

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1524

By: Taylor

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5
6 AS INTRODUCED

7 An Act relating to Production Revenue Standards Act;
8 amending 52 O.S. 2021, Sections 570.10 and 570.11,
9 which relate to payment of proceeds from certain
10 sales and division orders; requiring division or
11 transfer order be submitted to receive certain
12 proceeds; modifying interest rate for oil and gas
13 proceeds not timely paid; modifying conditions by
14 which interest for certain proceeds shall not accrue;
15 establishing time period for payment once certain
16 conditions are cured; requiring division or transfer
17 order contain certain provisions; providing that
18 payment of proceeds may be withheld without penalty
19 of interest under certain circumstances; establishing
20 process for remitting payment upon receipt of
21 completed division or transfer order; and providing
22 an effective date.

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

24 SECTION 1. AMENDATORY 52 O.S. 2021, Section 570.10, is
amended to read as follows:

25 Section 570.10. A. All proceeds from the sale of production
26 shall be regarded as separate and distinct from all other funds of
27 any person receiving or holding the same until such time as such
28 proceeds are paid to the owners legally entitled thereto. Any
29 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, upon
7 submission of a properly executed division order in accordance with
8 Section 570.11 of this title, to the person responsible for
9 remitting proceeds:

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

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

15 2. Notwithstanding paragraph 1 of this subsection, royalty
16 proceeds from the sale of gas production from an oil or gas well
17 remitted to the operator pursuant to subsection B of Section 570.4
18 of this title shall be paid to persons legally entitled thereto, upon
19 submission of a properly executed division order in accordance
20 with Section 570.11 of this title, to the person responsible for
21 remitting proceeds:

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

1 b. thereafter not later than the last day of the third
2 succeeding month after the end of the month within
3 which such production is sold; provided, however, when
4 proceeds are received by the operator in its capacity
5 as a producing owner, the operator may pay the royalty
6 share of such proceeds to the royalty interest owners
7 legally entitled thereto at the same time that it pays
8 the royalty proceeds received from other producing
9 owners for the same production month, but not later
10 than the last day of the third succeeding month after
11 the end of the month within which such production was
12 sold.

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

21 b. Proceeds totaling less than One Hundred Dollars
22 (\$100.00) but more than Twenty-five Dollars (\$25.00)
23 shall be remitted monthly if requested by the person
24 entitled to the proceeds. Amounts less than Ten
25

1 Dollars (\$10.00) shall be remitted annually if
2 requested by the person entitled to the proceeds.

3 c. Before proceeds greater than Twenty-five Dollars
4 (\$25.00) may be accumulated, payor shall provide
5 notice to the person owning interest as defined in
6 Section 570.2 of this title, entitled to such proceeds
7 that there is an option to be paid monthly for
8 proceeds greater than Twenty-five Dollars (\$25.00).
9 Such notice to the person shall also provide
10 directions for requesting monthly payment, and
11 constitutes notice to all heirs, successors,
12 representatives, and assigns of the person.

13 4. Any delay in determining the persons legally entitled to
14 proceeds from production caused by unmarketable title shall not
15 affect payments to persons whose title is marketable, or that
16 portion of a person's interest which is marketable.

17 C. 1. A first purchaser that pays or causes to be paid
18 proceeds from production to the producing owner of such production
19 or, at the direction of the producing owner, pays or causes to be
20 paid royalty proceeds from production to:

- 21 a. the royalty interest owners legally entitled thereto,
22 or
23 b. the operator of the well,
24

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

- 6 a. the royalty interest owners legally entitled thereto,
- 7 or
- 8 b. the operator of the well,

9 shall not thereafter be liable for such proceeds so paid and shall
10 have thereby discharged its duty to pay those proceeds on such
11 production.

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

17 4. Where royalty proceeds are paid incorrectly as a result of
18 an error or omission, the party whose error or omission caused the
19 incorrect royalty payments shall be liable for the additional
20 royalty proceeds on such production and all resulting costs or
21 damages incurred by the party making the incorrect payment.

