

An Act

ENROLLED SENATE
BILL NO. 632

By: Taylor of the Senate

and

McEntire of the House

An Act relating to the Oil and Gas Owners' Lien Act of 2010; amending 52 O.S. 2011, Sections 549.2 and 549.3, which relate to definitions and oil and gas liens; modifying definition; granting lien right to secure obligation to pay certain proceeds; specifying duration of certain lien; and providing an effective date.

SUBJECT: Oil and gas

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

SECTION 1. AMENDATORY 52 O.S. 2011, Section 549.2, is amended to read as follows:

Section 549.2.

DEFINITIONS

As used in the Oil and Gas Owners' Lien Act of 2010:

1. "Affiliate" means any person:
 - a. who is controlled, directly or indirectly, by a first purchaser, or
 - b. who controls, directly or indirectly, a first purchaser.

"Control" or "controlled by" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through ownership, by contract, or otherwise;

2. "Agreement to sell" means any enforceable agreement, whether express or implied, whether oral or written, by which an interest owner, either directly or through a representative, agrees to sell or is deemed by applicable contract or law to have agreed to sell oil or gas upon or after severance to a first purchaser;

3. "Article 9" means Article 9 of the Oklahoma Uniform Commercial Code in effect as of the relevant date or a comparable article under the uniform commercial code of another state to the extent applicable;

4. "First purchaser" means the first person that purchases oil or gas from an interest owner, either directly or through a representative, under an agreement to sell;

5. "Gas" means natural gas and casinghead gas and all constituent parts thereof both before and after processing but prior to the time at which a first purchaser transfers title, possession or control thereof to a purchaser;

6. "Interest owner" means a person owning an interest of any kind or nature in oil and gas rights before the acquisition thereof by a first purchaser. Interest owner includes a representative and a transferee interest owner;

7. "Oil" means oil and condensate and all constituent parts thereof whether before or after processing but prior to the time at which a first purchaser transfers title, possession or control thereto to a purchaser;

8. "Oil and gas lien" means the lien granted by ~~this act~~ the Oil and Gas Owners' Lien Act of 2010;

9. a. "Oil and gas rights" means, as to any lands within the State of Oklahoma, any right, title or interest, whether legal or equitable, in and to:

- (1) oil,
- (2) gas,
- (3) proceeds,
- (4) an oil and gas lease,
- (5) a pooling order, and
- (6) an agreement to sell.

b. By way of illustration and not limitation, oil and gas rights include, but are not limited to:

- (1) oil or gas in place prior to severance,
- (2) oil or gas production, or the right to receive a portion of the proceeds, upon severance,
- (3) proceeds owed for oil and gas drilling and development,
- (4) proceeds from the acquisition of oil and gas rights including but not limited to a lease bonus or pooling bonus,
- (5) proceeds from an unfulfilled contract or agreement for the purchase of mineral rights,
- (6) any interest or estate in, by, through or under an oil and gas lease,
- ~~(4)~~
- (7) rights acquired under a pooling order insofar as such rights relate to: ownership of oil and gas, the right to proceeds, or the right to enter into an agreement to sell,

~~(5)~~

(8) a legal or equitable right to receive consideration of whatsoever nature under an agreement to sell, or

~~(6)~~

(9) a mortgage lien or security interest in any of the foregoing;

10. "Operator" means a person engaged in the severance of oil or gas for that person alone, for other persons only, or for that person and others;

11. "Permitted lien" means any of the following liens or security interests:

a. a mortgage lien or security interest granted by a first purchaser in favor of a person not an affiliate of the first purchaser which mortgage lien or security interest secures payment under a written instrument of indebtedness signed by the first purchaser and accepted in writing by the payee thereof prior to ~~the effective date of this act~~ April 19, 2010, with a principal amount and a fixed maturity stated therein; provided, however, a permitted lien does not include a mortgage lien or security interest which:

(1) secures payment of any indebtedness incurred from and after ~~the effective date of this act~~ April 19, 2010,

(2) secures payment under a written instrument of indebtedness not signed by a first purchaser and accepted in writing by the payee thereof prior to ~~the effective date of this act~~ April 19, 2010,

(3) secures payment under a written instrument of indebtedness modified, amended or restated from or after ~~the effective date of this act~~ April 19, 2010, which modification, amendment or restatement increases the principal amount which

was owing ~~at the effective date of this act~~ on April 19, 2010,

- (4) secures payment under a written instrument of indebtedness modified, amended or restated from or after ~~the effective date of this act~~ April 19, 2010, which modification, amendment or restatement extends the stated maturity thereof which was in effect ~~at the effective date of this act~~ on April 19, 2010, or
 - (5) is not validly perfected with a first priority against the claims of all persons under applicable law other than persons holding a statutory or regulatory lien as to which first priority is granted by statute or regulation, or
- b. a validly perfected and enforceable lien created by statute or by rule or regulation of a governmental agency for storage or transportation charges, including terminal charges, tariffs, demurrage, insurance, labor or other charges, owed by a first purchaser in relation to oil or gas originally purchased under an agreement to sell; provided, however, a permitted lien does not include any such lien:
- (1) which is in favor of an affiliate of a first purchaser unless such lien is authorized by the statute, rule or regulation creating such lien, or
 - (2) which is for charges in excess of ninety (90) days from the time the first purchaser delivers such oil or gas for such storage or transportation;

