

2 State of Arkansas
3 94th General Assembly
4 Regular Session, 2023

A Bill

HOUSE BILL 1549

5
6 By: Representative Beck
7 By: Senator B. Davis

8 Filed with: House Committee on Aging, Children and Youth, Legislative and Military Affairs
9 pursuant to A.C.A. §10-3-217.

10 For An Act To Be Entitled

11 AN ACT TO AMEND THE LAW REGARDING OIL AND GAS
12 PRODUCTION AND CONSERVATION; TO AMEND THE LAW
13 REGARDING THE ALLOCATION OF PRODUCTION AND COST
14 FOLLOWING AN INTEGRATION ORDER; TO DEFINE "PROCEEDS";
15 AND FOR OTHER PURPOSES.

16 17 18 Subtitle

19 TO AMEND THE LAW REGARDING OIL AND GAS
20 PRODUCTION AND CONSERVATION; TO AMEND THE
21 LAW REGARDING THE ALLOCATION OF
22 PRODUCTION AND COST FOLLOWING AN
23 INTEGRATION ORDER; AND TO DEFINE
24 "PROCEEDS".

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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

28
29 SECTION 1. Arkansas Code § 15-72-305(a)(3), concerning the calculation
30 and distribution of royalty gas sold from a drilling unit following an
31 integration order and the procedure for distributions to royalty owners, is
32 amended to read as follows:

33 (3) One-eighth ($\frac{1}{8}$) of all gas sold on or after the first day of
34 the calendar month next ensuing after March 6, 1985, from any such unit shall
35 be considered minimum royalty gas to be paid to the royalty owner, and the
36 ~~net~~ proceeds received from the sale thereof shall be distributed to the

1 owners of the marketable title in and to the leasehold royalty and royalty as
2 ~~defined~~ described under § 15-72-304(d). This section does not prevent any
3 royalty owner from being paid in excess of the one-eighth (1/8) minimum
4 royalty in conformance with the provisions of the appropriate lease,
5 agreement, or contract creating the royalty. Marketability of title shall be
6 determined according to principles of real property law governing title to
7 oil and gas interests. Unless all royalty owners within the drilling unit
8 agree to a different method for distribution of the royalty, the distribution
9 shall be coordinated by the operator of the well as follows:

10 (A)(i) Within thirty (30) days of the receipt of the
11 proceeds from gas sales, each working interest owner shall furnish to the
12 working interest owner designated as operator, in a form acceptable to the
13 operator, the following information:

14 (a) The names and addresses of all owners of
15 royalty under the working interest owner's leasehold interests;

16 (b) Each royalty owner's tax identification or
17 Social Security number and any other information needed to meet the
18 requirements of the Internal Revenue Service or other governmental agencies;
19 and

20 (c) The fractional or decimal interests in the
21 unit of each tract in which interests are owned and each royalty owner's
22 fractional or decimal interest therein.

23 (ii) Thereafter, each working interest owner shall
24 notify the operator of any changes of ownership and provide the necessary
25 information to facilitate the necessary changes promptly upon receiving proof
26 thereof.

27 (iii) If any working interest owner should fail or
28 refuse to discharge its obligation to provide the information outlined in
29 subdivision (a)(3)(A)(i) of this section in a timely manner, to facilitate
30 payments, the operator may, at its option, either:

31 (a) Notify the working interest owner by
32 certified or registered mail of the name, address, and decimal interests of
33 the royalty owner believed to be entitled to receive payments pursuant to the
34 terms hereof under the working interest owner's leasehold on the basis of the
35 best information then available to the operator. If the working interest
36 owner fails to respond to the notification within thirty (30) days of the

1 receipt thereof, the operator shall be entitled to pay royalty moneys in
2 accordance with its prior notification and usual procedures. Further, the
3 operator's payment in this manner shall constitute a complete defense to any
4 claim or in any legal proceeding or cause of action and the responsible
5 working interest owner shall indemnify and hold the operator harmless from
6 all liability and reimburse the operator for any and all costs and expenses,
7 including attorney's fees, interest, or penalty incurred with respect to the
8 proceeding or action; or

9 (b) File an application with the commission,
10 setting forth sufficient facts to identify the well concerned and the
11 responsible working interest owner, requesting that the commission issue an
12 order requiring the working interest owner to appear at the next regularly
13 scheduled hearing and show cause with respect to its failure to timely comply
14 with the provisions of this section. Subsequent to the hearing, the
15 commission shall impose upon a working interest owner who has failed to meet
16 its obligations hereunder such sanctions as are reasonably calculated to
17 enforce compliance with this section. These sanctions shall include, but not
18 be limited to, a penalty under § 15-74-709. The commission shall have the
19 authority to suspend the imposition of any sanction for a maximum period of
20 sixty (60) days in order to allow the noncompliant owner the opportunity to
21 furnish proof to the commission of his or her compliance with any commission
22 order. All penalties levied by the commission as a result of this provision
23 shall be collected by the commission and shall be deposited into the State
24 Treasury to the credit of the Oil and Gas Commission Fund. The commission may
25 promulgate such other rules as it deems appropriate and necessary to carry
26 out the purposes of this section.

