

Regular Session, 2011

SENATE BILL NO. 77

BY SENATOR SHAW

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MINERALS. Provides for the recoupment of unit wells costs and risk charge. (8/15/11)

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AN ACT

To amend and reenact R.S. 30:10(A)(2)(a)(i)(cc) and (dd) and 10(A)(2)(e) and to enact R.S. 30:10(A)(2)(a)(i)(ee), relative to drilling units; to provide for requirements of notice of drilling a unit well; to provide for recoupment of well costs and risk charge; to provide for payment of certain royalties from the nonparticipating owner's share of production; to limit the liability for certain payments; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 30:10(A)(2)(a)(i)(cc) and (dd) and 10(A)(2)(e) are hereby amended and reenacted and R.S. 30:10(A)(2)(a)(i)(ee) is hereby enacted to read as follows:

§10. Agreements for drilling units; pooling interests; terms and conditions; expenses

A. * * *

(2) * * *

(a)(i) Any owner drilling or intending to drill a unit well, including a substitute unit well, on any drilling unit heretofore or hereafter created by the commissioner, may, by certified mail, return receipt requested, notify all other owners in the unit of the drilling or the intent to drill and give each owner an

1 opportunity to elect to participate in the risk and expense of such well. Such notice
2 shall contain:

3 (aa) An estimate of the cost of drilling, testing, completing, and equipping the
4 unit well;

5 (bb) The proposed location of the unit well;

6 (cc) The proposed objective depth of the unit well; ~~and~~

7 (dd) All logs, core analysis, production data, and well test data from the unit
8 well which has not been made public; ~~;~~ **and**

9 **(ee) Each owner's estimated unit participation decimal interest.**

10 * * *

11 (e)(i) The provisions of ~~Paragraph 2(b) above~~ **Subparagraph (b) of this**
12 **Paragraph** with respect to the risk charge shall not apply to any unleased interest not
13 subject to an oil, gas, and mineral lease.

14 (ii) Notwithstanding the provisions of ~~Paragraph 2(b)~~ **Subparagraph (b) of**
15 **this Paragraph** the royalty owner and overriding royalty owner shall receive that
16 portion of production due to them under the terms of the contract creating the royalty
17 **and overriding royalty out of the production produced from the unit well by the**
18 **owners drilling, or the unit operator on behalf of the drilling owners, such**
19 **nonparticipating owner's leasehold interests of said unit well during the**
20 **recoupment period set forth in Subparagraph (b) of this Paragraph of the**
21 **actual well costs and applicable risk charge. Such royalty and overriding**
22 **interest shall be paid by the owners drilling, or the unit operator on behalf of**
23 **the drilling owners, the nonparticipating owner's leasehold interests of said unit**
24 **well; however, the amount of such royalty and overriding royalty interest paid**
25 **by the drilling owners of the unit well shall not exceed thirty percent of 8/8ths**
26 **of the nonparticipating owner's interest in the nonparticipating leasehold's**
27 **portion of the tract's allocated share of unit production.**

28 (iii) **In no event shall the royalty and overriding royalty interests paid**
29 **by the owners drilling, or the unit operator on behalf of the drilling owners, a**

1 nonparticipating owner's leasehold interest in any single oil, gas and mineral
2 lease exceed thirty percent of 8/8ths of the nonparticipating owner's interest in
3 such nonparticipating leasehold's portion of the tract's allocated share of unit
4 production. In the event either the royalty or royalty and overriding royalty
5 burdens together of any single oil, gas, and mineral lease exceed thirty percent
6 of 8/8ths of the nonparticipating owner's interest in such nonparticipating
7 leasehold's portion of the tract's allocated share of unit production, then the
8 lessor's leasehold royalty interest shall be paid first and the overriding royalty
9 interests, if any, shall be paid second in the order such overriding royalty
10 interests were recorded; however, such payments made by the drilling owners
11 of any single oil, gas, and mineral lease shall not exceed the maximum payment
12 limit as set forth and proportionately reduced as provided in this
13 Subparagraph.

14 (iv) Any such royalty and overriding interests created by contracts
15 recorded subsequent to the date on which the written notice was sent set forth
16 in Item(a)(i) of this Paragraph or in excess of thirty percent of 8/8ths of such
17 nonparticipating leasehold's portion of the nonparticipating tract's allocated
18 share of unit production shall be paid by the nonparticipating owner of the oil,
19 gas, and mineral lease or contracts creating same.

