

PRODUCTION REVENUE STANDARDS ACT

**Proposed Revisions Under SB 1524
(Proposed but in Interim Study--2022)**

Presented to:

**The Fall Seminar of the Sooner Association of Division Order
Analysts (SADOA)**

At:

**Tulsa, Oklahoma
(Tulsa Country Club)**

On:

Wednesday, October 19, 2022

KRAETTLI Q. EPPERSON, PLLC

MEE HOGE PLLP

50 PENN PLACE

1900 N.W. EXPRESSWAY, SUITE 1400

PHONE: (405) 848-9100/FAX: (405) 848-9101

EMAIL: kqe@meehoge.com/

Webpage: www.EppersonLaw.com



KRAETTLI Q. EPPERSON

ATTORNEY-AT-LAW

- **Kraettli Q. Epperson is a partner with Mee Hoge PLLP in Oklahoma City.**
- **He received his J.D. from the OCU School of Law in 1978 and practices in the areas of mineral and real property title disputes.**
- **He chaired the OBA Title Examination Standards Committee from 1988 to 2020**
- **He taught Oklahoma Land Titles at the OCU School of Law from 1982 to 2018.**
- **See his website at www.EppersonLaw.com**



SB 1524 (2022 SESSION)

- **SB 1524 (2022 Session) overwhelmingly passed both the Senate (YEAS: 33; NAYS: 5); and the House (YEAS: 75; NAYS: 8)**
- **But the two houses could not agree on the final language for the bill, so it was sent to a conference committee over the interim period between the sessions.**

See the History, House Vote Record and Senate Vote Record below:

➤ This Bill Proposed Amendments to the Production Revenue Standards Act (PRSA)

-- 52 O.S. Sections 570.1 et. seq.

➤ Such changes were probably prompted, in part, due to a recent decision out of the U.S. District Court for the Eastern District of Oklahoma: Cline v. Sunoco, 6:17-cv-00313-JAG

➤ This Class Action decision awarded \$150 million in damages against Sunoco -- \$75 million actual and \$75 million punitive damages for failure to timely pay proceeds of production and accrued interest under the PRSA.

➤ This presenter (Kraettli Q. Epperson) testified for Sunoco at trial concerning which of Sunoco's Suspense Codes indicated the subject titles were "unmarketable".

➤ The court rejected the use of Suspense Codes to determine marketability of title, saying the codes were an unacceptable "crude surrogate".

BILL INFORMATION FOR SB 1524

SB 1524 by Taylor and Echols

SELECT SESSION: 2022 Regular Session

Receive Email Updates for this Measure (LENS)

ENTER BILL #: Enter Bill # Search

Oil and gas; modifying conditions and requirements for division and transfer orders. Effective date.

History Amendments Bill Summaries Versions Votes Authors/Co Authors

HISTORY FOR SB 1524

Action	Journal Page	Date	Chamber
First Reading	115	02/07/2022	S
Authored by Senator Taylor	115	02/07/2022	S
Second Reading referred to Energy	225	02/08/2022	S
Coauthored by Representative Echols (principal House author)	303	02/17/2022	S
Reported Do Pass, amended by committee substitute Energy committee; CR filed	375	03/03/2022	S
Title stricken	375	03/03/2022	S
General Order, Considered	454	03/09/2022	S
Measure passed: Ayes: 33 Nays: 6	455	03/09/2022	S
Referred for engrossment	455	03/09/2022	S
Engrossed to House	481	03/10/2022	S
First Reading	479	03/10/2022	H
Second Reading referred to Energy and Natural Resources	744	03/28/2022	H
CR; Do Pass, as amended, Energy and Natural Resources Committee	804	04/14/2022	H
Coauthored by Representative(s) McBride	804	04/14/2022	H
Enacting clause stricken	804	04/14/2022	H
General Order	1011	04/28/2022	H
Third Reading, Measure passed: Ayes: 75 Nays: 8	1011	04/28/2022	H
Referred for engrossment	1012	04/28/2022	H
Engrossed, signed, to Senate	1047	05/02/2022	H
HAs read	963	05/02/2022	S
HAs rejected, conference requested	969	05/04/2022	S
SCs named GCCA	981	05/05/2022	S
Conference granted, naming Conference Committee on Energy and Natural Resources	1117	05/11/2022	H



.....
Please click on a link below to go directly to that vote:

Committee Vote Effective date (RCS# 0139)
.....

