

CHAPTER 186

NATURAL RESOURCES

SENATE BILL 98-159

BY SENATORS Bishop and Chlouber;
also REPRESENTATIVES George, G. Berry, Dyer, Smith, Taylor, and Young.

AN ACT

CONCERNING THE OBLIGATIONS OF PARTIES TO AGREEMENTS FOR THE PAYMENT OF PROCEEDS FROM THE
SALE OF OIL AND GAS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 34-60-118.5 (2) and the introductory portion to 34-60-118.5 (5), Colorado Revised Statutes, are amended, and the said 34-60-118.5 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

34-60-118.5. Payment of proceeds. (2) (a) UNLESS OTHERWISE AGREED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (2), payments of proceeds derived from the sale of oil, gas, or associated products shall be paid by a payor to a payee commencing not later than six months after the end of the month in which production is first sold. Thereafter, such payments shall be made on a monthly basis not later than sixty days for oil and ninety days for gas and associated products following the end of the calendar month in which subsequent production is sold. ~~unless other terms or arrangements for the first and subsequent payments are provided in a valid lease or other agreement between the payor and payee.~~ Payments may be made annually if the aggregate sum due a payee for twelve consecutive months is ~~twenty-five~~ ONE HUNDRED dollars or less.

(b) THE PAYOR AND PAYEE MAY PROVIDE, IN A VALID LEASE OR OTHER AGREEMENT, FOR TERMS OR ARRANGEMENTS FOR PAYMENT THAT DIFFER FROM THOSE SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (2).

(2.3) NOTWITHSTANDING ANY OTHER APPLICABLE TERMS OR ARRANGEMENTS, EVERY PAYMENT OF PROCEEDS DERIVED FROM THE SALE OF OIL, GAS, OR ASSOCIATED

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

PRODUCTS SHALL BE ACCOMPANIED BY INFORMATION THAT INCLUDES, AT A MINIMUM:

(a) A NAME, NUMBER, OR COMBINATION OF NAME AND NUMBER THAT IDENTIFIES THE LEASE, PROPERTY, UNIT, OR WELL OR WELLS FOR WHICH PAYMENT IS BEING MADE;

(b) THE MONTH AND YEAR DURING WHICH THE SALE OCCURRED FOR WHICH PAYMENT IS BEING MADE;

(c) THE TOTAL QUANTITY OF PRODUCT SOLD ATTRIBUTABLE TO SUCH PAYMENT, INCLUDING THE UNITS OF MEASUREMENT FOR THE SALE OF SUCH PRODUCT;

(d) THE PRICE RECEIVED PER UNIT OF MEASUREMENT, WHICH SHALL BE THE PRICE PER BARREL IN THE CASE OF OIL AND THE PRICE PER THOUSAND CUBIC FEET ("MCF") OR PER MILLION BRITISH THERMAL UNITS ("MMBTU") IN THE CASE OF GAS;

(e) THE TOTAL AMOUNT OF SEVERANCE TAXES AND ANY OTHER PRODUCTION TAXES OR LEVIES APPLIED TO THE SALE;

(f) THE PAYEE'S INTEREST IN THE SALE, EXPRESSED AS A DECIMAL AND CALCULATED TO AT LEAST THE SIXTH DECIMAL PLACE;

(g) THE PAYEE'S SHARE OF THE SALE BEFORE ANY DEDUCTIONS OR ADJUSTMENTS MADE BY THE PAYOR OR IDENTIFIED WITH THE PAYMENT;

(h) THE PAYEE'S SHARE OF THE SALE AFTER ANY DEDUCTIONS OR ADJUSTMENTS MADE BY THE PAYOR OR IDENTIFIED WITH THE PAYMENT;

(i) AN ADDRESS AND TELEPHONE NUMBER FROM WHICH ADDITIONAL INFORMATION MAY BE OBTAINED AND QUESTIONS ANSWERED.

(2.5) UPON WRITTEN REQUEST BY THE PAYEE, SUBMITTED TO THE PAYOR BY CERTIFIED MAIL, THE PAYOR SHALL PROVIDE TO THE PAYEE WITHIN SIXTY DAYS A WRITTEN EXPLANATION OF THOSE DEDUCTIONS OR ADJUSTMENTS OVER WHICH THE PAYOR HAS CONTROL AND FOR WHICH THE PAYOR HAS INFORMATION, WHETHER OR NOT IDENTIFIED WITH THE PAYMENT. THIS REQUIREMENT SHALL NOT PRECLUDE THE PAYOR FROM ANSWERING THE INQUIRY BY REFERRING THE PAYEE TO THE ROYALTY CLAUSE OR PAYMENT PROVISION IN A LEASE OR OTHER AGREEMENT.

(2.7) A PAYOR WHO FAILS TO PROVIDE INFORMATION REQUIRED OR REQUESTED IN ACCORDANCE WITH SUBSECTION (2.3) OR (2.5) OF THIS SECTION SHALL BE SUBJECT TO PENALTIES AS PROVIDED IN SECTION 34-60-121.

(5) ABSENT A BONA FIDE DISPUTE OVER THE INTERPRETATION OF A CONTRACT FOR PAYMENT, the oil and gas conservation commission shall have ~~exclusive~~ jurisdiction to determine the following:

(5.5) BEFORE HEARING THE MERITS OF ANY PROCEEDING REGARDING PAYMENT OF PROCEEDS PURSUANT TO THIS SECTION, THE OIL AND GAS CONSERVATION COMMISSION SHALL DETERMINE WHETHER A BONA FIDE DISPUTE EXISTS REGARDING THE INTERPRETATION OF A CONTRACT DEFINING THE RIGHTS AND OBLIGATIONS OF THE

PAYOR AND PAYEE. IF THE COMMISSION FINDS THAT SUCH A DISPUTE EXISTS, THE COMMISSION SHALL DECLINE JURISDICTION OVER THE DISPUTE AND THE PARTIES MAY SEEK RESOLUTION OF THE MATTER IN DISTRICT COURT.

(8) (a) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ALTER EXISTING SUBSTANTIVE RIGHTS OR OBLIGATIONS NOR TO IMPOSE UPON THE OIL AND GAS CONSERVATION COMMISSION ANY DUTY TO INTERPRET A CONTRACT FROM WHICH THE OBLIGATION TO PAY PROCEEDS ARISES.

(b) SUBSECTIONS (2.3), (2.5), AND (2.7) OF THIS SECTION SHALL APPLY TO PAYMENTS OF PROCEEDS DERIVED FROM SALES OCCURRING ON OR AFTER JULY 1, 1998.

SECTION 2. Effective date. This act shall take effect July 1, 1998.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 15, 1998