

By: Representative Shows (By Request)

To: Oil, Gas and Other Minerals

HOUSE BILL NO. 1013

1 AN ACT TO AMEND SECTION 53-3-41, MISSISSIPPI CODE OF 1972, TO  
2 REQUIRE THE OPERATOR OF A NEW OIL OR GAS WELL TO PLACE THE ROYALTY  
3 PROCEEDS IN AN ESCROW ACCOUNT IMMEDIATELY AFTER THE WELL BEGINS  
4 PRODUCING; TO REQUIRE THAT THE PROCEEDS SHALL REMAIN IN THE ESCROW  
5 ACCOUNT UNTIL THE PROCEEDS ARE DISBURSED TO THE ROYALTY OWNER; AND  
6 FOR RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** Section 53-3-41, Mississippi Code of 1972, is  
9 amended as follows:

10 53-3-41. (1) For the purposes of this section, the  
11 following terms shall have the meanings ascribed herein:

12 (a) "Oil and gas production" means any oil, natural  
13 gas, condensate of either, natural gas liquids, other gaseous,  
14 liquid or dissolved hydrocarbons, sulfur or helium, or other  
15 substance produced as a by-product or adjunct to their production,  
16 or any combination of these, which is severed, extracted or  
17 produced from the ground, the seabed or other submerged lands  
18 within the jurisdiction of the State of Mississippi. Any such  
19 substance, including recoverable or recovered natural gas liquids,  
20 which is transported to or in a natural gas pipeline or natural  
21 gas gathering system, or otherwise transported or sold for use as  
22 natural gas, or is transported or sold for the extraction of  
23 helium or natural gas liquids is gas production. Any such  
24 substance which is transported or sold to persons and for purposes  
25 not included in the foregoing natural gas definition is oil  
26 production.

27 (b) "Interest owner" means a person owning an entire or  
28 fractional interest of any kind or nature in oil or gas production  
29 at the time of severance, or a person who has an express, implied



30 or constructive right to receive a monetary payment determined by  
31 the value of oil or gas production or by the amount of production.

32 (c) "Royalty owner" means any person who possesses an  
33 interest in the production, but who is not an owner as defined in  
34 Section 53-1-3(g).

35 (d) "Disbursing agent" shall mean that person who,  
36 pursuant to an oil and gas lease, operating agreement, purchase  
37 contract, or otherwise, assumes the responsibility of paying  
38 royalty proceeds derived from a well's oil and gas production to  
39 the royalty owner or owners legally entitled thereto. A first  
40 purchaser shall not be deemed to be the disbursing agent unless  
41 the first purchaser expressly assumes such responsibility in the  
42 purchase contract.

43 (e) "First purchaser" means the first person who  
44 purchases oil or gas production from the interest owners after the  
45 production is severed and may include the operator if the operator  
46 acts as a purchaser of production attributable to other interest  
47 owners.

48 (f) An "operator" is a person engaged in the business  
49 of severing oil or gas production from the ground, whether for  
50 himself alone, for other persons alone or for himself and others.

51 (2) The operator of an oil or gas well that begins producing  
52 on or after July 1, 2002, shall place all royalty proceeds in an  
53 escrow account immediately upon any production from the well and  
54 the proceeds shall remain in the escrow account until the  
55 disbursing agent disburses the proceeds to the royalty owner.

56 Whenever a disbursing agent has not disbursed the royalty proceeds  
57 derived from the well's production to the royalty owner within one  
58 hundred twenty (120) days following the date of first sale of oil  
59 or gas in the event the disbursing agent is a first purchaser of  
60 oil or gas, or within one hundred twenty (120) days following the  
61 date the disbursing agent receives the proceeds from such  
62 production if the disbursing agent is not the first purchaser,



63 such royalty owner shall have a lien to secure the payment of the  
64 royalty proceeds. The lien shall attach to the proceeds from such  
65 production received by the disbursing agent attributable to the  
66 royalty owner's interest.

67 (3) The lien provided by this section shall be effective  
68 against a third party only from the time a financing statement  
69 evidencing such lien is filed in the same manner as financing  
70 statements evidencing security interests in minerals are filed in  
71 accordance with the provisions of Section 75-9-501.

72 (4) The lien provided by this section shall expire one (1)  
73 year after it becomes effective against a third party, unless  
74 judicial proceedings have been commenced to assert it or unless  
75 insolvency proceedings have been commenced by or against the  
76 disbursing agent, in which event the lien shall remain effective  
77 until termination of the insolvency proceedings or until  
78 expiration of the one-year period, whichever occurs later.

79 (5) Whenever there is a conflict between a lien under this  
80 section and a security interest under Title 75, Chapter 9, the  
81 lien or security interest first to be filed has priority. Liens  
82 provided for in this section shall have priorities among  
83 themselves according to priority in time of filing of such liens.

84 (6) The filing required by this section shall be a financing  
85 statement as provided for in Section 75-9-310 and shall be subject  
86 to the provisions of Part 5 of Article 9 of the Uniform Commercial  
87 Code, except that in order for the filing to be sufficient, it  
88 shall not be necessary for the debtor to sign the financing  
89 statement, and the filing shall be effective for a period of only  
90 one (1) year from the date of filing.

91 (7) This section does not impair an operator's right to set  
92 off or withhold funds from other interest owners as security for  
93 or in satisfaction of any debt or security interest. This section  
94 does not impair a disbursing agent's right to withhold funds in  
95 the event a question is raised concerning the title or ownership



96 of, or right to sell, the oil or gas production. In case of a  
97 dispute between interest owners, a good-faith tender by the  
98 disbursing agent of funds to the person the interest owners shall  
99 agree on, or to a court of competent jurisdiction in the event of  
100 litigation or bankruptcy, shall operate as a tender of the funds  
101 to both.

102 (8) Nothing in this section shall be construed to enlarge or  
103 diminish the rights and obligations provided to or imposed on  
104 interest owners, royalty owners, disbursing agents, first  
105 purchasers, or operators by contract or otherwise by law. The  
106 sole purpose of this section is to provide royalty owners a lien  
107 under the conditions provided herein.

108 **SECTION 2.** This act shall take effect and be in force from  
109 and after July 1, 2002.

