

1 **SENATE FLOOR VERSION**

2 March 2, 2017

3 **AS AMENDED**

4 SENATE BILL NO. 731

5 By: Marlatt

6
7 **[oil and gas - payment of proceeds from sale of oil**
8 **and gas production - royalty payments - certain court**
9 **proceedings - funds abandoned - effective date]**

10
11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 52 O.S. 2011, 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 above, royalty proceeds from the
7 sale of gas production from an oil or gas well remitted to the
8 operator pursuant to subsection B of Section 570.4 of this title
9 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 3. a. Proceeds from production may be remitted to the
2 persons entitled to such proceeds annually for the
3 twelve (12) months accumulation of proceeds totaling
4 at least Ten Dollars (\$10.00) but less than One
5 Hundred Dollars (\$100.00). Amounts less than Ten
6 Dollars (\$10.00) may be held but shall be remitted
7 when production ceases or by the payor upon
8 relinquishment of payment responsibility.

9 b. Proceeds totaling less than One Hundred Dollars
10 (\$100.00) but more than Twenty-five Dollars (\$25.00)
11 shall be remitted monthly if requested by the person
12 entitled to the proceeds. Amounts less than Ten
13 Dollars (\$10.00) shall be remitted annually if
14 requested by the person entitled to the proceeds.

15 c. Before proceeds greater than Twenty-five Dollars
16 (\$25.00) may be accumulated, payor shall provide
17 notice to the person owning interest as defined in
18 Section 570.2 of this title, entitled to such proceeds
19 that there is an option to be paid monthly for
20 proceeds greater than Twenty-five Dollars (\$25.00).
21 Such notice to the person shall also provide
22 directions for requesting monthly payment, and
23 constitutes notice to all heirs, successors,
24 representatives, and assigns of the person.

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.

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

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

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

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

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

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

22 3. An operator that pays or causes to be paid royalty proceeds
23 from production, received by it as operator, to the royalty interest
24 owners legally entitled thereto shall not thereafter be liable for

1 such proceeds so paid and shall have thereby discharged its duty to
2 pay those proceeds on such production.

3 4. Where royalty proceeds are paid or withheld incorrectly as a
4 result of an error or omission, the party whose error or omission
5 caused the incorrect royalty payments shall be liable for the
6 additional royalty proceeds on such production and all resulting
7 costs or damages incurred by the party making or withholding the
8 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 six percent (6%) per annum ~~to~~
19 ~~be compounded annually~~, calculated from the end of the
20 month in which such production was sold until such
21 time as the title to such interest becomes marketable.
22 Marketability of title shall be determined in
23 accordance with the then current title examination
24 standards of the Oklahoma Bar Association.

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

13 c. In the event title remains unmarketable for two (2)
14 years after an operator provides written notice of the
15 unmarketable title, the operator may deem all accrued
16 proceeds related to such interest to be abandoned and
17 remit such proceeds as payment pursuant to the
18 Unclaimed Property Act, Section 651 et. seq. of Title
19 60 of the Oklahoma Statutes until such time as title
20 is marketable.

21 d. Interest on proceeds that has not been paid prior to
22 the applicable time periods provided in this section
23 shall not apply in the following circumstances:
24

1 (1) when mineral owners or their assignees elect to
2 take their proportionate share of production in
3 kind, or

4 (2) when a mineral owner or assignee cannot be
5 located after reasonable inquiry by the operator
6 and the proceeds have been remitted to the state
7 pursuant to the Unclaimed Property Act.

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

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

20 a. A first purchaser that causes such proceeds to be
21 received by the operator or by a producing owner in
22 the well for distribution to the royalty interest
23 owner legally entitled thereto within the first month
24

1 following the month in which such production was sold
2 shall not be liable for interest on such proceeds.

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

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

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

1 interest shall be shared by such persons in proportion
2 to the time each person held such proceeds.

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

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

20 SECTION 2. This act shall become effective November 1, 2017.

21 COMMITTEE REPORT BY: COMMITTEE ON ENERGY
22 March 2, 2017 - DO PASS AS AMENDED
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