

1 **SENATE FLOOR VERSION**

2 March 3, 2022

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1524

By: Taylor of the Senate

and

Echols of the House

6
7
8 [Production Revenue Standards Act - payment of
9 proceeds - division or transfer order - process for
10 remitting payment - effective date]

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

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

14 Section 570.10. A. All proceeds from the sale of production
15 shall be regarded as separate and distinct from all other funds of
16 any person receiving or holding the same until such time as such
17 proceeds are paid to the owners legally entitled thereto. Any
18 person holding revenue or proceeds from the sale of production shall
19 hold such revenue or proceeds for the benefit of the owners legally
20 entitled thereto. Nothing in this subsection shall create an
21 express trust.

22 B. Except as otherwise provided in this section:

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

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

3 b. thereafter not later than the last day of the second
4 succeeding month after the end of the month within
5 which such production is sold.

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

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

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

5 C. 1. A first purchaser that pays or causes to be paid
6 proceeds from production to the producing owner of such production
7 or, at the direction of the producing owner, pays or causes to be
8 paid royalty proceeds from production to:

9 a. the royalty interest owners legally entitled thereto,
10 or

11 b. the operator of the well,
12 shall not thereafter be liable for such proceeds so paid and shall
13 have thereby discharged its duty to pay those proceeds on such
14 production.

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

17 a. the royalty interest owners legally entitled thereto,
18 or

19 b. the operator of the well,
20 shall not thereafter be liable for such proceeds so paid and shall
21 have thereby discharged its duty to pay those proceeds on such
22 production.

23 3. An operator that pays or causes to be paid royalty proceeds
24 from production, received by it as operator, to the royalty interest

1 owners legally entitled thereto shall not thereafter be liable for
2 such proceeds so paid and shall have thereby discharged its duty to
3 pay those proceeds on such production.

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

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

16 2. a. ~~Where such proceeds are not paid because the title~~
17 ~~thereto is not marketable, such proceeds shall earn~~
18 ~~interest at the rate of (i) six percent (6%) per annum~~
19 ~~to be compounded annually for time periods prior to~~
20 ~~November 1, 2018, and (ii) the prime interest rate as~~
21 ~~reported in the Wall Street Journal for time periods~~
22 ~~on or after November 1, 2018, calculated from the end~~
23 ~~of the month in which such production was sold until~~
24 ~~such time as the title to such interest becomes~~

1 ~~marketable or the holder has received an acceptable~~
2 ~~affidavit of death and heirship in conformity with~~
3 ~~Section 67 of Title 16 of the Oklahoma Statutes, or as~~
4 ~~set forth in subparagraph b of this paragraph.~~
5 ~~Marketability of title shall be determined in~~
6 ~~accordance with the then current title examination~~
7 ~~standards of the Oklahoma Bar Association.~~

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

23 Notwithstanding any other provisions of this subsection,

24 proceeds that are not paid on time pursuant to this section will not

1 accrue interest if the proceeds are subject to any of the following
2 conditions:

3 a. the owner legally entitled to the proceeds has not
4 requested in writing to the person holding revenue or
5 proceeds from the sale of production that interest be
6 paid,

7 b. the proceeds have been paid to any state, county, or
8 municipal government or agency thereof under any act
9 governing unclaimed or abandoned property including
10 but not limited to Section 552 et seq. of this title
11 and Section 651 et seq. of Title 60 of the Oklahoma
12 Statutes,

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

17 d. the party responsible for remitting proceeds from the
18 sale of production:

19 (1) elects to send the owner a division order or
20 transfer order,

21 (2) sends the division order or transfer order in
22 accordance with Section 570.11 of this title, and

1 (3) the person legally entitled to the proceeds does
2 not submit a properly executed division order in
3 accordance with Section 570.11 of this title, or
4 e. the title is not free from apparent defects, grave
5 doubts and litigious uncertainty, and does not consist
6 of both legal and equitable title fairly deducible of
7 record.

8 3. If the conditions in subparagraph a, c, d, or e of paragraph
9 2 of this subsection exist and are cured, the proceeds shall be paid
10 to persons legally entitled to payment by the last day of the
11 succeeding month after the condition is cured. If proceeds are not
12 paid prior to that date, the portion not timely paid shall earn
13 interest at the rate of twelve percent (12%) per annum to be
14 compounded annually calculated from the first date that the proceeds
15 are late under this subsection until the date that the proceeds are
16 paid.

