

HOUSE BILL NO. 616

INTRODUCED BY HOLLIDAY, ABRAMS, SPAETH,
KEATING, ASAY, HANSON

IN THE HOUSE

| | |
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| February 2, 1983 | Introduced and referred to Committee on Natural Resources. |
| February 8, 1983 | Committee recommend bill do pass as amended. Report adopted. |
| February 9, 1983 | Bill printed and placed on members' desks. |
| February 10, 1983 | Second reading, do pass. |
| February 11, 1983 | Considered correctly engrossed. |
| February 12, 1983 | Third reading, passed. Transmitted to Senate. |

IN THE SENATE

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|-------------------|---|
| February 12, 1983 | Introduced and referred to Committee on Judiciary. |
| March 8, 1983 | Committee recommend bill be concurrent in as amended. Report adopted. |
| March 10, 1983 | Second reading, pass consideration. |
| March 11, 1983 | Second reading, concurred in as amended. |
| March 14, 1983 | Third reading, concurred in. Ayes, 49; Noes, 0. |

IN THE HOUSE

March 14, 1983

Returned to House with
amendments.

March 31, 1983

Second reading, amendments
concurred in.

April 1, 1983

Third reading, amendments
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 616
 2 INTRODUCED BY Thelma Abner Spach
 3 M. Hanson Victory Any

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE
 5 OBLIGATION TO MAKE PAYMENTS TO ROYALTY OWNERS IS OF THE
 6 ESSENCE IN OIL AND GAS LEASES; REQUIRING OIL AND GAS
 7 PRODUCERS TO PAY INTEREST ON ANY UNPAID ROYALTIES; REQUIRING
 8 A ROYALTY OWNER TO BRING ANY ACTION TO CANCEL A LEASE OR
 9 COLLECT PAYMENTS IN THE DISTRICT COURT OF THE COUNTY IN
 10 WHICH THE WELL IS LOCATED, AND PROVIDING FOR COURT COSTS AND
 11 ATTORNEY FEES IN ANY SUCH ACTION; AMENDING SECTION
 12 82-10-102, MCA."

13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 NEW SECTION. Section 1. Obligation to pay royalties
 16 -- remedy for breach. (1) The obligation arising under an
 17 oil and gas lease to pay oil or gas royalties to the royalty
 18 owner or his assignee, to deliver oil or gas to a purchaser
 19 to the credit of such royalty owner or his assignee, or to
 20 pay a portion of the proceeds of the sale of such oil or gas
 21 to the royalty owner or his assignee is of the essence in
 22 the lease contract. Breach of such obligation constitutes
 23 grounds for the cancellation of such lease in cases in which
 24 it is determined by the court that the equities of the case
 25 require cancellation.

1 (2) If the operator under an oil and gas lease fails
 2 to pay oil or gas royalties to the royalty owner or his
 3 assignee within 90 days after receipt of a signed royalty
 4 division order, the unpaid royalties thereafter bear
 5 interest, at a rate that is 2% above the prime lending rate
 6 each year until paid. The operator may remit semiannually
 7 to a person entitled to royalties the aggregate of 6 months'
 8 royalties whenever the aggregate amount is less than \$50.

9 (3) A royalty owner seeking cancellation of a lease
 10 for failure to make payments under the lease or seeking such
 11 payments under this section shall bring his action in the
 12 district court for the county in which the oil or gas well
 13 is located, and that court has jurisdiction over any such
 14 actions brought under this section. The prevailing party in
 15 any proceeding brought under this section is entitled to
 16 recover his court costs and reasonable attorney fees.

17 (4) This section does not apply if a royalty owner or
 18 his assignee has elected to take his proportionate share of
 19 production in kind or whenever there is a dispute as to the
 20 title of the minerals, the outcome of which would affect
 21 distribution of royalty payments.