12. "Person" means any individual, executor, administrator, estate, agent, trust, trustee, institution, receiver, business trust, firm, corporation, partnership, limited liability company, cooperative, joint venture, governmental entity or agency, association or any other group or combination acting as a unit;

13. "Pooling order" means an order issued by the Corporation Commission that requires the owners of the right to drill for oil or gas in a drilling and spacing unit to pool their interests for the development of such drilling and spacing unit;

14. "Proceeds" means any of the following when paid or to be paid in consideration of, or as a consequence of, the sale of oil or gas under an agreement to sell: oil or gas on or after severance; inventory of raw, refined or manufactured oil or gas after severance; rights to or products of any of the foregoing; cash proceeds; accounts; chattel paper; instruments; documents; or payment intangibles with respect to any of the foregoing;

15. "Purchaser" means a person which is not an affiliate of a first purchaser and which takes, receives or purchases oil or gas from a first purchaser;

16. "Representative" means any person who is authorized, either expressly or by implication, including, without limitation, an operator or a broker so authorized, to sell oil or gas on behalf of, or for the benefit of, an interest owner under an agreement to sell or to receive on behalf of an interest owner the consideration under an agreement to sell;

17. "Sales price" means the proceeds a first purchaser agrees to pay an interest owner or representative under an agreement to sell;

18. "Security interest" means a security interest governed by Article 9;

19. "Severance" means that point in time at which oil or gas is reduced to possession at the mouth of the wellbore of an oil and gas well;

20. "Transferor interest owner" means an interest owner that transfers or conveys oil and gas rights, in whole or in part; and

21. "Transferee interest owner" means a person that acquires oil and gas rights from a transferor interest owner.

SECTION 2. AMENDATORY 52 O.S. 2011, Section 549.3, is amended to read as follows:

Section 549.3.

NATURE, EXTENT AND DURATION OF OIL AND GAS LIEN

A. To secure the obligations of a first purchaser to pay the sales price, and to secure the obligation of any person to pay any proceeds, as defined in Section 549.2 of this title, for the acquisition of oil and gas rights, each interest owner is hereby granted an oil and gas lien to the extent of the interest owner's interest in oil and gas rights. The oil and gas lien granted by ~~this act~~ the Oil and Gas Owners' Lien Act of 2010 is granted and shall exist as part of and incident to the ownership of oil and gas rights.

B. An oil and gas lien:

1. Exists in and attaches immediately to all oil and gas on ~~the effective date of this act~~ April 19, 2010;

2. Continues uninterrupted and without lapse in all oil and gas upon and after severance; and

3. Continues uninterrupted and without lapse in and to all proceeds.

C. An oil and gas lien exists until the interest owner or representative first entitled to receive the sales price or any proceeds, as defined in Section 549.2 of this title, for the acquisition of oil and gas rights, has received the sales price or any proceeds, as defined in Section 549.2 of this title, for the acquisition of oil and gas rights. Notwithstanding the immediately preceding sentence, as between an interest owner and a representative of an interest owner or any person claiming adversely to such interest owner or representative, such interest owner's oil and gas lien continues uninterrupted and without lapse in proceeds in the possession or control of a representative until the interest owner on whose behalf such representative acts receives such proceeds in full. When a first purchaser, in good faith, pays the sales price to an interest owner or a representative otherwise

apparently entitled to receive the sales price and the first purchaser is without actual knowledge that such interest owner or representative is not entitled to receive the sales price so paid, then such first purchaser takes free of the oil and gas lien otherwise applicable to the oil or gas for which such payment was made. Notwithstanding the immediately preceding sentence, the oil and gas lien will continue uninterrupted in the proceeds paid to or otherwise due the interest owner or representative.

D. The validity of an oil and gas lien shall not be dependent on possession of the oil or gas by an interest owner or representative. No oil and gas lien shall become or be deemed to be void or expired by reason of a change or transfer of the actual or constructive possession of or title to the oil or gas from the interest owner or representative to a first purchaser or purchaser.

E. On the conveyance or transfer of any oil and gas rights by a transferor interest owner, the oil and gas lien vested in the transferor interest owner immediately before the conveyance or transfer shall remain with the transferor interest owner to the extent of any oil and gas rights retained by the transferor interest owner.

F. On the conveyance or transfer of any oil and gas rights by a transferor interest owner, the oil and gas lien vested in the transferor interest owner immediately before the conveyance or transfer shall be transferred to and attach automatically to the oil and gas rights acquired by the transferee interest owner uninterrupted and without lapse and as part of and incident to the oil and gas rights so transferred or conveyed.

SECTION 3. This act shall become effective November 1, 2021.

Passed the Senate the 10th day of March, 2021.

Presiding Officer of the Senate

Passed the House of Representatives the 13th day of April, 2021.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____