22 D. 1. Except as otherwise provided in paragraph 2 of this
23 subsection, where proceeds from the sale of oil or gas production or
24 some portion of such proceeds are not paid prior to the end of the

1 applicable time periods provided in this section, that portion not
2 timely paid shall earn interest at the rate of twelve percent (12%)
3 per annum to be compounded annually, ~~calculated from the end of the~~
4 ~~month in which such production is sold until the day paid.~~

5 2. a. ~~Where such proceeds are not paid because the title~~
6 ~~thereto is not marketable, such proceeds shall earn~~
7 ~~interest at the rate of (i) six percent (6%) per annum~~
8 ~~to be compounded annually for time periods prior to~~
9 ~~November 1, 2018, and (ii) the prime interest rate as~~
10 ~~reported in the Wall Street Journal for time periods~~
11 ~~on or after November 1, 2018, calculated from the end~~
12 ~~of the month in which such production was sold until~~
13 ~~such time as the title to such interest becomes~~
14 ~~marketable or the holder has received an acceptable~~
15 ~~affidavit of death and heirship in conformity with~~
16 ~~Section 67 of Title 16 of the Oklahoma Statutes, or as~~
17 ~~set forth in subparagraph b of this paragraph.~~
18 ~~Marketability of title shall be determined in~~
19 ~~accordance with the then current title examination~~
20 ~~standards of the Oklahoma Bar Association.~~

21 b. ~~Where marketability has remained uncured, or the~~
22 ~~holder has not been provided an acceptable affidavit~~
23 ~~of death and heirship in conformity with Section 67 of~~
24 ~~Title 16 of the Oklahoma Statutes, for a period of one~~

1 ~~hundred twenty (120) days from the date payment is due~~
2 ~~under this section, any person claiming to own the~~
3 ~~right to receive proceeds which have not been paid~~
4 ~~because of unmarketable title may require the holder~~
5 ~~of such proceeds, or the holder of such proceeds may~~
6 ~~elect, to interplead the proceeds and all accrued~~
7 ~~interest into court for a determination of the persons~~
8 ~~legally entitled thereto. Upon payment into court the~~
9 ~~holder of such proceeds shall be relieved of any~~
10 ~~further liability for the proper payment of such~~
11 ~~proceeds and interest thereon~~

12 Notwithstanding any other provisions of this subsection,
13 proceeds that are not paid on time pursuant to this section will not
14 accrue interest if the proceeds are subject to any of the following
15 conditions:

- 16 a. the owner legally entitled to the proceeds has not
17 requested in writing to the person holding revenue or
18 proceeds from the sale of production that interest be
19 paid,
- 20 b. the proceeds have been paid to any state, county, or
21 municipal government or agency thereof under any act
22 governing unclaimed or abandoned property including
23 but not limited to Section 552 et seq. of this title

1 and Section 651 et seq. of Title 60 of the Oklahoma
2 Statutes,

3 c. the proceeds are held in suspense by the producing
4 owner, operator, or first purchaser due to the filing
5 of an oil and gas lien pursuant to Section 144 et seq.
6 of Title 42 of the Oklahoma Statutes,

7 d. the person legally entitled to the proceeds has not
8 submitted a properly executed division order in
9 accordance with Section 570.11 of this title, or

10 e. the title is not free from apparent defects, grave
11 doubts and litigious uncertainty, and does not consist
12 of both legal and equitable title fairly deducible of
13 record.

14 3. If the conditions in subparagraph a, c, d, or e of paragraph
15 2 of this subsection exist and are cured, the proceeds shall be paid
16 to persons legally entitled to payment by the last day of the
17 succeeding month after the condition is cured. If proceeds are not
18 paid prior to that date, the portion not timely paid shall earn
19 interest at the rate of twelve percent (12%) per annum to be
20 compounded annually calculated from the first date that the proceeds
21 are late under this subsection until the date that the proceeds are
22 paid.

