

Regular Session, 2013

HOUSE BILL NO. 564

BY REPRESENTATIVE JIM MORRIS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MINERALS: Provides relative to drilling units

1 AN ACT

2 To amend and reenact R.S. 30:10(A)(2)(b)(ii)(cc), (ee), and (ff) and (iii), and to enact R.S.
3 30:10(A)(2)(b)(ii)(gg), relative to drilling units; to provide for the agreements for
4 drilling units; to provide for pooling interests; to provide for the election to
5 participate in a unit well; to provide for the recovery of certain costs; to provide for
6 payment to certain royalty owners; to provide for judicial remedies; to require certain
7 information relating to drilling units; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 30:10(A)(2)(b)(ii)(cc), (ee), and (ff) and (iii) are hereby amended and
10 reenacted and R.S. 30:10(A)(2)(b)(ii)(gg) is hereby enacted to read as follows:

11 §10. Agreements for drilling units; pooling interests; terms and conditions; expenses

12 A.

13 * * *

14 (2)

15 * * *

16 (b)

17 * * *

18 (ii)

19 * * *

1 (cc) The share that is to be received by the nonparticipating owner on behalf
 2 of its lessor royalty owner ~~and~~ or overriding royalty owner shall be reported by the
 3 drilling owner in accordance with Part 2-B of Chapter 13 of Title 31 of the Louisiana
 4 Revised Statutes of 1950. If the nonparticipating owner has not previously paid its
 5 royalty and overriding royalty owners, then any share of production received by the
 6 nonparticipating owner from the drilling owner shall at all times be owned by the
 7 respective royalty and overriding royalty owners while in the possession of the
 8 nonparticipating owner.

9 * * *

10 (ee) In the event of nonpayment by the nonparticipating owner of the royalty
 11 and overriding royalty due, the lessor royalty owner and overriding royalty owner
 12 shall provide written notice of such failure to the nonparticipating owner and drilling
 13 owner as a prerequisite to a judicial demand for damages. The lessor royalty owner
 14 and overriding royalty owner shall follow the same procedure and have the same
 15 remedies provided in Part 6 of Chapter 7 of Title 31 of the Louisiana Revised
 16 Statutes of 1950 or Part 2-A of Chapter 13 of Title 31 of the Louisiana Revised
 17 Statutes of 1950, respectively, against the nonparticipating owner ~~and the drilling~~
 18 ~~owner. If the drilling owner provides sufficient proof of payment of the royalties to~~
 19 ~~the nonparticipating owner, then the lessor royalty owner and overriding royalty~~
 20 ~~owner shall have no cause of action against the drilling owner for nonpayment. In~~
 21 such a judicial demand against the nonparticipating owner, the lessor royalty owner
 22 or overriding royalty owner may also seek a judgment directing the drilling owner
 23 to make any payments not previously made, and any future payments due to the
 24 nonparticipating owner under Subitems (aa) and (bb) of this Item directly to the
 25 lessor royalty owner or overriding royalty owner or into the registry of the court
 26 upon a showing that such a judgment is necessary to protect the interests of the lessor
 27 royalty owner or overriding royalty owner because its remedies against the
 28 nonparticipating owner are inadequate to do justice.

1 (ff) In the event of nonpayment by the drilling owner ~~of the royalty and~~
2 ~~overriding royalty due to the nonparticipating owner for the benefit of the lessor~~
3 ~~royalty owner and overriding royalty owner, and payment by the nonparticipating~~
4 ~~owner of the royalty and overriding royalty due~~ of the amounts due under Subitems
5 (aa) and (bb) of this Item, the nonparticipating owner shall provide written notice of
6 such failure to pay to the drilling owner as a prerequisite to a judicial demand for
7 damages. The drilling owner shall have thirty days after receipt of the required
8 notice within which to pay the royalties due or to respond in writing by stating a
9 reasonable cause for nonpayment. If the drilling owner fails to make payment of the
10 royalties or fails to state a reasonable cause for nonpayment as determined by the
11 court within this period, the court may award to the nonparticipating owner as
12 damages ~~double the amount of royalties due~~ an amount not to exceed the greater of
13 either fifty percent of the amount due or an amount equal to that portion of the
14 damages awarded by the court to the lessor royalty owner or overriding royalty
15 owner against the nonparticipating owner under Subitem (ee) of this Item which are
16 attributable to the nonpayment by the drilling owner, interest on that sum from the
17 date due, and a reasonable attorney fee regardless of the cause for the original failure
18 to pay royalties. If the drilling owner ~~provides sufficient proof of payment of the~~
19 ~~royalties to the nonparticipating owner, then the nonparticipating owner shall have~~
20 ~~no cause of action against the drilling owner for nonpayment~~ successfully defends
21 such a judicial demand by the nonparticipating owner, the court may award to the
22 drilling owner a reasonable attorney fee for defending that demand.