Top of Page

THE OKLAHOMA STATE SENATE
SECOND REGULAR SESSION of the 58th Legislature

SENATE BILL 1524
Taylor

THIRD READING
[Oil and gas; modifying conditions and
requirements for division and transfer orders.
Effective date.]

YEAS: 33
NAYS: 5
EXC : 10
N/V : 0
VAC : 0

RCS# 139
03/09/2022
10:03 AM

YEAS: 33

Allen
Boren
Bullard
Burns
Coleman
Daniels
Dosssett, (J.A.)
Dosssett, (J.J.)
Dugger

Hall
Hamilton
Haste
Howard
Jech
Jett
Kidd
Leewright

McCortney
Merrick
Montgomery
Newhouse
Paxton
Pederson
Pemberton
Fugh

Rader
Rosino
Simpson
Standridge
Stanley
Taylor
Thompson
Weaver

NAYS: 5

Brooks
Floyd

Hicks

Kirt

Young

EXCUSED: 10

Bergstrom
Dahn
David

Garvin
Matthews
Murdock

Quinn
Rogers

Stephens
Treat

N/V: 0

.....
Top of Page

THE OKLAHOMA STATE SENATE
2nd Regular Session of the 58th Legislature

March 3, 2022

COMMITTEE ON ENERGY

SB 1524

By: Taylor of the Senate and Echols of the House

Title: Oil and gas; modifying conditions and requirements for division and transfer orders.
Effective date.

Recommendation:

DO PASS AS AMENDED

Aye: Boren, Daniels, Jech, Murdock, Rader, Standridge, Taylor, Allen

Nay: Hicks

Constitutional Privilege:

Please click on a link below to go directly to that vote:

COMMITTEE_VOTE (RCS# 0034) THIRD_READING (RCS# 1712)

Top of Page

OKLAHOMA HOUSE OF REPRESENTATIVES
Second Regular Session
58th Oklahoma Legislature

SB1524
Echols

[Oil and gas; modifying conditions and
requirements for division and transfer orders.]

THIRD
READING

PASSED

YEAS: 75
NAYS: 8
EXC: 17
C/P: 0

RCS# 1712
04/28/2022
02:32 PM
1712

YEAS: 75

Baker	Hardin (D)	Munson	Smith
Bashore	Hardin (T)	Newton	Sneed
Boatman	Hasenbeck	Nichols	Stark
Boles	Hill	Nollan	Steagall
Burns	Humphrey	O'Donnell	Stearman
Bush	Kendrix	Olsen	Sterling
Caldwell (C)	Kerbs	Osburn	Stinson
Caldwell (T)	Lawson	Pae	Talley
Crosswhite Hader	Lowe (D)	Patzkowsky	Townley
Culver	Lowe (J)	Pfeiffer	Vancuren
Davis	Luttrell	Phillips	Waldron
Dempsey	Manger	Pittman	West (J)
Dobrinski	Marti	Provenzano	West (K)
Echols	Martinez	Randleman	West (R)
Fetgatter	May	Roberts (D)	West (T)
Ford	McDugle	Roberts (E)	Wolfley
Frix	Miller	Roberts (S)	Worthen
Gann	Mize	Roe	Mr. Speaker
Grego	Moore	Sims	

NAYS: 8

Bennett	Fugate	Ranson	Turner
Blancett	Goodwin	Rosecrants	Virgin

EXCUSED: 17

Bell	Dollens	Lepak	Strom
Brewer	Hilbert	McBride	Walke
Conley	Johns	McEntire	Wallace
Cornwell	Kannady	Russ	Williams
Dills			

CONSTITUTIONAL PRIVILEGE: 0

VACANCY: 1

Top of Page



Energy and Natural Resources Committee

2021-22

SB1524

Echols, Taylor

[Oil and gas; modifying conditions and requirements for division and transfer orders. Effective date.]

