

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

As Engrossed: H3/18/21

A Bill

HOUSE BILL 1725

5 By: Representative Beck
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW REGARDING OIL AND GAS
9 PRODUCTION AND CONSERVATION; TO CLARIFY THE
10 ALLOCATION OF PRODUCTION AND COST FOLLOWING AN
11 INTEGRATION ORDER; AND FOR OTHER PURPOSES.
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Subtitle

14 TO AMEND THE LAW REGARDING OIL AND GAS
15 PRODUCTION AND CONSERVATION; AND TO
16 CLARIFY THE ALLOCATION OF PRODUCTION AND
17 COST FOLLOWING AN INTEGRATION ORDER.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code § 15-72-305(a)(3), concerning the calculation
24 and distribution of royalty gas sold from a drilling unit following an
25 integration order and the procedure for distributions to royalty owners, is
26 amended to read as follows:

27 (3) One-eighth (1/8) of all gas sold on or after the first day
28 of the calendar month next ensuing after March 6, 1985, from any such unit
29 shall be considered royalty gas, and the net proceeds received from the sale
30 thereof shall be distributed to the owners of the marketable title in and to
31 the leasehold royalty and royalty as defined under § 15-72-304(d) as the
32 minimum royalty to be paid to a royalty owner. Marketability of title shall
33 be determined according to principles of real property law governing title to
34 oil and gas interests. Unless all royalty owners within the drilling unit
35 agree to a different method for distribution of the royalty, the distribution
36 shall be coordinated by the operator of the well as follows:



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

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

7 (b) Each royalty owner's tax identification or
8 Social Security number and any other information needed to meet the
9 requirements of the Internal Revenue Service or other governmental agencies;
10 and

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

14 (ii) Thereafter, each working interest owner shall
15 notify the operator of any changes of ownership and provide the necessary
16 information to facilitate the necessary changes promptly upon receiving proof
17 thereof.

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

22 (a) Notify the working interest owner by
23 certified or registered mail of the name, address, and decimal interests of
24 the royalty owner believed to be entitled to receive payments pursuant to the
25 terms hereof under the working interest owner's leasehold on the basis of the
26 best information then available to the operator. If the working interest
27 owner fails to respond to the notification within thirty (30) days of the
28 receipt thereof, the operator shall be entitled to pay royalty moneys in
29 accordance with its prior notification and usual procedures. Further, the
30 operator's payment in this manner shall constitute a complete defense to any
31 claim or in any legal proceeding or cause of action and the responsible
32 working interest owner shall indemnify and hold the operator harmless from
33 all liability and reimburse the operator for any and all costs and expenses,
34 including attorney's fees, interest, or penalty incurred with respect to the
35 proceeding or action; or

36 (b) File an application with the commission,

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

18 (iv) The terms of this subdivision (a)(3)(A) shall
19 not be applicable to any producing unit or well that produces liquid
20 hydrocarbons only, or liquid hydrocarbons associated with the production of
21 gas, or gas produced associated with the production of liquid hydrocarbons;
22 and

23 (B)(i) Commencing no later than six (6) months after the
24 date of first sale, and thereafter no later than the earlier of thirty (30)
25 days after first payment is received or thirty (30) days after the sixty-day
26 period within which the first purchaser is to make payment pursuant to §§ 15-
27 74-501 and 15-74-601 – 15-74-603, or a total of ninety (90) days after the
28 end of the calendar month within which subsequent production is sold, each
29 working interest owner or marketing party who has sold gas shall remit or
30 cause to be remitted to the operator one-eighth (1/8) of the revenue realized
31 or royalty moneys from gas sales computed at the mouth of the well, less all
32 lawful deductions, *including, but not limited to, all federal and state taxes*
33 *levied upon the production or proceeds as established by the commission for*
34 *parties subject to an integration order or a court of competent jurisdiction*
35 *for parties subject to a lease,* and shall indemnify and hold the other
36 working interest owner free from any liability therefor. However, if any

1 portion of the price received by a marketing party is subject to possible
2 refund to the gas purchaser pursuant to the regulations, rules, or orders of
3 any governmental authority, the refundable portion need not be included in
4 the amount remitted to the operator for distribution hereunder until the
5 possibility of refund has terminated. The funds or amounts as so remitted
6 shall be held in trust by the operator for the account of the royalty owner
7 or owners entitled thereto until distributed and paid as provided in this
8 section.

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

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

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

35 (iii) The operator shall not be held liable for
36 failure to distribute royalty hereunder where its failure is due to the

1 failure of a working interest owner to timely provide or cause to be provided
2 the information and royalty moneys described in subdivision (a)(3)(A) of this
3 section and this subdivision (a)(3)(B). Each working interest owner shall
4 indemnify and hold the operator harmless for all costs, including reasonable
5 attorney's fees, incurred as a result of the failure.

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

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11 SECTION 2. Arkansas Code § 15-72-305, concerning the allocation of
12 production and cost following an integration order, is amended to add an
13 additional subsection to read as follows:

14 (c)(1) If a royalty owner has a lease with a working interest owner,
15 the working interest owner shall pay the difference on the amount of the one-
16 eighth (1/8) royalty required under subdivision (a)(3) of this section and
17 the terms of the lease.

18 (2) If a working interest owner markets the working interest
19 owner's gas through the operator, then the operator shall distribute the
20 difference on the amount of the one-eighth (1/8) royalty required under
21 subdivision (a)(3) of this section and the terms of the lease.

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23 /s/Beck
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