23 (gg) During the recovery of the actual reasonable expenditures incurred in
24 drilling, testing, completing, equipping, and operating the well, the charge for
25 supervision, and the risk charge, the drilling owner shall provide the information
26 described in R.S. 30:103.1(A) to any person subject to the risk charge who makes a
27 written request for this information to the drilling owner.

28 (iii) Any owner not notified shall bear only his tract's allocated share of the
29 actual reasonable expenditures incurred in drilling, testing, completing, equipping,

1 and operating the unit well, including a charge for supervision, which share shall be
 2 subject to the same obligation and remedies and rights to own and recover out of
 3 production in favor of the drilling party or parties as provided in this Subsection. A
 4 ~~participating~~ drilling owner shall deliver to the owner whom has not been notified
 5 the proceeds attributable to his royalty and overriding royalty burdens as described
 6 in this Section.

7 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Jim Morris

HB No. 564

Abstract: Provides for payments by drilling owners to nonparticipating owners for the benefit of royalty owners and overriding royalty owners.

Present law requires a drilling owner to report payment information in accordance with present law when paying a nonparticipating owner the share due his lessor royalty owner and overriding royalty owner. Proposed law retains present law.

Proposed law provides that if a nonparticipating owner has not previously paid its royalty and overriding royalty owners, then any share of production received by the nonparticipating owner from the drilling owner shall at all times be owned by the respective royalty and overriding royalty owners while in the possession of the nonparticipating owner.

Present law provides for judicial remedies for the lessor royalty owner and overriding royalty owner in the event the nonparticipating owner fails to pay the royalty and overriding royalties due, after providing written notice to the nonparticipating owner and drilling owner. Proposed law retains present law.

Present law provides that there is no cause of action against a drilling owner that provides sufficient proof of payment of the royalty and overriding royalty to the nonparticipating owner. Proposed law removes present law.

Proposed law provides that in an action against the nonparticipating owner, the lessor royalty owner or overriding royalty owner may seek a judgment directing the drilling owner to make any royalty and overriding royalty payments directly to the lessor royalty owner or overriding royalty owner or into the registry of the court upon a showing that such a judgment is necessary.

Present law provides for judicial remedies for the nonparticipating owner against the drilling owner in the event the drilling owner fails to pay the royalty or overriding royalty due, after providing written notice to the drilling owner and a 30 day opportunity to provide written cause for the failure. Proposed law retains present law.

Present law provides that the court may award the nonparticipating owner in an action against the drilling owner double the amount of royalties due, plus interest and a reasonable attorney fee.

Proposed law retains the interest and the attorney fee award in present law and replaces the damages of double the royalties due with an amount not to exceed the greater of: 50% the amount due or an amount equal to that portion of the damages awarded by the court to the lessor royalty owner or overriding royalty owner in their action against the nonparticipating owner.

Proposed law provides that the drilling owner may be awarded a reasonable attorney fee if he successfully defends such a judicial demand by the nonparticipating owner.

Proposed law provided that during the recovery of the actual reasonable expenditures incurred in drilling, testing, completing, equipping, and operating the well, the charge for supervision, and the risk charge, the drilling owner shall provide the information required to be given to an unleased owners as provided in present law to any person subject to the risk charge and makes a written request for this information to the drilling owner.

Present law provides that owner that did not receive the notice of the opportunity to participate in the unit well, substitute unit well, alternate unit well, or cross-unit well is only responsible for the costs of the well which shall be recovered from the owner's share of production in favor of the drilling owner. Proposed law retains present law.

Present law provides that a participating owner shall deliver to the owner that has not been notified the proceeds attributable to his royalty and overriding royalty burdens. Proposed law changes participating owner to drilling owner.

(Amends R.S. 30:10(A)(2)(b)(ii)(cc), (ee), and (ff), and (iii); Adds R.S. 30:10(A)(2)(b)(ii)(gg))