DO PASS AS AMENDED, STRIKE THE E PASSED

NACTING CLAUSE

YEAS: 11

NAYS: 0

C/P : 0

RCS# 34

4/13/2022

03:07:48 PM

YEAS: 11

Bell

Lepak

Nichols

Boles

Luttrell

Roberts (E)

Caldwell (T)

McBride

Sims

Dempsey

Moore

NAYS: 0

CONSTITUTIONAL PRIVILEGE: 0

It appears the following issues are being addressed in the Oklahoma Senate version:

The amendments are summarized as follows:

➤ **52 O.S. §570.10**

➤ **D.1 - eliminates interest being computed until proceeds paid (but see below)**

➤ **D.2.a - eliminates 6% interest for “unmarketable title”**
- eliminates use of Oklahoma Title Examination Standards as definition of “unmarketable title”
(BUT SEE BELOW)

➤ **D.2.b - eliminates requirement to pay proceeds into court if unmarketable and if not paid to owner within 120 days**

➤ **D.2. - NEW - unpaid proceeds shall not accrue any interest if:**

a. no request for payment of interest is received from owner



- b. proceeds are paid to a governmental entity (per 52 O.S. §552, and 60 O.S. §651 et seq.
- c. proceeds are held in suspense due to the filing of an oil and gas lien under 42 O.S. §144 et seq.
- d. The remitter of the proceeds sends a division order and it is not executed and returned (per 52 O.S. §570.11)
- e. “the title is not free from apparent defects, grave doubts and litigious uncertainty, and does not consist of both legal and equitable title fairly deductible of record. [NOTE: this is the identical language defining “marketable title” under TES 1.1, but is not called this]

D.3 NEW - once all the requests of D.2 are met, proceeds must be paid “by the last day of the succeeding month after the condition is cured.”

- Otherwise, 12% interest per annum, compounded annually, accrues from the date payments is late until paid.

➤ **I - these interest provisions apply to proceeds taking place after the effective date of this act.**

➤ **52 O.S. §570.11**

➤ **B. is amended so that if the remitter sends a division order to the owner, no proceeds need to be paid until the division order (or transfer order) is received containing:**

- **1. Effective date of order**
- **2. Description of property and type of production**
- **3. Name, address and tax ID# of owner**
- **4. The fractional or decimal interest of the owner**
- **5. Owner's confirmation of title, and requirement of owner to give one month's advance notice of change in ownership.**
- **6. Notification to owner that owner may have other statutory rights regarding payments**
- **7. Owner agrees to reimburse payments to the remitter if the owner does not have "marketable title" [NOTE: This fails to tie the definition of marketable title to the TES or other standards]**

- **8. Division order does not change any existing leases or oil/gas purchase agreements**
- **C. The delivery of a division or transfer order to an owner must be done by registered first class mail, certified mail, or electronic mail, with proof of receipt at least 60 days before the proceeds are due under 570.10**

Payment of proceeds is not required until division order is received by remitter, and no interest accrues until such receipt.

If proceeds not timely paid, it accrues 12% interest

- **D. - a division order received by a remitting party, is deemed received by the remitter's successors and assigns, and shall benefit and bind such successors and assigns**
- **E. - this provision applies to production from wells drilled on and after the effective date of this Act.**

1 ENGROSSED HOUSE AMENDMENT
2 TO
3 ENGROSSED SENATE BILL NO. 1524 By: Taylor of the Senate
4 and
5 Echols of the House
6 [Production Revenue Standards Act - payment of
7 proceeds - division or transfer order - process for
8 remitting payment - effective date]
9 AUTHOR: Add the following House Coauthor: McBride
10 AMENDMENT NO. 1. Page 1, line 8, strike the enacting clause
11 Passed the House of Representatives the 28th day of April, 2022.
12
13 Presiding Officer of the House of
14 Representatives
15 Passed the Senate the ____ day of _____, 2022.
16
17
18 Presiding Officer of the Senate
19
20
21
22
23
24



1 ENGROSSED SENATE
2 BILL NO. 1524

By: Taylor of the Senate

and

Echols of the House

3
4
5 [Production Revenue Standards Act - payment of
6 proceeds - division or transfer order - process for
7 remitting payment - effective date]

