

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

# A Bill

HOUSE BILL 1549

5 By: Representative Beck  
6 By: Senator B. Davis  
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; TO DEFINE "PROCEEDS";  
13 AND FOR OTHER PURPOSES.  
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## Subtitle

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

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



1 royalty owner from being paid in excess of the one-eighth (1/8) minimum  
2 royalty in conformance with the provisions of the appropriate lease,  
3 agreement, or contract creating the royalty. Marketability of title shall be  
4 determined according to principles of real property law governing title to  
5 oil and gas interests. Unless all royalty owners within the drilling unit  
6 agree to a different method for distribution of the royalty, the distribution  
7 shall be coordinated by the operator of the well as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (b) File a legal proceeding or cause of action  
36 to compel the operator's compliance with the terms hereof. The operator shall

1 reimburse the complaining working interest owner for any and all costs or  
 2 expenses, including attorney's fees, incurred with respect to the proceeding  
 3 or action.

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

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

19 (6)(A) Payment of one-eighth (1/8) of the ~~revenue~~ proceeds  
 20 ~~realized~~ received from the sale of gas as provided in this section shall  
 21 fully discharge all obligations of the operator and other working interest  
 22 owners with respect to the payment of one-eighth leasehold royalty or royalty  
 23 as described under § 15-72-304(d).  
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25 SECTION 3. Arkansas Code § 15-72-305, concerning the allocation of  
 26 production and cost following an integration order, is amended to add an  
 27 additional subsection to read as follows:

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

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

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