22 Section 2. Section 82-10-102, MCA, is amended to read:

23 "82-10-102. Remedy not exclusive. The remedy herein
 24 provided for in 82-10-101 is in the nature of a special
 25 remedy additional to and not a substitute for other remedies

1 given by law to owners of royalties in lands of the
2 character specified, and all acts or parts of acts in
3 conflict with the provisions of ~~this--part 82-10-101~~ shall
4 not apply in actions authorized and provided for by ~~this~~
5 ~~part that section.~~"

6 NEW SECTION. Section 3. Codification instruction.
7 Section 1 is intended to be codified as an integral part of
8 Title 82, chapter 10, part 1.

-End-

Approved by Committee
on Natural Resources

HOUSE BILL NO. 616

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE OBLIGATION TO MAKE PAYMENTS TO ROYALTY OWNERS IS OF THE ESSENCE IN OIL AND GAS LEASES; REQUIRING OIL AND GAS PRODUCERS TO PAY INTEREST ON ANY UNPAID ROYALTIES; REQUIRING A ROYALTY OWNER TO BRING ANY ACTION TO CANCEL A LEASE OR COLLECT PAYMENTS IN THE DISTRICT COURT OF THE COUNTY IN WHICH THE WELL IS LOCATED, AND PROVIDING FOR COURT COSTS AND ATTORNEY FEES IN ANY SUCH ACTION; AMENDING SECTION 82-10-102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Obligation to pay royalties -- remedy for breach. (1) The obligation arising under an oil and gas lease to pay oil or gas royalties to the royalty owner or his assignee, to deliver oil or gas to a purchaser to the credit of such royalty owner or his assignee, or to pay a portion of the proceeds of the sale of such oil or gas to the royalty owner or his assignee is of the essence in the lease contract. Breach of such obligation constitutes grounds for the cancellation of such lease in cases in which it is determined by the court that the equities of the case

require cancellation.

(2) If the operator under an oil and gas lease fails to pay INITIAL oil or gas royalties to the royalty owner or his assignee within 90 days after receipt of a signed royalty division order, the unpaid royalties thereafter bear interest, at a rate ON THE DATE DUE that is 2% above the prime lending rate each year until paid. The operator may remit semiannually to a person entitled to royalties the aggregate of 6 months' royalties whenever the aggregate amount is less than \$50.

~~(3) FOLLOWING INITIAL PAYMENT OF ROYALTIES, IF THE OPERATOR UNDER AN OIL AND GAS LEASE FAILS TO PAY OIL OR GAS ROYALTIES TO THE ROYALTY OWNER OR HIS ASSIGNEE WITHIN 90 DAYS FOLLOWING THE TIME FOR SUCH PAYMENTS AS PRESCRIBED UNDER THE TERMS OF THE LEASE, THE UNPAID ROYALTIES THEREAFTER BEAR INTEREST AT A RATE THAT IS 2% ABOVE THE PRIME LENDING RATE ON THE DATE DUE UNTIL PAID. THE OPERATOR MAY REMIT SEMIANNUALLY TO A PERSON ENTITLED TO ROYALTIES THE AGGREGATE OF 6 MONTHS' ROYALTIES WHENEVER THE AGGREGATE AMOUNT IS LESS THAN \$50.~~

~~(3)(4)~~ A royalty owner seeking cancellation of a lease for failure to make payments under the lease or seeking such payments under this section shall bring his action in the district court for the county in which the oil or gas well is located, and that court has jurisdiction over any such

1 actions brought under this section. The prevailing party in
2 any proceeding brought under this section is entitled to
3 recover his court costs and reasonable attorney fees.

4 ~~†††151~~ This section does not apply if a royalty owner
5 or his assignee has elected to take his proportionate share
6 of production in kind or whenever there is a dispute as to
7 the title of the minerals, the outcome of which would affect
8 distribution of royalty payments.

9 Section 2. Section 82-10-102, MCA, is amended to read:

10 "82-10-102. Remedy not exclusive. The remedy herein
11 provided for in ~~82-10-101~~ is in the nature of a special
12 remedy additional to and not a substitute for other remedies
13 given by law to owners of royalties in lands of the
14 character specified, and all acts or parts of acts in
15 conflict with the provisions of ~~this part 82-10-101~~ shall
16 not apply in actions authorized and provided for by ~~this~~
17 ~~part that section.~~"

18 ~~NEW_SECTION.~~ Section 3. Codification instruction.
19 Section 1 is intended to be codified as an integral part of
20 Title 82, chapter 10, part 1.

