

By: Senator(s) Hall

To: Oil, Gas and Other
Minerals; Finance

SENATE BILL NO. 2136

1 AN ACT TO AMEND SECTION 53-3-39, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE CONDITIONS UNDER WHICH STATUTORY INTEREST IS DUE ON
3 PROCEEDS OF PRODUCTION NOT DISBURSED TO A ROYALTY OWNER; AND FOR
4 RELATED PURPOSES. BE IT ENACTED BY THE LEGISLATURE OF THE STATE
5 OF MISSISSIPPI:

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7 SECTION 1. Section 53-3-39, Mississippi Code of 1972, is
8 amended as follows:

9 53-3-39. Purchasers of oil or gas production from any oil or
10 gas well shall be liable for the payment of interest on royalty
11 proceeds which have not been disbursed to the royalty owners from
12 and after thirty (30) days following the date of the first sale of
13 oil or gas.

14 The rate of interest shall be eight percent (8%) per annum
15 and shall be computed from the date of thirty (30) days after such
16 first sale; however, from and after July 1, 1992, the rate of
17 interest shall be the greater of eight percent (8%) per annum or
18 two percent (2%) above the federal discount rate in effect as of
19 the second day of January of each year during which interest on
20 such royalty proceeds is payable, except in those instances where
21 the royalty proceeds cannot be paid because the title thereto is
22 not marketable, in which case the rate of interest on a per annum
23 basis shall be equal to the federal reserve discount rate in
24 effect as of the second day of January of each year during which
25 interest on the royalty proceeds is payable. The accrued interest
26 shall be paid to the royalty owners at the time of the payment of
27 the accrued royalty proceeds, such rate of interest to be
28 displayed on the disbursement document. As used herein, "first

29 sale" shall mean the first commercial sale of production after
30 completion of the well and shall not include sales of oil or gas
31 during initial testing prior to completion of the well.

32 Whenever the disbursal of royalty proceeds is suspended for
33 any reason whatsoever, the purchasers of production shall be
34 liable for the payment of interest on the royalty proceeds which
35 have been suspended. Except as otherwise provided, the rate of
36 interest shall be eight percent (8%) per annum and shall be
37 computed from the date that the royalty payments were halted or
38 suspended; provided, however, that if such date is less than
39 thirty (30) days after the first sale of oil or gas, then such
40 interest shall be computed from the date of thirty (30) days after
41 such first sale. From and after July 1, 1992, the rate of
42 interest shall be the greater of eight percent (8%) per annum or
43 two percent (2%) above the federal discount rate in effect as of
44 the second day of January of each year during which interest on
45 such royalty proceeds is payable, except in those instances where
46 the royalty proceeds are suspended because the title thereto is
47 not marketable, in which case the rate of interest on a per annum
48 basis shall be equal to the federal reserve discount rate in
49 effect as of the second day of January of each year during which
50 interest on such proceeds is payable. The accrued interest shall
51 be paid to the royalty owners at the time of the payment of the
52 suspended royalty proceeds, such rate of interest to be displayed
53 on the disbursement document.

54 The purchaser of production from a well shall be exempt from
55 the provisions of this section and the operator and/or the owner
56 of the right to drill and to produce under an oil and/or gas lease
57 shall be substituted for the purchaser herein where the operator
58 and/or the owner and purchaser have entered into an arrangement
59 where the royalty proceeds are paid by the purchaser to the
60 operator and/or the owner who assumes responsibility of paying the
61 proceeds to the royalty owners legally entitled thereto. Where
62 the operator and/or the owner of the drilling rights are
63 substituted herein for the purchaser, the interest provided for
64 hereinabove shall accrue from the date set forth hereinabove or
65 from the date of such operator and/or owner's receipt of the

66 proceeds of such production, whichever is the later date.

67 Provided further, that as to royalty payments regularly
68 disbursed in the normal course of business, nothing in this
69 section shall be construed to require the payment of interest on
70 royalty payments disbursed to the royalty owners no later than
71 sixty (60) days after the end of the calendar month within which
72 such royalty production was sold. Provided further, that whenever
73 the aggregate of one hundred twenty (120) days' accumulation of
74 monthly proceeds payable to any royalty owner does not exceed One
75 Hundred Dollars (\$100.00), no interest shall accrue or be payable
76 thereon, provided that the disbursement of such accumulated
77 proceeds be made to the royalty owner no later than once each
78 one-hundred-twenty-day period.

79 For the purposes of this section, marketability of title
80 shall be determined in accordance with real property law governing
81 title to oil and gas interests as recognized at the time the
82 royalty payments were suspended or not paid.

83 The provisions of this section which require payment of
84 interest on royalty proceeds which have not been disbursed may not
85 be waived or reduced by a royalty owner entitled to such interest
86 payment unless said royalty owner shall attest to a statement
87 which shall be typed in bold print on a separate form and attached
88 to the relevant division order contract as to the royalty owner's
89 interest. Such statement shall be set out as follows:

90 I, (royalty owner's name) hereby agree to waive the statutory
91 right given me to receive interest on royalty proceeds as provided
92 by Section 53-3-39, Mississippi Code of 1972, from (purchaser or
93 operator and/or owner of right to drill), which is due me as
94 evidenced from the attached division order contract. This is the
95 _____ day of _____, 19____.

96 _____
97 (royalty owner's signature)

98 The words "owner," "oil," "gas" and "royalty owner" used in

99 this section shall have the meanings attributed to them in Section
100 53-1-3, Mississippi Code of 1972.

101 SECTION 2. This act shall take effect and be in force from
102 and after July 1, 1999.