17 4. Interest payments as set forth in paragraph 1 of subsection
18 D of this section shall be calculated from the first date that the
19 proceeds are late pursuant to paragraph 1 of subsection D of this
20 section until the date that the proceeds are paid.

21 E. 1. Except as provided in paragraph 2 of this subsection, a
22 first purchaser or holder of proceeds who fails to remit proceeds
23 from the sale of oil or gas production to owners legally entitled
24 thereto within the time limitations set forth in paragraph 1 of

1 subsection B of this section shall be liable to such owners for
2 interest as provided in subsection D of this section on that portion
3 of the proceeds not timely paid. When two or more persons fail to
4 remit within such time limitations, liability for such interest
5 shall be shared by those persons holding the proceeds in proportion
6 to the time each person held such proceeds.

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

9 a. A first purchaser that causes such proceeds to be
10 received by the operator or by a producing owner in
11 the well for distribution to the royalty interest
12 owner legally entitled thereto within the first month
13 following the month in which such production was sold
14 shall not be liable for interest on such proceeds.

15 b. A producing owner receiving royalty proceeds that
16 causes such proceeds to be received by the royalty
17 interest owner legally entitled thereto or by the
18 operator for distribution to the royalty interest
19 owner legally entitled thereto not later than the end
20 of the first month following the month in which
21 proceeds for such production was received by the
22 producing owner from the purchaser shall not be liable
23 for interest on such proceeds.

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

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

16 F. Nothing in this section shall be construed to impair or
17 amend existing or future contractual rights provided for in gas
18 balancing agreements or other written agreements which expressly
19 provide for the taking, sharing, marketing or balancing of gas or
20 the proceeds therefrom. Any proceeds to be paid pursuant to any
21 such agreement shall not commence to earn interest until the sooner
22 of the time provided in such agreement for the payment of such
23 proceeds or ninety (90) days from the date of the depletion of the
24 well. Nothing herein shall be deemed to alter or limit the payment

1 of royalty proceeds as provided in the Production Revenue Standards
2 Act.

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

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

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

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

15 Section 570.11. A. A division order is an instrument for the
16 purpose of directing the distribution of proceeds from the sale of
17 oil, gas, casinghead gas or other related hydrocarbons which
18 ~~warrants~~ states in writing the division of interest and the name,
19 address and tax identification number of each interest owner with a
20 provision requiring notice of change of ownership. A division order
21 or transfer order is executed to enable the first purchaser of the
22 production or holder of proceeds to make remittance of proceeds
23 directly to the owners legally entitled thereto and does not relieve
24 the lessee of any liabilities or obligations under the oil and gas

1 lease. Terms of a division order which conflict with the terms of
2 any oil and gas lease are invalid, unless previously agreed to by
3 the affected parties. This subsection shall only apply to division
4 orders or transfer orders executed on or after July 1, 1989.

5 B. If the party remitting production proceeds from the sale of
6 production sends a division order to the owner in accordance with
7 this section, then, as a condition precedent to the payment of
8 proceeds from such sale, the party remitting production proceeds
9 shall be entitled to receive a signed division or transfer order
10 from each owner that contains the following provisions:

11 1. The effective date of the division order, transfer order, or
12 other instrument;

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

15 3. The name, address, and taxpayer identification number of the
16 owner;

17 4. The fractional or decimal ownership interest in the
18 property;

19 5. The owner's confirmation of title to the share of production
20 claimed, and requirement that owner provide notice to the party
21 remitting proceeds from the sale of production at least one (1)
22 month in advance of the effective date of any change in the interest
23 in production owned by the owner;

24

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

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

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

12 C. If the party remitting proceeds elects to send a division or
13 transfer order to the person legally entitled to receive proceeds
14 from the sale of oil or gas production, then it must deliver the
15 order to the owner by registered first class mail, certified mail,
16 or electronic mail with proof of delivery at least sixty (60) days
17 before the proceeds are due pursuant to Section 570.10 of this
18 title. If the order is timely delivered to the owner and the owner
19 does not return the order with the provisions specified in
20 subsection B of this section within forty-five (45) days of the date
21 that the order is sent from the person remitting proceeds, then the
22 party remitting proceeds may withhold payment without penalty of
23 interest in accordance with subsection D of Section 570.10 of this
24 title until such time as the division or transfer order is received.

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

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

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

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

18 COMMITTEE REPORT BY: COMMITTEE ON ENERGY
19 March 3, 2022 - DO PASS AS AMENDED
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