8 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

9 SECTION 1. AMENDATORY 52 O.S. 2021, Section 570.10, is
10 amended to read as follows:

8 D. 1. Except as otherwise provided in paragraph 2 of this
9 subsection, where proceeds from the sale of oil or gas production or
10 some portion of such proceeds are not paid prior to the end of the
11 applicable time periods provided in this section, that portion not
12 timely paid shall earn interest at the rate of twelve percent (12%)
13 per annum to be compounded annually, ~~calculated from the end of the~~
14 ~~month in which such production is sold until the day paid.~~

2. ~~a. Where such proceeds are not paid because the title thereto is not marketable, such proceeds shall earn interest at the rate of (i) six percent (6%) per annum to be compounded annually for time periods prior to November 1, 2018, and (ii) the prime interest rate as reported in the Wall Street Journal for time periods on or after November 1, 2018, calculated from the end of the month in which such production was sold until such time as the title to such interest becomes marketable or the holder has received an acceptable~~

ENGR. S. B. NO. 1524

Page 5

~~affidavit of death and heirship in conformity with Section 67 of Title 16 of the Oklahoma Statutes, or as set forth in subparagraph b of this paragraph. Marketability of title shall be determined in accordance with the then current title examination standards of the Oklahoma Bar Association.~~

7. ~~b. Where marketability has remained uncured, or the~~
8. ~~holder has not been provided an acceptable affidavit~~
9. ~~of death and heirship in conformity with Section 67 of~~
10. ~~Title 16 of the Oklahoma Statutes, for a period of one~~
11. ~~hundred twenty (120) days from the date payment is due~~
12. ~~under this section, any person claiming to own the~~
13. ~~right to receive proceeds which have not been paid~~
14. ~~because of unmarketable title may require the holder~~
15. ~~of such proceeds, or the holder of such proceeds may~~
16. ~~elect, to interplead the proceeds and all accrued~~
17. ~~interest into court for a determination of the persons~~
18. ~~legally entitled thereto. Upon payment into court the~~
19. ~~holder of such proceeds shall be relieved of any~~
20. ~~further liability for the proper payment of such~~
21. ~~proceeds and interest thereon~~

22 Notwithstanding any other provisions of this subsection,
23 proceeds that are not paid on time pursuant to this section will not
24

ENGR. S. B. NO. 1524

Page 6

1 accrue interest if the proceeds are subject to any of the following
2 conditions:

3 a. the owner legally entitled to the proceeds has not
4 requested in writing to the person holding revenue or
5 proceeds from the sale of production that interest be
6 paid,

7 b. the proceeds have been paid to any state, county, or
8 municipal government or agency thereof under any act
9 governing unclaimed or abandoned property including
10 but not limited to Section 552 et seq. of this title
11 and Section 651 et seq. of Title 60 of the Oklahoma
12 Statutes,

13 c. the proceeds are held in suspense by the producing
14 owner, operator, or first purchaser due to the filing
15 of an oil and gas lien pursuant to Section 144 et seq.
16 of Title 42 of the Oklahoma Statutes,

d. the party responsible for remitting proceeds from the sale of production:

(1) elects to send the owner a division order or transfer order,

(2) sends the division order or transfer order in accordance with Section 570.11 of this title, and

ENGR. S. B. NO. 1524

Page 7

(3) the person legally entitled to the proceeds does not submit a properly executed division order in accordance with Section 570.11 of this title, or

4 e. the title is not free from apparent defects, grave
5 doubts and litigious uncertainty, and does not consist
6 of both legal and equitable title fairly deducible of
7 record.

8 3. If the conditions in subparagraph a, c, d, or e of paragraph
9 2 of this subsection exist and are cured, the proceeds shall be paid
10 to persons legally entitled to payment by the last day of the
11 succeeding month after the condition is cured. If proceeds are not
12 paid prior to that date, the portion not timely paid shall earn
13 interest at the rate of twelve percent (12%) per annum to be
14 compounded annually calculated from the first date that the proceeds
15 are late under this subsection until the date that the proceeds are
16 paid.

