

1 ENGROSSED SENATE
2 BILL NO. 470

By: Marlatt of the Senate

and

Osborn of the House

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6 An Act relating to oil and gas; amending 52 O.S.
7 570.10, and Section 3, Chapter 201, O.S.L. 2012 (52
8 O.S. Supp. 2014, Section 903), which relate to
9 payment of proceeds from oil and gas and interest
10 rates for certain payments; clarifying statutory
11 language relating to certain royalty payments;
12 removing requirement for interest to be compounded
13 annually; authorizing holders of certain proceeds to
14 file court action to determine legal entitlement;
15 providing process for proceeds due to unmarketable
16 title after certain time period; stating exceptions;
17 modifying remedy for interest on certain payments of
18 proceeds from production; and providing an effective
19 date.

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

21 SECTION 1. AMENDATORY 52 O.S. 2011, Section 570.10, is
22 amended to read as follows:

23 Section 570.10. A. All proceeds from the sale of production
24 shall be regarded as separate and distinct from all other funds of
any person receiving or holding the same until such time as such
proceeds are paid to the owners legally entitled thereto. Any
person holding revenue or proceeds from the sale of production shall
hold such revenue or proceeds for the benefit of the owners legally

1 entitled thereto. Nothing in this subsection shall create an
2 express trust.

3 B. Except as otherwise provided in this section:

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

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

8 b. thereafter not later than the last day of the second
9 succeeding month after the end of the month within
10 which such production is sold.

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

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

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

1 owners for the same production month, but not later
2 than the last day of the third succeeding month after
3 the end of the month within which such production was
4 sold.

5 3. a. Proceeds from production may be remitted to the
6 persons entitled to such proceeds annually for the
7 twelve (12) months accumulation of proceeds totaling
8 at least Ten Dollars (\$10.00) but less than One
9 Hundred Dollars (\$100.00). Amounts less than Ten
10 Dollars (\$10.00) may be held but shall be remitted
11 when production ceases or by the payor upon
12 relinquishment of payment responsibility.

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

19 c. Before proceeds greater than Twenty-five Dollars
20 (\$25.00) may be accumulated, payor shall provide
21 notice to the person owning interest as defined in
22 Section 570.2 of this title, entitled to such proceeds
23 that there is an option to be paid monthly for
24 proceeds greater than Twenty-five Dollars (\$25.00).

1 Such notice to the person shall also provide
2 directions for requesting monthly payment, and
3 constitutes notice to all heirs, successors,
4 representatives, and assigns of the person.

5 4. Any delay in determining the persons legally entitled to
6 proceeds from production caused by unmarketable title shall not
7 affect payments to persons whose title is marketable.

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

- 12 a. the royalty interest owners legally entitled thereto,
- 13 or
- 14 b. the operator of the well,

15 shall not thereafter be liable for such proceeds so paid and shall
16 have thereby discharged its duty to pay those proceeds on such
17 production.

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

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

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

9 4. Where royalty proceeds are paid or withheld incorrectly as a
10 result of an error or omission, the party whose error or omission
11 caused the incorrect royalty payments shall be liable for the
12 additional royalty proceeds on such production and all resulting
13 costs or damages incurred by the party making or withholding the
14 incorrect payment.

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

22 2. a. Where such proceeds are not paid because the title
23 thereto is not marketable, such proceeds shall earn
24 interest at the rate of six percent (6%) per annum ~~to~~

1 ~~be compounded annually~~, calculated from the end of the
2 month in which such production was sold until such
3 time as the title to such interest becomes marketable.
4 Marketability of title shall be determined in
5 accordance with the then current title examination
6 standards of the Oklahoma Bar Association.

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

19 c. In the event title remains unmarketable for two (2)
20 years after an operator provides written notice of the
21 unmarketable title, the operator may presume the
22 accrued proceeds to be abandoned and remit payment
23 pursuant to the Unclaimed Property Act, Section 651 et
24 seq. of Title 60 of the Oklahoma Statutes.

1 d. Interest on proceeds that has not been paid prior to
2 the applicable time periods provided in this section
3 shall not apply in the following circumstances:

4 (1) when mineral owners or their assignees elect to
5 take their proportionate share of production in
6 kind, or

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

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

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

23 a. A first purchaser that causes such proceeds to be
24 received by the operator or by a producing owner in

1 the well for distribution to the royalty interest
2 owner legally entitled thereto within the first month
3 following the month in which such production was sold
4 shall not be liable for interest on such proceeds.

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

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

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

1 section. When two or more persons fail to remit
2 within such time limitations, liability for such
3 interest shall be shared by such persons in proportion
4 to the time each person held such proceeds.

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

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

22 SECTION 2. AMENDATORY Section 3, Chapter 201, O.S.L.
23 2012 (52 O.S. Supp. 2014, Section 903), is amended to read as
24 follows:

1 Section 903. Except for the right to enforce lien rights under
2 private agreement or under Sections 548 through 549.12 of Title 52
3 of the Oklahoma Statutes and except where specific remedies are
4 provided by private agreement, ~~and as long as paragraph 1 of~~
5 ~~subsection D of Section 570.10 of Title 52 of the Oklahoma Statutes~~
6 ~~provides for an interest rate equal to or greater than twelve~~
7 ~~percent (12%) compounded annually,~~ the Production Revenue Standards
8 Act shall provide the exclusive remedy to a person entitled to
9 proceeds from production for failure of a holder to pay the proceeds
10 within the time periods required for payment. The interest amounts
11 set forth in subsection D of Section 570.10 and the remedies set
12 forth in subsection C of Section 570.14 of ~~Title 52 of the Oklahoma~~
13 ~~Statutes~~ this title, with the term "actual damages" as used therein
14 being limited to the proceeds due and the interest as provided in
15 subsection D of Section 570.10 of ~~Title 52 of the Oklahoma Statutes~~
16 this title, are deemed to be adequate remedies for failure to pay
17 proceeds within the time periods required for payment and no other
18 penalty or damages shall be recoverable in any litigation involving
19 a claim for unpaid or underpaid proceeds from production including,
20 without limitation, punitive or exemplary damages or disgorgement
21 damages, unless there shall be a determination by the finder of fact
22 upon clear and convincing evidence that the holder who failed to pay
23 such proceeds did so with the actual, knowing and willful intent:
24 (a) to deceive the person to whom the proceeds were due, or (b) to

1 deprive proceeds from the person the holder knows, or is aware, is
2 legally entitled thereto.

3 SECTION 3. This act shall become effective November 1, 2015.

4 Passed the Senate the 12th day of March, 2015.

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Presiding Officer of the Senate

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8 Passed the House of Representatives the ____ day of _____,
9 2015.

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Presiding Officer of the House
of Representatives

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