

## RÉSUMÉ DIGEST

ACT 5 (SB 38)

2022 Regular Session

Hensgens

Existing law provides for the assessment of the risk charge against nonparticipating owners in the cost of a unit well, substitute well, alternate unit well, or cross-unit well for a drilling unit.

New law provides for terminology and technical corrections including providing that the notice by an owner drilling, intending to drill, or who has drilled to the other owners is called the "risk charge notice".

New law authorizes the drilling owner to require an election to participate to include payment of notified owner's share of the cost as provided by the authorization for expenditure form (AFE).

New law requires financial adjustments of estimated AFE costs be made within 60 days of receipt of detailed invoices in order to account for the difference between estimated and actual cost.

New law requires that if the well is being drilled or has been drilled at the time of mailing the risk charge notice, the risk charge notice shall contain a copy of all available logs, core analysis, production data, and well test data not made public.

New law deems failure to timely deliver payment by an owner to be an election not to participate.

New law in addition to any other legal remedies, authorizes the drilling owner to recover out of production any unpaid costs of an owner who initially elected to participate, but failed to pay.

Existing law sets forth the obligations owed by the lessee and drilling owner with respect to the payment of any lessor royalty and overriding royalty due.

New law requires that the nonparticipating owner provide certain information to the drilling owner.

New law provides for the manner in which the drilling owner pays certain amounts to the nonparticipating owner for the benefit of his lessor royalty owner and overriding royalty owner and the formulas used for calculating the payments.

New law requires payments to the overriding royalty owner be made in accordance with the terms of the contract or agreement creating the overriding royalty.

New law provides that no lessee is relieved of any obligation to pay any lessor royalty and overriding royalty due under the terms of his lease during or after the recoupment of recoverable costs and the risk charge.

New law provides that the procedures and remedies available to the lessor royalty owner and overriding royalty owner for nonpayment of royalties against the nonparticipating owner and the drilling owner are set out in the provisions in the Mineral Code. However, in cases against a drilling owner, dissolution is unavailable.

New law provides that in the event of nonpayment by the nonparticipating owner, the notice provided to the drilling owner by the lessor royalty owner or overriding royalty owner shall include a true and complete, or redacted, copy of the mineral lease or other document creating the royalty.

New law provides that when the drilling owner fails to pay the royalty or overriding royalty due, payment by the nonparticipating owner may be a good faith estimate of the royalties due.

New law requires the nonparticipating owner to furnish to the drilling owner a true and complete, or redacted, copy of a mineral lease or other agreement creating any lessor royalty

or overriding royalty. However, a redacted copy in lieu of a complete copy must contain in full the provisions dealing with the determination and calculation of the portion of proceeds from the sale or other disposition of production due to the lessor or overriding royalty owner.

New law requires that the nonparticipating owner furnish to the drilling owner a sworn statement of ownership of the nonparticipating owner as to each tract within the unit in which that owner has an interest and the amounts of lessor royalty and overriding royalty for which that owner is entitled to receive a portion of proceeds from the sale or other disposition of production.

New law further states that the nonparticipating owner may also provide copies of any title opinions in its possession or portions thereof. Such submissions do not relieve the owner of the obligation to provide a sworn statement of ownership.

New law requires the nonparticipating owner to indemnify and hold harmless the drilling owner against claims related to amounts paid based on information provided by the nonparticipating owner.

New law provides that no change or division in the ownership of a nonparticipating owner is binding upon a drilling owner for the purpose of paying to the nonparticipating owner for the benefit of its lessor royalty owner or overriding royalty owner, until a certified copy of the instrument constituting the chain of title from the original nonparticipating owner has been furnished to the drilling owner.

New law provides that where a drilling owner obtains a title opinion from a licensed Louisiana attorney on a tract of land in a unit under any agreement that creates a royalty for which a nonparticipating owner is entitled to receive a portion, the actual reasonable costs incurred for the title examination and opinion is chargeable as a unit operating cost and recoverable by the drilling owner out of the tract's share of production.

New law provides that the nonparticipating owner's obligation to bear his tract's share of the expenditures incurred in drilling, testing, completing, equipping, and operating the unit well includes subsequent unit operations.

New law provides with respect to subsequent unit operations, the applicable risk charge, required notices, setting forth definitions, and other related provisions.

Effective May 13, 2022.

(Amends R.S. 30:10(A)(2)(a), (i)(intro para) and (aa) and (ee), (ii), and (iii), (b)(i), (ii)(aa), (bb), (dd), (ee), and (ff), and (iii), (e)(ii), (h), and (i) and (3) and (B); adds R.S. 30:10(A)(2)(a)(i)(ff) and (b)(ii)(gg), (hh), (ii), and (jj), (iv), (v), (vi), and (vii), and (C))