17 4. Interest payments as set forth in paragraph 1 of subsection
18 D of this section shall be calculated from the first date that the
19 proceeds are late pursuant to paragraph 1 of subsection D of this
20 section until the date that the proceeds are paid.

11 I. The provisions of this section shall apply to all production

12 taking place on or after the effective date of this act.

13 SECTION 2. AMENDATORY 52 O.S. 2021, Section 570.11, is
14 amended to read as follows:

5 B. If the party remitting production proceeds from the sale of
6 production sends a division order to the owner in accordance with
7 this section, then, as a condition precedent to the payment of
8 proceeds from such sale, the party remitting production proceeds
9 shall be entitled to receive a signed division or transfer order
10 from each owner that contains the following provisions:

11 1. The effective date of the division order, transfer order, or
12 other instrument;

13 2. A description of the property from which the oil or gas is
14 being produced and the type of production;

15 3. The name, address, and taxpayer identification number of the
16 owner;

17 4. The fractional or decimal ownership interest in the
18 property;

19 5. The owner's confirmation of title to the share of production
20 claimed, and requirement that owner provide notice to the party
21 remitting proceeds from the sale of production at least one (1)
22 month in advance of the effective date of any change in the interest
23 in production owned by the owner;
24

1 6. A notification to the owner that other statutory rights may

2 be available to an owner regarding payments;

3 7. The owner agrees to release, hold harmless, and reimburse
4 the party remitting production proceeds, and reimburse the party for
5 payments made if the owner does not have marketable title to the
6 production sold; and

7 8. The division order does not amend any lease, operating
8 agreement, farmout, development agreement, or any other agreement
9 related to mineral rights and rights belonging thereto, between the
10 undersigned and the lessee or operator or any other contracts for
11 the purchase of oil or gas.

12 C. If the party remitting proceeds elects to send a division or
13 transfer order to the person legally entitled to receive proceeds
14 from the sale of oil or gas production, then it must deliver the
15 order to the owner by registered first class mail, certified mail,
16 or electronic mail with proof of delivery at least sixty (60) days
17 before the proceeds are due pursuant to Section 570.10 of this
18 title.

18 If the order is timely delivered to the owner and the owner
19 does not return the order with the provisions specified in
20 subsection B of this section within forty-five (45) days of the date
21 that the order is sent from the person remitting proceeds, then the
22 party remitting proceeds may withhold payment without penalty of
23 interest in accordance with subsection D of Section 570.10 of this
24 title until such time as the division or transfer order is received.

1 If the person legally entitled to receive proceeds returns a signed
2 division or transfer order with the provisions specified in
3 subsection B of this section, then the proceeds shall be paid to
4 persons legally entitled to payment by the last day of the
5 succeeding month after the division or transfer order is received.

6 If proceeds are not paid prior to that time, that portion not timely
7 paid shall earn interest at the rate of twelve percent (12%) per
8 annum to be compounded annually calculated from the first date that
9 the proceeds are late pursuant to this subsection until the date
10 that the proceeds are paid.

11 D. A division order received by a party remitting proceeds
12 shall be deemed received by any successors and assigns of such party
13 remitting proceeds and will inure to the benefit of and be binding
14 to the successors and assigns of the party remitting proceeds.

15 E. The provisions of this section shall apply to all production
16 from wells drilled on or after the effective date of this act.

17 SECTION 3. This act shall become effective November 1, 2022.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Passed the Senate the 9th day of March, 2022.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2022.

Presiding Officer of the House
of Representatives



**KRAETTLI Q. EPPERSON
ATTORNEY-AT-LAW**

PROFESSIONAL:

- **Partner: MEE HOGE PLLP (10-person law firm)**
- **1900 N.W. Expressway, 50 Penn Place, Suite 1400, Oklahoma City, OK 73118**
- **Voice: (405) 848-9100; E-mail: kqe@MeeHoge.com; Website: www.EppersonLaw.com**
- **Oklahoma Bar - Admitted 1979**
- **Honors: AV rated; 2022 The Best Lawyers in America (Oil and Gas; Real Estate Law); 2021 Oklahoma Super Lawyers;**
- **2021 405 Magazine Top Lawyers (Eminent Domain)**

EDUCATION:

