

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

A Bill

SENATE BILL 521

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

For An Act To Be Entitled

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

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

30 (3) One-eighth ($\frac{1}{8}$) of all gas sold on or after the first day of
31 the calendar month next ensuing after March 6, 1985, from any such unit shall
32 be considered royalty gas, and the ~~net~~ proceeds, less federal and state taxes
33 and assessments levied upon the production, received from the sale thereof
34 shall be distributed to the owners of the marketable title in and to the
35 leasehold royalty and royalty as ~~defined~~ described under § 15-72-304(d). This
36 section does not prevent any royalty owner from being paid in conformance



1 with the provisions of the appropriate lease, agreement, or contract creating
2 the royalty. Marketability of title shall be determined according to
3 principles of real property law governing title to oil and gas interests.
4 Unless all royalty owners within the drilling unit agree to a different
5 method for distribution of the royalty, the distribution shall be coordinated
6 by the operator of the well as follows:

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

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

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

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

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

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

28 (a) Notify the working interest owner by
29 certified or registered mail of the name, address, and decimal interests of
30 the royalty owner believed to be entitled to receive payments pursuant to the
31 terms hereof under the working interest owner's leasehold on the basis of the
32 best information then available to the operator. If the working interest
33 owner fails to respond to the notification within thirty (30) days of the
34 receipt thereof, the operator shall be entitled to pay royalty moneys in
35 accordance with its prior notification and usual procedures. Further, the
36 operator's payment in this manner shall constitute a complete defense to any

1 claim or in any legal proceeding or cause of action and the responsible
 2 working interest owner shall indemnify and hold the operator harmless from
 3 all liability and reimburse the operator for any and all costs and expenses,
 4 including attorney's fees, interest, or penalty incurred with respect to the
 5 proceeding or action; or

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

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

29 (B)(i) Commencing no later than six (6) months after the
 30 date of first sale, and thereafter no later than the earlier of thirty (30)
 31 days after first payment is received or thirty (30) days after the sixty-day
 32 period within which the first purchaser is to make payment pursuant to §§ 15-
 33 74-501 and 15-74-601 – 15-74-603, or a total of ninety (90) days after the
 34 end of the calendar month within which subsequent production is sold, each
 35 working interest owner or marketing party who has sold gas shall remit or
 36 cause to be remitted to the operator one-eighth (1/8) of the ~~revenue realized~~

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

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

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

34 (b) File a legal proceeding or cause of action
35 to compel the operator's compliance with the terms hereof. The operator shall
36 reimburse the complaining working interest owner for any and all costs or

1 expenses, including attorney’s fees, incurred with respect to the proceeding
2 or action.

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

10 (iv) The terms of this subdivision (a)(3)(B) shall
11 not be applicable to any producing unit or well that produces liquid
12 hydrocarbons only, or liquid hydrocarbons associated with the production of
13 gas, or gas produced associated with the production of liquid hydrocarbons.
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15 SECTION 2. Arkansas Code § 15-72-305(a)(6)(A), concerning the
16 discharge of obligations of the operator and other working interest owners
17 related to royalty, is amended to read as follows:

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