalty proceeds are paid incorrectly as a result of
11 an error or omission, the party whose error or omission caused the
12 incorrect royalty payments shall be liable for the additional
13 royalty proceeds on such production and all resulting costs or
14 damages incurred by the party making the 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, for periods prior
21 to November 1, 2020, from the end of the month in which such
22 production is sold until the day paid and for time periods on or
23 after November 1, 2020, from the date payment is due under this
24 section until the date paid.

- 1 2. a. Where such proceeds are not paid because the title
2 thereto is not marketable, such proceeds shall earn
3 interest at the rate of (i) six percent (6%) per annum
4 to be compounded annually for time periods prior to
5 November 1, 2018, and (ii) the prime interest rate as
6 reported in the Wall Street Journal for time periods
7 on or after November 1, 2018, calculated, until
8 November 1, 2020, from the end of the month in which
9 such production was sold and on or after November 1,
10 2020, from the date payment is due under this section,
11 until such time as the title to such interest becomes
12 marketable or the holder has received an acceptable
13 affidavit of death and heirship in conformity with
14 Section 67 of Title 16 of the Oklahoma Statutes, or as
15 set forth in subparagraph b of this paragraph.
16 Marketability of title shall be determined in
17 accordance with the then current title examination
18 standards of the Oklahoma Bar Association.
- 19 b. Where marketability has remained uncured, or the
20 holder has not been provided an acceptable affidavit
21 of death and heirship in conformity with Section 67 of
22 Title 16 of the Oklahoma Statutes, for a period of one
23 hundred twenty (120) days from the date payment is due
24 under this section, any person claiming to own the

1 right to receive proceeds which have not been paid
2 because of unmarketable title may require the holder
3 of such proceeds, or the holder of such proceeds may
4 elect, to interplead the proceeds and all accrued
5 interest into court for a determination of the persons
6 legally entitled thereto. Upon payment into court the
7 holder of such proceeds shall be relieved of any
8 further liability for the proper payment of such
9 proceeds and interest thereon.

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

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

22 a. A first purchaser that causes such proceeds to be
23 received by the operator or by a producing owner in
24 the well for distribution to the royalty interest

1 owner legally entitled thereto within the first month
2 following the month in which such production was sold
3 shall not be liable for interest on such proceeds.

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

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

20 d. Liability for interest provided in subsection D of
21 this section shall be borne solely by the person, or
22 persons, failing to remit royalty proceeds within the
23 time limitations set forth in subsection B of this
24 section. When two or more persons fail to remit

1 within such time limitations, liability for such
2 interest shall be shared by such persons in proportion
3 to the time each person held such proceeds.

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

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

21 SECTION 2. AMENDATORY 52 O.S. 2011, Section 570.11, is
22 amended to read as follows:

23 Section 570.11. A. Beginning with oil and gas production sold
24 on or after November 1, 2020, prior to the payment of proceeds from

1 the sale of the production to a person legally entitled thereto, the
2 party remitting production proceeds shall be entitled to receive a
3 signed division or transfer order from each owner containing the
4 following:

5 1. The effective date of the division order or transfer order;

6 2. A description of the property from which the oil or gas is
7 being produced and the type of production;

8 3. The name, address and taxpayer identification number of the
9 owner;

10 4. Either the fractional or decimal interest, or both, in
11 production claimed by the owner, the type of interest, the
12 certification of title to the share of production claimed, and,
13 unless otherwise agreed to by the parties, an agreement to notify
14 the party remitting production proceeds at least one (1) month in
15 advance of the effective date of any change in the interest in
16 production owned by the owner;

17 5. An agreement from the owner to indemnify the party remitting
18 production proceeds and reimburse the party for payments made if the
19 owner does not have marketable title to the production sold; and

20 6. A notification to the owner that other statutory rights may
21 be available to an owner with regard to payments.

22 B. A division order or transfer order is an instrument for the
23 purpose of directing the distribution of proceeds from the sale of
24 oil, gas, casinghead gas or other related hydrocarbons ~~which~~

1 ~~warrants in writing the division of interest and the name, address~~
2 ~~and tax identification number of each interest owner with a~~
3 ~~provision requiring notice of change of ownership.~~ A division order
4 ~~is executed to enable the first purchaser of the production or~~
5 ~~holder of proceeds to make remittance of proceeds directly to the~~
6 ~~owners legally entitled thereto and or transfer order does not~~
7 relieve the lessee of any liabilities or obligations under the oil
8 and gas lease. Terms of a division order which conflict with the
9 terms of any oil and gas lease are invalid, unless previously agreed
10 to by the affected parties. This subsection shall only apply to
11 division orders or transfer orders executed on or after July 1,
12 1989.

13 C. If a person otherwise legally entitled to receive proceeds
14 from production refuses to sign a division or transfer order with
15 the provisions specified in subsection A of this section, the party
16 remitting production proceeds may withhold payment without interest
17 until sixty (60) days after the date such instrument is received by
18 the party remitting production proceeds or the applicable time
19 period provided in Section 570.10 of this title, whichever is later.

20 SECTION 3. This act shall become effective November 1, 2020.
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