HOUSE BILL NO. 616

۴

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

IN THE HOUSE

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

February 12, 1983 Introduced and referred to Committee on Judiciary. March 8, 1983 Committee recommend bill be concurred 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

-

. .

March 31, 1983

April 1, 1983

Returned to House with amendments.

Second reading, amendments concurred in.

Third reading, amendments concurred in.

Sent to enrolling.

Reported correctly enrolled.

INTRODUCED BY Hollicay abusms Aparthe Stating any 1 2 m. Hanson 3

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

13

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 14 15 <u>NEW_SECTION</u> 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 owner or his assignee, to deliver oil or gas to a purchaser 18 to the credit of such royalty owner or his assignee, or to 19 pay a portion of the proceeds of the sale of such oil or gas 20 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 it is determined by the court that the equities of the case 24 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 assignee within 90 days after receipt of a signed royalty 3 4 division order, the unpaid royalties thereafter bear interest, at a rate that is 2% above the/prime lending rate 5 6 each year until paid. The operator may remit semiannually 7 to a person entitled to royalties the aggregate of 6 months" в 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 district court for the county in which the oil or gas well 12 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 gistribution 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

-2- INTRODUCED BILL

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 <u>B2-10-101</u> shall not apply in actions authorized and provided for by this part that_section.*

6 <u>NEW_SECTION</u> 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

1		HOI	ISE	8ILL	NO	• 616	
2	INTRODUCED	BY	HOL	LIDA	r.	ABRAMS,	SPAE

DDUCED BY HOLLIDAY, ABRAMS, SPAETH, Keating, Asay, Hanson

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE 5 OBLIGATION TO MAKE PAYMENTS TO ROYALTY OWNERS IS OF THE 6 7 ESSENCE IN OIL AND GAS LEASES; REQUIRING OIL AND GAS 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 13 82-10-102, MCA."

14

3

4

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 15 <u>NEW SECTION</u>. 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 22 to the royalty owner or his assignee is of the essence in 23 the lease contract. Breach of such obligation constitutes grounds for the cancellation of such lease in cases in which 24 25 it is determined by the court that the equities of the case

1 require cancellation.

2 (2) If the operator under an oil and gas lease fails 3 to pay INIIIAL oil or gas royalties to the royalty owner or 4 his assignee within 90 days after receipt of a signed 5 royalty division order, the unpaid royalties thereafter bear interest, at a rate ON_THE_DATE_DUE that is 2% above the 6 7 prime lending rate each year until paid. The operator may remit semiannually to a person entitled to royalties the 8 aggregate of 6 months⁴ royalties whenever the aggregate 9 10 amount is less than \$50.

11 (3) EOLLOWING INITIAL PAYMENT OF ROYALTIES. IE THE 12 OPERATOR UNDER AN DIL AND GAS LEASE FAILS TO PAY DIL OR GAS ROYALTIES_TO_THE_ROYALTY_OWNER_OR__HIS__ASSIGNEE__WITHIN__90 13 14 DAYS __EQLLOWING __IHE __IIME __FOR __SUCH _PAYMENTS_AS_PRESCRIBED 15 UNDER_IHE_IERMS_OE_IHE_LEASE:_IHE__UNPAID__ROYALIJES IHEREAFTER__BEAR__INTEREST_AT__A__RATE_IHAT_IS_23_ABOVE_THE 16 PRIME_LENDING_BAIE_ON_THE_DATE_DUE_UNIIL_PAID. THE_OPERATOR 17 18 MAY_REMIT_SEMIANNUALLY_TO_A_PERSON_ENTITLED_TO_ROYALTIES_THE AGGREGATE__OF__6__MONTHS!__ROYALTIES__WHENEVER_THE_AGGREGATE 19 20 AMOUNT_IS_LESS_IMAN_150. 21 (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

-2-

HB 616

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 **t4f151** 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 not apply in actions authorized and provided for by this 16 pert that_section.* 17

NEW_SECIIONA Section 3. Codification instruction.
 Section 1 is intended to be codified as an integral part of
 Title 82, chapter 10, part 1.

-End-

-3-

22

23

24

25

1	HOUSE BILL ND. 616	1
2	INTRODUCED BY HOLLIDAY, ABRAMS, SPAETH,	2
		3
3	KEATING, ASAY, HANSON	4
4		4
5	A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE	-
6	OBLIGATION TO MAKE PAYMENTS TO ROYALTY OWNERS IS OF THE	
7	ESSENCE IN OIL AND GAS LEASES; REQUIRING OIL AND GAS	Ĩ
8	PRODUCERS TO PAY INTEREST ON ANY UNPAID ROYALTIES; REQUIRING	
9	A ROYALTY OWNER TO BRING ANY ACTION TO CANCEL A LEASE OR	
10	COLLECT PAYMENTS IN THE DISTRICT COURT OF THE COUNTY IN	10
	WHICH THE WELL IS LOCATED, AND PROVIDING FOR COURT COSTS AND	13
11	A CARACTER AND A CARACTER AND A CARACTER	1:
12	ATTORNEY FEES IN ANY SUCH ACTION; AMENDING SECTION	1
13	82-10-102+ MCA."	-
14		
15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA*	1
16	<u>NEW_SECIION</u> Section 1. Obligation to pay royalties	1
17	remedy for breach. (1) The obligation arising under an	1
18	oil and gas lease to pay oil or gas royalties to the royalty	1
		1
19	owner or his assignee, to deliver oil or gas to a purchaser	2
20	to the credit of such royalty owner or his assignee, or to	2
21	pay a portion of the proceeds of the sale of such oil or gas	2