-End-

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE OBLIGATION TO MAKE PAYMENTS TO ROYALTY OWNERS IS OF THE ESSENCE IN OIL AND GAS LEASES; REQUIRING OIL AND GAS PRODUCERS TO PAY INTEREST ON ANY UNPAID ROYALTIES; REQUIRING A ROYALTY OWNER TO BRING ANY ACTION TO CANCEL A LEASE OR COLLECT PAYMENTS IN THE DISTRICT COURT OF THE COUNTY IN WHICH THE WELL IS LOCATED, AND PROVIDING FOR COURT COSTS AND ATTORNEY FEES IN ANY SUCH ACTION; AMENDING SECTION 82-10-102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~NEW SECTION.~~ Section 1. Obligation to pay royalties -- remedy for breach. (1) The obligation arising under an oil and gas lease to pay oil or gas royalties to the royalty owner or his assignee, to deliver oil or gas to a purchaser to the credit of such royalty owner or his assignee, or to pay a portion of the proceeds of the sale of such oil or gas to the royalty owner or his assignee is of the essence in the lease contract. Breach of such obligation constitutes grounds for the cancellation of such lease in cases in which it is determined by the court that the equities of the case

require cancellation.

(2) If the operator under an oil and gas lease fails to pay INITIAL oil or gas royalties to the royalty owner or his assignee within 90 days after receipt of a signed royalty division order, the unpaid royalties thereafter bear interest, at a rate ~~ON THE DATE DUE~~ that is 2% above the prime lending rate each year until paid. The operator may remit semiannually to a person entitled to royalties the aggregate of 6 months' royalties whenever the aggregate amount is less than \$50.

~~(3) FOLLOWING INITIAL PAYMENT OF ROYALTIES, IF THE OPERATOR UNDER AN OIL AND GAS LEASE FAILS TO PAY OIL OR GAS ROYALTIES TO THE ROYALTY OWNER OR HIS ASSIGNEE WITHIN 90 DAYS FOLLOWING THE TIME FOR SUCH PAYMENTS AS PRESCRIBED UNDER THE TERMS OF THE LEASE, THE UNPAID ROYALTIES THEREAFTER BEAR INTEREST AT A RATE THAT IS 2% ABOVE THE PRIME LENDING RATE ON THE DATE DUE UNTIL PAID. THE OPERATOR MAY REMIT SEMIANNUALLY TO A PERSON ENTITLED TO ROYALTIES THE AGGREGATE OF 6 MONTHS' ROYALTIES WHENEVER THE AGGREGATE AMOUNT IS LESS THAN \$50.~~

~~(3)(4)~~ A royalty owner seeking cancellation of a lease for failure to make payments under the lease or seeking such payments under this section shall bring his action in the district court for the county in which the oil or gas well is located, and that court has jurisdiction over any such

actions brought under this section. The prevailing party in any proceeding brought under this section is entitled to recover his court costs and reasonable attorney fees.

~~(4)(5)~~ This section does not apply if a royalty owner or his assignee has elected to take his proportionate share of production in kind or whenever there is a dispute as to the title of the minerals, the outcome of which would affect distribution of royalty payments.

Section 2. Section 82-10-102, MCA, is amended to read:

"82-10-102. Remedy not exclusive. The remedy herein provided for ~~in 82-10-101~~ is in the nature of a special remedy additional to and not a substitute for other remedies given by law to owners of royalties in lands of the character specified, and all acts or parts of acts in conflict with the provisions of ~~this part 82-10-101~~ shall not apply in actions authorized and provided for by ~~this part that section.~~"

~~NEW SECTION.~~ Section 3. Codification Instruction.

Section 1 is intended to be codified as an integral part of Title 82, chapter 10, part 1.