- **University of Oklahoma [B.A. (PoliSci-Urban Admin.) 1971];**
- **State Univ. of N.Y. at Stony Brook [M.S. (Urban and Policy Sciences) 1974]; &**
- **Oklahoma City University [J.D. (Law) 1978].**

PRACTICE AREAS:

- **Mineral/Surface Title Matters: Curative, Litigation, Expert Consultant/Witness, and Opinions**
- **Mediations and Arbitrations**

SUCCESSFUL APPELLATE CASES AND SAMPLE ENGAGEMENTS:

- **Amicus Brief: Washout of ORRI (Arnold v. Cabot Oil & Gas Corp., 2021 OK 4)**
- **Appellant Counsel: Inadequate Legal Description (Riverbend Lands, LLC v. State of Oklahoma, ex rel, Oklahoma Turnpike Authority, 2019 OK CIV APP 31)**
- **Amicus Brief: Enforcement of Ancient Probate (Bebout v. Ewell, 2017 OK 22)**
- **Expert Opinion: Reformation of Deeds (Scott v. Peters, 2016 OK 16)**
- **Secured AG Opinion: Safe Distance Between Residences and Well Sites (2009 OK AG 5)**
- **Court-appointed Receiver for 5 Abstract Companies**

SPECIAL ACTIVITIES:

- **OBA Title Examination Standards Committee (Chairperson: 1988-2020)**
- **Oklahoma City University School of Law adjunct professor: “Oklahoma Land Titles” (1982-2018)**
- **Vernons 2d: Oklahoma Real Estate Forms and Practice, (2000 - Present) General Editor and Contributing Author**

SELECTED PUBLICATIONS:

- ***“Payment of Proceeds from Production Under the PRSA: The Obligation to Determine Current ‘Marketable Title’” 93 OBJ 5 (May 2022)***
- ***“Filing a “Reservation of Time’ Waives Certain 12 O.S. §2012(B) Defenses Because the Rule Under Young May Have Been Superseded By Statute”, 93 OBJ 1, (January 2022)***
- ***“Seeking Default Judgment: After Schweigert”, 91 OBJ 1 (January 2022)***



MY 10 MOST RECENT GENERAL TITLE ARTICLES

(last revised July 12, 2022)

341. “Payment of Proceeds from Production Under the PRSA The Obligation to Determine Current ‘Marketable Title’”; 93 Oklahoma Bar Journal 5 (May, 2022)

338. “Filing A ‘Reservation of Time’ Waives Certain 12 O.S. §2012(B) Defenses Because the Rule Under *Young* May Have Been Superseded By Statute”; 93 Oklahoma Bar Journal 1 (January 2022)

332. “Probate Venue (aka Jurisdiction) Is Important: *Fulks* Overrules *Walker*”; 92 Oklahoma Bar Journal 4 (April 2021)

324. “Seeking Default Judgment: After Schweigert”; 91 Oklahoma Bar Journal 54 (April 2020)

306. “Constructive Notice: Oklahoma’s Hybrid System Affecting Surface and Mineral Interests”; 89 Oklahoma Bar Journal 40 (January 2018)

294. “The Oklahoma Marketable Record Title Act (‘aka’ The ‘Re-Recording Act’): An Argument That This 30-Year Curative Act Can Extinguish Co-Tenancies”; 87 Oklahoma Bar Journal 27 (October 15, 2016)

276. “Marketable Record Title: A Deed Which Conveys Only the Grantor’s ‘Right, Title and Interest’ Can be A ‘Root of Title’”; 85 Oklahoma Bar Journal 1104 (May 17, 2014)

248. “The Real Estate Mortgage Follows the Promissory Note Automatically Without an Assignment: The Lesson of *BAC Home Loans*”; 82 Oklahoma Bar Journal 2938 (December 10, 2011)

239. “Oklahoma’s Marketable Record Title Act: An Argument for its Application to Chains of Title to Severed Minerals after *Rocket Oil and Gas Co. v. Donabar*”; 82 Oklahoma Bar Journal 622 (March 12, 2011)

162. “Real Estate Homesteads in Oklahoma: Conveying and Encumbering Such Interest”; 75 Oklahoma Bar Journal 1357 (May 15, 2004)