

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

SENATE BILL

469

By: Senator Walters

For An Act To Be Entitled

"AN ACT TO REQUIRE THE OPERATORS OF NATURAL GAS WELLS TO MARKET THE GAS PRODUCTION OF EACH OWNER IN THE GAS WELL; TO REQUIRE THE OPERATOR TO SHARE PROPORTIONATELY WITH EACH OWNER IN A WELL ALL REVENUES FROM THE SALE OF ANY GAS PRODUCTION; TO REQUIRE ANY GAS WELL OWNER TO ACCOUNT TO ALL OTHER OWNERS IN A WELL FOR ALL GAS PRODUCTION SOLD; TO AUTHORIZE THE OIL AND GAS COMMISSION TO ENFORCE VIOLATIONS; AND FOR OTHER PURPOSES."

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

SECTION 1. It is the purpose and intent of this act to protect the rights and correlative rights of all interest owners of natural gas wells and wells producing casinghead gas and to afford all such owners an equal opportunity to extract their fair share of gas and to sell and be paid in proportion to their interest therein. It is further the intent of this act to protect such owners against discrimination in purchases in favor of one owner as against another.

SECTION 2. (a) Whenever a well producing natural gas or casinghead gas is placed into production, all owners within such well, including, but not limited to, all working interests, any interested parties having a right to produce, overriding royalty, royalty and mineral interest owners in the unit area under the well, shall be entitled to share ratably in the revenues from the sale of production from the well as set forth in the provisions of this act. This act shall not apply to the natural gas liquids extracted as a result of mechanical processing of the natural gas stream for the removal of liquid components of the methane.

(b) Prior to the date of first production, the operator of the unit area

shall offer by written notice to each owner of the well having the right to sell an election whereby the operator shall seek to market that owner's ratable share of gas production, or a portion thereof as designated by the owner. Each owner shall have thirty (30) days from the receipt of the notice of the offer to elect in writing to have the operator attempt to market his share of gas production. Upon receipt of these elections, the operator shall seek to timely and competitively market such owners' share of the production at the best price and terms available in the area and in no event upon a price or terms less favorable than that received by the operator. Upon receipt of written notice of the terms of a bona fide offer to purchase, each owner electing to have the operator market his share of gas production shall have thirty (30) days within which to reject the same. Failure by any owner to reject the offer shall be deemed acceptance of the offer. If the operator has not secured a written bona fide offer to purchase within one hundred twenty (120) days of an owner's election, that owner may rescind such election in writing.

(c) If an owner in a well does not elect to obligate the operator as provided in subsection (b) of this section, then that owner shall not be obligated to deliver his ratable share for sale nor shall the operator be obligated to market such share.

(d) Nothing in this act shall be construed to prevent any owner or owners from receiving the price agreed upon by contract or to prevent any owner or owners from taking their share of production in kind or separately disposing of their share. This act shall not be construed to eliminate or otherwise affect the rights and remedies available to any operator or any other working interest owner against any working interest owners, including operators, who either default or fail to pay their proportionate share of the well costs.

SECTION 3. (a) For wells producing or capable of producing natural gas or casinghead gas on and after the effective date of this act, in the event that one or more owners in a well receives a contract for the sale of only their portion of the gas production from the well to the exclusion of other owners in the well, all owners having no contract shall be entitled to share ratably in the revenue from the sale of each contract's production to the extent of their net revenue interest, except for any owner who elects or has elected in

writing not to so sell. This act shall not be construed to prevent any owner from receiving the price agreed upon by contract.

(b) Each owner receiving a contract to sell as described in subsection (a) of this section shall send written notice of the terms of the contract to all other net revenue interest owners not having an existing contract for the purchase of their share of the gas production. Said owners shall have thirty (30) days from the receipt of the notice of the terms of the contract to elect in writing not to deliver their ratable share of gas production for sale. Failure by any owner to give said written notice shall be deemed acceptance by that owner of the terms of the contract and said owner shall deliver his ratable share of production for sale.

SECTION 4. (a) On and after the effective date of this act, an owner of a well producing natural gas or casinghead gas may produce daily from the well that amount of gas which may be lawfully produced therefrom. The amount of gas produced daily, irrespective of the owner producing, belongs to, is owned by, and shall inure to the benefit of each owner in the well in proportion to each owner's interest in the well. Each owner who produces natural gas or casinghead gas and who separately sells or otherwise disposes of the gas must account to each other owner in the well not selling or otherwise disposing of gas from the well for that owner's part of the gas so disposed of or sold. In addition, each selling or disposing owner must compensate each owner not selling or disposing of gas from the well for that owner's proportionate part of the gas disposed of or sold.

(b) The accounting of production from the well as required by subsection (a) of this section shall be made on forms approved by the Oil and Gas Commission. The production accounting shall contain, as a minimum, the following information:

- (1) Identification of the well from which the production was sold;
- (2) The time period for which the producing accounting covers;
- (3) The name of all parties with an interest in the well production and the proportion of their interest (decimal interest);
- (4) Total production from the well during the time period of the accounting;
- (5) The gross price received for the produced gas and any deductions for costs; and

(6) Any other information that the Oil and Gas Commission may require by regulation.

SECTION 5. Proper distribution of revenues from the sale of production from the well shall be made pursuant to the provisions of Subchapter 6 of Chapter 74 of Title 15 of the Arkansas Code of 1987 Annotated. If any owner receives revenues directly from the purchaser within which other owners are entitled to share ratably, the owner receiving such revenues shall forward the same to the party responsible for distribution pursuant to the provisions of Subchapter 6 of Chapter 74 of Title 15 of the Arkansas Code of 1987 Annotated.

SECTION 6. Nothing in this act shall be construed as setting the price, terms or conditions under which a purchaser takes the production of a well or setting any restrictions, limitations, floor or ceiling on the price to be paid for such production, nor shall anything in this act require any purchaser to connect any well that such purchaser is not already obligated to connect and nothing contained in this section shall be construed as altering or changing the definition of the terms common purchaser and common carrier as defined by law.

SECTION 7. The Oil and Gas Commission is herein empowered to promulgate rules and regulations by which the purposes of this act shall be administered, including the power to establish and enforce penalties for violations of the act. This power shall supplement the existing authority of the Oil and Gas Commission. This authority shall not preclude any party or interest owner from remedies available to them through the courts of competent jurisdiction of this State.

SECTION 8. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 9. All laws and parts of laws in conflict with this act are hereby repealed.