

82-10-103. Obligation to pay royalties as essence of contract -- interest. (1) The obligation arising under an oil and gas lease to pay oil or gas royalties to the royalty owner or the owner's assignee, to deliver oil or gas to a purchaser to the credit of the royalty owner or the owner's assignee, or to pay a portion of the proceeds of the sale of the oil or gas to the royalty owner or the owner's assignee is of the essence in the lease contract.

(2) If the operator under an oil and gas lease fails to pay oil or gas royalties to the royalty owner or the owner's assignee within 120 days after the initial oil or gas produced under the lease is marketed and within 60 days for all oil and 90 days for all gas produced and marketed, the unpaid royalties must bear interest at the maximum rate of interest authorized under 31-1-107 from the date due until paid. The operator may remit semiannually to a person entitled to royalties the aggregate of 6 months' royalties whenever the aggregate amount is less than \$50 and annually whenever the aggregate amount is less than \$10.

(3) A royalty owner seeking a remedy for failure to make payments under the lease or seeking payments under this section shall bring the action in the district court for the county in which the oil or gas well is located, and that court has jurisdiction over any actions brought under this section. The prevailing party in any proceeding brought under this section is entitled to recover court costs and reasonable attorney fees.

(4) This section does not apply if a royalty owner or the owner's assignee has elected to take the owner's or assignee's proportionate share of production in kind or whenever there is a dispute as to the title of the minerals or entitlement to royalties, the outcome of which would affect distribution of royalty payments.

History: En. Sec. 1, Ch. 500, L. 1983; amd. Sec. 1, Ch. 118, L. 1985; amd. Sec. 2735, Ch. 56, L. 2009.