

CHAPTER 601

H.B. No. 2591

AN ACT

relating to a security interest in oil or gas production.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 9.319(l), Business & Commerce Code, is amended to read as follows:

(l) A first purchaser who acts in good faith may terminate an interest owner's security interest or statutory lien under this section by paying, or by making and keeping open a tender of the amount the first purchaser believes to be due to the interest owner:

(1) if the interest owner's rights are to *oil or gas production or its proceeds*, either to the operator alone, *in which case the operator shall be considered the first purchaser*, or to some combination of the interest owner and *the [his] operator*, as the first purchaser chooses; or

~~(2) [if the interest owner's rights are to oil production or its proceeds, and the interest owner did not agree nor acquiesce (in the present or a prior transaction) to the first purchaser's actions in dealing only with his operator, only to the interest owner himself; or~~

~~[(3)]~~ whatever the nature of the production to which the interest owner has rights, to the person that the interest owner agreed to or acquiesced in; or

~~(3) [(4)]~~ to a court of competent jurisdiction in the event of litigation or bankruptcy.

SECTION 2. Section 9.319(q)(3), Business & Commerce Code, is amended to read as follows:

(3) "First purchaser" means the first person that purchases oil or gas production from an operator or interest owner after the production is severed, *or an operator that receives production proceeds from a third-party purchaser who acts in good faith under a division order or other agreement signed by the operator under which the operator collects proceeds of production on behalf of other interest owners. To the extent the operator receives proceeds attributable to the interest of other interest owners from a third-party purchaser who acts in good faith under a division order or other agreement signed by such operator, the operator shall be considered to be the first purchaser of the production for all purposes under this section, notwithstanding the characterization of other persons as first purchasers under other laws or regulations. To the extent the operator has not received from the third-party*

purchaser proceeds attributable to his interest and the interest of other interest owners, the operator is not considered the first purchaser for the purposes of this section, and is entitled to all rights and benefits under this section. Nothing herein shall impair or affect any rights otherwise held by a royalty owner to take its share of oil in kind or receive payment directly from a third-party purchaser for such royalty owner's share of oil production with or without a previously made agreement.

SECTION 3. This Act takes effect September 1, 1987.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 22, 1987, by a non-record vote. Passed by the Senate on May 29, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 18, 1987.

Effective Sept. 1, 1987.