-End-

March 8, 1983

SENATE STANDING COMMITTEE REPORT
(Judiciary)

That House Bill No. 616 be amended as follows:

1. Title, line 9.
Strike: "TO CANCEL A LEASE OR"
Insert: "SEEKING A REMEDY OR TO"
2. Page 1, line 17.
Strike: " -- remedy for breach"
3. Page 1, lines 23 through 25.
Following: "contract."
Strike: the remainder of line 23 through "cancellation." on
page 2, line 1.
4. Page 2, line 3.
Strike: "INITIAL"
5. Page 2, line 4.
Strike: "90"
Insert: "180"
6. Page 2, lines 4 and 5.
Strike: "receipt of a signed royalty division order"
Insert: "oil or gas produced under the lease is marketed"
7. Page 2, line 11.
Strike: subsection (3) in its entirety
Renumber: subsequent subsections.
8. Page 2, line 21.
Strike: "cancellation of a lease"
Insert: "a remedy"
9. Page 3, line 7.
Following: "minerals"
Insert: "or entitlement to royalties"

March 11, 1983

SENATE COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 616 be amended as follows:

1. Page 2, line 6.

Following: "at"

Strike: "remainder of line 6 through "year" on line 7

Insert: "the maximum rate of interest authorized under
31-1-107 from the date due"

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~NEW SECTION.~~ Section 1. Obligation to pay royalties ~~---remedy-for-breach.~~ (1) The obligation arising under an oil and gas lease to pay oil or gas royalties to the royalty owner or his assignee, to deliver oil or gas to a purchaser to the credit of such royalty owner or his assignee, or to pay a portion of the proceeds of the sale of such oil or gas to the royalty owner or his assignee is of the essence in the lease contract. ~~Breach-of-such-obligation-constitutes grounds-for-the-cancellation-of-such-lease-in-cases-in-which it-is-determined-by-the-court-that-the-equities-of-the-case~~

~~require-cancellation~~

(2) If the operator under an oil and gas lease fails to pay ~~initial~~ oil or gas royalties to the royalty owner or his assignee within 90 ~~180~~ days after receipt ~~of a signed royalty--division--order~~ OIL OR GAS PRODUCED UNDER THE LEASE IS ~~MARKED~~ MARKED, the unpaid royalties thereafter bear interest, at a rate ~~ON THE RATE ONE~~ that is 2% above the prime-lending rate ~~each-year~~ THE MAXIMUM RATE OF INTEREST AUTHORIZED UNDER 31-1-107 FROM THE DATE DUE until paid. The operator may remit semiannually to a person entitled to royalties the aggregate of 6 months' royalties whenever the aggregate amount is less than \$50.

~~THE FOLLOWING INITIAL PAYMENT OF ROYALTIES, IF THE OPERATOR UNDER AN OIL AND GAS LEASE FAILS TO PAY OIL OR GAS ROYALTIES TO THE ROYALTY OWNER OR HIS ASSIGNEE WITHIN 90 DAYS FOLLOWING THE TIME FOR WHEN PAYMENTS AS PRESCRIBED UNDER THE TERMS OF THE LEASE, THE UNPAID ROYALTIES THEREAFTER BEAR INTEREST AT A RATE THAT IS 2% ABOVE THE PRIME LENDING RATE ON THE RATE ONE UNTIL PAID. THE OPERATOR MAY REMIT SEMIANNUALLY TO A PERSON ENTITLED TO ROYALTIES THE AGGREGATE OF 6 MONTHS' ROYALTIES WHENEVER THE AGGREGATE AMOUNT IS LESS THAN \$50.~~

~~(3) (1) (2)~~ A royalty owner seeking ~~cancellation~~ of a lease ~~A REMEDY~~ for failure to make payments under the lease or seeking such payments under this section shall bring his

1 action in the district court for the county in which the oil
2 or gas well is located, and that court has jurisdiction over
3 any such actions brought under this section. The prevailing
4 party in any proceeding brought under this section is
5 entitled to recover his court costs and reasonable attorney
6 fees.

7 ~~++(51141)~~ This section does not apply if a royalty
8 owner or his assignee has elected to take his proportionate
9 share of production in kind or whenever there is a dispute
10 as to the title of the minerals OR ENTITLEMENT TO ROYALTIES,
11 the outcome of which would affect distribution of royalty
12 payments.

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