27 (iv) The terms of this subdivision (a)(3)(A) shall
28 not be applicable to any producing unit or well that produces liquid
29 hydrocarbons only, or liquid hydrocarbons associated with the production of
30 gas, or gas produced associated with the production of liquid hydrocarbons;
31 and

32 (B)(i) Commencing no later than six (6) months after the
33 date of first sale, and thereafter no later than the earlier of thirty (30)
34 days after first payment is received or thirty (30) days after the sixty-day
35 period within which the first purchaser is to make payment pursuant to §§ 15-
36 74-501 and 15-74-601 – 15-74-603, or a total of ninety (90) days after the

1 end of the calendar month within which subsequent production is sold, each
2 working interest owner or marketing party who has sold gas shall remit or
3 cause to be remitted to the operator one-eighth ($\frac{1}{8}$) of the ~~revenue realized~~
4 ~~or royalty moneys from gas sales computed at the mouth of the well, less all~~
5 ~~lawful deductions, including, but not limited to, all federal and state taxes~~
6 ~~levied upon the production or proceeds~~ received and shall indemnify and hold
7 the other working interest owner free from any liability therefor. However,
8 if any portion of the price received by a marketing party is subject to
9 possible refund to the gas purchaser pursuant to the regulations, rules, or
10 orders of any governmental authority, the refundable portion need not be
11 included in the amount remitted to the operator for distribution hereunder
12 until the possibility of refund has terminated. The funds or amounts as so
13 remitted shall be held in trust by the operator for the account of the
14 royalty owner or owners entitled thereto until distributed and paid as
15 provided in this section.

16 (ii) If any operator should fail or refuse to
17 discharge its obligation to remit revenues in a timely manner as provided in
18 this section, the working interest owner whose royalty owner's obligations
19 have not been paid may, to facilitate payment, either:

20 (a) File an application with the commission,
21 setting forth sufficient facts to identify the well concerned and the
22 responsible operator, requesting that the commission issue an order requiring
23 the operator to appear at the next regularly scheduled hearing and show cause
24 with respect to its failure to timely comply with the provisions of this
25 section. Subsequent to the hearing, the commission shall impose upon an
26 operator who has failed to meet its obligations hereunder such sanctions as
27 are reasonably calculated to enforce compliance with this section. The
28 sanctions shall include, but not be limited to, a penalty under § 15-74-709.
29 The commission shall have the authority to suspend the imposition of any
30 sanction for a maximum period of sixty (60) days in order to allow the
31 noncompliant the opportunity to furnish proof to the commission of his or her
32 compliance with any commission order. All civil penalties levied by the
33 commission as a result of this provision shall be collected by the commission
34 and deposited into the State Treasury to the credit of the fund. The
35 commission may promulgate such other rules as it deems appropriate and
36 necessary to carry out the purposes of this section; or

1 (b) File a legal proceeding or cause of action
2 to compel the operator's compliance with the terms hereof. The operator shall
3 reimburse the complaining working interest owner for any and all costs or
4 expenses, including attorney's fees, incurred with respect to the proceeding
5 or action.

6 (iii) The operator shall not be held liable for
7 failure to distribute royalty hereunder where its failure is due to the
8 failure of a working interest owner to timely provide or cause to be provided
9 the information and royalty moneys described in subdivision (a)(3)(A) of this
10 section and this subdivision (a)(3)(B). Each working interest owner shall
11 indemnify and hold the operator harmless for all costs, including reasonable
12 attorney's fees, incurred as a result of the failure.

13 (iv) The terms of this subdivision (a)(3)(B) shall
14 not be applicable to any producing unit or well that produces liquid
15 hydrocarbons only, or liquid hydrocarbons associated with the production of
16 gas, or gas produced associated with the production of liquid hydrocarbons.

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18 SECTION 2. Arkansas Code § 15-72-305(a)(6)(A), concerning the
19 discharge of obligations of the operator and other working interest owners
20 related to royalty, is amended to read as follows:

21 (6)(A) Payment of one-eighth (1/8) of the ~~revenue~~ proceeds
22 ~~realized~~ received from the sale of gas as provided in this section shall
23 fully discharge all obligations of the operator and other working interest
24 owners with respect to the payment of one-eighth leasehold royalty or royalty
25 as described under § 15-72-304(d).

26
27 SECTION 3. Arkansas Code § 15-72-305, concerning the allocation of
28 production and cost following an integration order, is amended to add an
29 additional subsection to read as follows:

30 (c) As used in this section, "proceeds" means:

31 (1) The actual amount received for the sale of gas in an arm's
32 length, nonaffiliated transaction, less federal and state taxes and
33 assessments levied upon the production; or

34 (2) If a mineral interest within the drilling unit is covered by
35 a lease, the amount as calculated according to the terms of the lease.

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Referred requested by the Arkansas House of Representatives

Prepared by: CRH/SJA