23 4. Interest payments as set forth in paragraph 1 of subsection
24 D of this section shall be calculated from the first date that the

1 proceeds are late pursuant to paragraph 1 of subsection D of this
2 section until the date that the proceeds are paid.

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

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

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

21 b. A producing owner receiving royalty proceeds that
22 causes such proceeds to be received by the royalty
23 interest owner legally entitled thereto or by the
24 operator for distribution to the royalty interest

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

6 c. An operator receiving royalty proceeds that causes
7 such proceeds to be received by 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 operator from the purchaser or producing owner, shall
12 not be liable for interest on such proceeds.

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

21 F. Nothing in this section shall be construed to impair or
22 amend existing or future contractual rights provided for in gas
23 balancing agreements or other written agreements which expressly
24 provide for the taking, sharing, marketing or balancing of gas or

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

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

14 H. Nothing in this section shall be construed as repealing
15 Section 901 et seq. of this title.

16 I. The provisions of this section shall apply to all production
17 taking place on or after the effective date of this act.

18 SECTION 2. AMENDATORY 52 O.S. 2021, Section 570.11, is
19 amended to read as follows:

20 Section 570.11. A. A division order is an instrument for the
21 purpose of directing the distribution of proceeds from the sale of
22 oil, gas, casinghead gas or other related hydrocarbons which
23 ~~warrants~~ states in writing the division of interest and the name,
24 address and tax identification number of each interest owner with a

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

10 B. As a condition precedent to the payment of proceeds from the
11 sale of production to a person legally entitled to the payments,
12 each party remitting production proceeds shall be entitled to
13 receive a signed division or transfer order from each owner that
14 contains the following provisions:

15 1. The effective date of the division order, transfer order, or
16 other instrument;

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

19 3. The name, address, and taxpayer identification number of the
20 owner;

21 4. The fractional or decimal ownership interest in the
22 property;

23 5. The owner's confirmation of title to the share of production
24 claimed, and requirement that owner provide notice to the party

1 remitting proceeds from the sale of production at least one (1)
2 month in advance of the effective date of any change in the interest
3 in production owned by the owner;

4 6. A notification to the owner that other statutory rights may
5 be available to an owner regarding payments;

6 7. The owner agrees to release, hold harmless, and reimburse
7 the party remitting production proceeds, and reimburse the party for
8 payments made if the owner does not have marketable title to the
9 production sold; and

10 8. The division order does not amend any lease, operating
11 agreement, farmout, development agreement, or any other agreement
12 related to mineral rights and rights belonging thereto, between the
13 undersigned and the lessee or operator or any other contracts for
14 the purchase of oil or gas.

15 C. If the person remitting proceeds sends a division or
16 transfer order to the person legally entitled to receive proceeds
17 from the sale of oil or gas production, and that person does not
18 return the order with the provisions specified in subsection B of
19 this section within thirty (30) days of the date that the order is
20 transmitted from the person remitting proceeds, then the party
21 remitting production proceeds may withhold payment without penalty
22 of interest in accordance with subsection D of Section 570.10 of
23 this title until such time as the division or transfer order is
24 received. If the person legally entitled to receive proceeds

1 returns a signed division or transfer order with the provisions
2 specified in subsection B of this section, then the proceeds shall
3 be paid to persons legally entitled to payment by the last day of
4 the succeeding month after the division or transfer order is
5 received. If proceeds are not paid prior to that time, that portion
6 not timely paid shall earn interest at the rate of twelve percent
7 (12%) per annum to be compounded annually calculated from the first
8 date that the proceeds are late pursuant to this subsection until
9 the date that the proceeds are paid.

10 D. A division order received by a party remitting proceeds
11 shall be deemed received by any successors and assigns of such party
12 remitting proceeds and will inure to the benefit of and be binding
13 to the successors and assigns of the party remitting proceeds.

14 E. The provisions of this section shall apply to all production
15 from wells drilled on or after the effective date of this act.

16 SECTION 3. This act shall become effective November 1, 2022.

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