20 (v) The owners drilling, or the unit operator on behalf of the owners
21 drilling, such nonparticipating owner's leasehold interests of said unit well
22 during the recoupment period set forth in Subparagraph (b) of this Paragraph
23 shall not be liable for and shall be held harmless from any and all claims and
24 demands for payments due royalty or overriding interests created by contracts
25 recorded subsequent to the date on which the written notice was sent set forth
26 in Item (a)(i) of this Paragraph or that exceed thirty percent of 8/8ths of such
27 nonparticipating leasehold's portion of the nonparticipating tract's allocated
28 share of unit production. Further, the owners drilling, or the unit operator on
29 behalf of the owners drilling, such nonparticipating owner's leasehold interests

1 of said unit well during the recoupment period set forth in Subparagraph (b) of
 2 this Paragraph shall not be liable to any nonparticipating owner for erroneous
 3 or incorrect payments of the royalty or overriding royalty interests attributable
 4 to such nonparticipating owners' leasehold interest unless such erroneous or
 5 incorrect payments result from gross negligence or willful misconduct.

6 (vi) Actual well costs and the applicable risk charge of the unit well
 7 attributable to a nonparticipating or nonpaying owner's interest in an oil, gas,
 8 and mineral lease covering a tract shall be recouped out of the nonparticipating
 9 owner's "net revenue interest" attributable to the nonparticipating tract on the
 10 date on which the written notice is sent as set forth in Item(a)(i) of this
 11 Paragraph. "Net revenue interest" shall mean the leasehold's portion of the
 12 tract's allocated share of unit production less the leasehold's royalty and
 13 overriding royalty interests as limited and set forth in this Subparagraph.

14 * * *

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by J. W. Wiley.

DIGEST

Present law authorizes the commissioner of conservation to establish drilling units to prevent waste and to avoid drilling unnecessary wells. The cost of development and operation of the unit is chargeable to the tracts of land within the unit. The commissioner is required to send notice to the owners and an opportunity to elect to participate in the risk and expense of the unit. If an owner elects not to participate or elects to participate and fails to pay his share, the expenses of the unit, including drilling, testing, completing, equipping, and operating, and a risk charge are recoverable from that tract's share of production. The risk charge is equal to 200% of the nonparticipating or nonpaying tract's allocated share of the expenses.

Proposed law retains present law.

Proposed law provides that the notice must include each owner's estimated unit participation decimal interest.

Present law provides that the risk charge is not applicable to unleased oil, gas, and mineral interest. Proposed law retains present law.

Present law provides that royalty owners and overriding royalty owners receive their portion of production of the unit well as provided in the contract creating the royalty.

Proposed law provides that while the unit well costs and applicable risk charge are being recouped from the nonparticipating mineral interest owner, the royalty and overriding royalty owners of that tract shall be paid by the owners or operator drilling the unit well. Such payment shall be limited to 30% of the nonparticipating mineral interest owner's share

of production.

Proposed law provides that if the royalty or overriding royalty exceeds the 30% limit, payments from the drilling owners or operator are prioritized as royalty interest shall be paid first, then overriding royalty interests in the order they were recorded. Such payments shall not exceed the 30% of the nonparticipating mineral interest owner's share of production.

Proposed law provides the nonparticipating owner shall pay the royalty and overriding royalty interests recorded after the commissioner's notice to participate is sent and those in excess of the 30% of the nonparticipating mineral interest owner's share of production.

Proposed law provides the owners drilling or their operator are not liable for payments to royalty or overriding royalty owners that exceed 30% of the nonparticipating mineral interest owner's share of production or were recorded after the commissioner's notice was sent. Likewise, they are not liable for errors in payments unless the error results from gross negligence or willful misconduct.

Proposed law provides the actual well costs and the applicable risk charge of the unit well attributable to a nonparticipating or nonpaying owner's interest shall be recouped out of the nonparticipating owner's "net revenue interest" attributable to the nonparticipating tract on the date on which commissioner's notice was sent. Proposed law defines "net revenue interest" as the leasehold's portion of the tract's allocated share of unit production less the leasehold's royalty and overriding royalty interests as limited by proposed law.

Effective August 15, 2011.

(Amends R.S. 30:10(A)(2)(a)(i)(cc) and (dd) and 10(A)(2)(e); adds R.S. 30:10(A)(2)(a)(i)(ee))