9 0 21 pay a portion of the proceeds of the sale of such oil or gas 22 to the royalty owner or his assignee is of the essence in 23 the lease contract. Breach of such obligation constitutes 24 grounds for the cancellation of such lease in cases in which is located, and that court has jurisdiction over any such 25 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 pear interest, at a rate <u>ON_THE_DATE_DUE</u> that is 2% above the prime lending rate each year until paid. The operator may 8 remit semiannually to a person entitled to royalties the aggregate of 6 months* royalties whenever the aggregate 9 amount is less than \$50. 0

1 (3) EOLLOWING INITIAL PAYMENT OF BOYALTIES, IE THE 2 OPERATOR UNDER AN OIL AND GAS LEASE FAILS TO PAY OIL OR GAS ROYALTIES TO THE ROYALTY OWNER OR HIS ASSIGNEE WITHIN 90 З 4 DAYS__EOLLOWING__IHE__IIME__EOR__SUCH_PAYMENTS_AS_PRESCRIBED 5 UNDER THE LEASE. THE UNPAID ROYALTIES THEREAFTER_BEAR_INTEREST_AT_A_BATE_THAT_IS_23_ABOVE_THE 6 7 PRIME_LENDING_BAIE_ON_IHE_DAIE_DUE_UNIIL_PAIDA_THE__OPERATOR 8 MAY_KENIT_SEMIANNUALLY_TO_A_PERSON_ENTITLED_TO_ROYALTIES_THE AGGREGATE__DE__6__MONTHS!__ROYALTIES__WHENEVER_THE_AGGREGATE AMOUNT_IS_LESS_IMAN_\$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

-2-

HB 616

1 actions brought under this section. The prevailing party in Z any proceeding brought under this section is entitled to 3 recover his court costs and reasonable attorney fees. 4 (4)(1) 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 remedy additional to and not a substitute for other remedies 12 given by law to owners of royalties in lands of the 13 character specified, and all acts or parts of acts in 14 15 conflict with the provisions of this-part 82-10-101 shall 16 not apply in actions authorized and provided for by this 17 port that_section.*

18 NEW_SECIION: 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-

-3-

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: "<u>INITIAL</u>"
 - 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"
 - 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"

2

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"

HB 0616/03

1	HOUSE BILL NO. 618	
2	INTRODUCED BY HOLLIDAY. ABRAMS.	SPAETH+
3	KEATING, ASAY, HANSON	

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE 5 OBLIGATION TO MAKE PAYHENTS TO ROYALTY DWNERS IS OF THE 6 ESSENCE IN DIL 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-CANEEL-A-LEASE-OR 9 SEEKING A BEMEDY OB TO COLLECT PAYMENTS IN THE DESTRICT 10 COURT OF THE COUNTY IN WHICH THE WELL IS LOCATED, AND 11 PROVIDING FOR COURT COSTS AND ATTORNEY FEES IN ANY SUCH 12 ACTION: AMENDING SECTION 82-10-102, MCA.* 13

14

4

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 15 <u>**VEW_SECTION**</u> 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--obl+gation- 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

1 require-cancellations

2	{2} If the operator under an oil and gas lease fails
3	to pay INITIAL oil or gas royalties to the royalty owner or
4	his assignee within 90 <u>180</u> days after receiptofasigned
5	royaltydivisionorder OIL_DR_GAS_PRODUCED_UNDER_THE_LEASE
6	IS_MARKEIED, the unpaid royalties thereafter bear interest,
7	at s-rate <u>BN-THE_BATE_DUE</u> that-is-2%-above-the-prime-lending
8	rate-coch-year IHE_MAXIMUM_BAIE_OF_INTERESI_AUIHORIZED_UNDER
9	31-1-107_ <u>FROM_INE_DATE_DUE</u> until paid. The operator may
10	remit semiannually to a person entitled to royalties the
11	aggregate of 6 months* royalties whenever the aggregate
12	amount is less than \$50.
13	tzi==f0ll0ving=initial=payNeni==0f==R0yAltif5z==iff==THF
14	OPERATORILLUNDERLANISTELAND-GASILEASELEASELEASELSITOLPAY-OSELORIGAS
15	R8¥ALIIES_I8 _IU E_R8¥ALIX_QKNE8_Q8HISASSIENEE \II UIN29
16	Days==E0tbBWING==IVE==IIME==E0B==SUEH=EAXNENIS=AS=PRESERIAED
17	HNGERIHEIERMABEIHELEASExIHEUNPAIDBOYALIXES
18	<u>Ŧ₩₽₩₽</u> ₳₽₮₽₽₽₽₽₽₽₽₽₽₽₽₽₽₽₽₽₽₽₽₽₽₽₽₽₽₽₽₽₽₽₽
1 0	<u> PRIME-LENRING-RAIE-RN-INE-RAIE-RVE-VNIIL-RAIR-INERAIRR</u>
20	<u> </u>
21	ASSESATEBESUDWINSRBYALIIESWHENEYER_IHE_ASSREGATE
22	AMQUNI-IS-LESS-IHAN_IS201
23	<pre>t3)tst[3] A royalty owner seeking cancellationafa</pre>
24	tease A_REMERY for failure to make payments under the lease

25 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.

7 (17151161) 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 <u>OR_ENTILEMENT_ID_ROYALILES</u>,
11 the outcome of which would affect distribution of royalty
12 payments.

13 Section 2. Section 82-10-102, MCA, is amended to read: #32-10-102. Remedy not exclusive. The remedy herein 14 15 provided for in 82-10-101 is in the nature of a special remedy additional to and not a substitute for other remedies 16 17 given by law to owners of royalties in lands of the 18 character specified, and all acts or parts of acts in 19 conflict with the provisions of this-part 82-10-101 shall 20 not apply in actions authorized and provided for by this 21 port 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-

-3-

HB 616