2020 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 90
BY REPRESENTATIVE COUSSAN

ENERGY PRODUCTION: Suspends from March 11, 2020, until September 30, 2020, the provisions of law applicable to mineral leases maintained in production in paying quantities

A CONCURRENT RESOLUTION

To suspend until September 30, 2020, the provisions of R.S. 31:124 relative to oil and gas leases that were producing in paying quantities on March 11, 2020, within the state of Louisiana except those leases on lands and water bottoms owned by the state of Louisiana which are affected by Resolution Number 20-04-001 adopted by the State Mineral and Energy Board and those leases which all parties have entered into a specific agreement on or after March 11, 2020, with respect to the effect on lease maintenance of the unprecedented collapse of oil prices, and to provide with respect thereto.

WHEREAS, the collapse of oil prices to unprecedented levels, including in certain instances negative prices, has created a substantial and ongoing hardship on operators and mineral lessees, as well as their mineral lessors, throughout the State of Louisiana; and

WHEREAS, the Louisiana Legislature finds that substantial reasons for this collapse include an unprecedented decrease in the demand for oil due to the exercise by governments of the United States and other countries of their police power to prevent the spread of the ongoing novel Coronavirus Disease 2019 (COVID-19), as well as a shortage of storage capacity within the United States; and

WHEREAS, the legislature notes that Governor Edwards exercised the police powers of this state and proclaimed a Public Health Emergency on March 11, 2020 (25 JBE 2020), as supplemented, that included a "stay-at-home" order closing all state office
buildings to the public and closing nonessential businesses, requiring the cancellation of all meetings of ten people or more, and directing all members of the public to remain home unless performing an essential activity; and

WHEREAS, as of April 7, 2020, forty-two other state governors have issued similar orders with an additional three governors issuing "partial lock-down" orders; and

WHEREAS, the legislature further notes that the numerous petroleum industry service companies necessary to support continued and safe operations likely reside in states or territories affected by COVID-19 and are confronting staffing issues due to social distancing; and that COVID-19 has caused disruption in the supply chains and the labor force which impacts the ability of many mineral lessees to make leasehold payments, conduct lease maintenance operations, maintain production in paying quantities, and comply with their obligation to reasonably develop the entire lease premises for minerals including oil; and

WHEREAS, the legislature recognizes that, due to the historically low prices, lack of excess storage capacity, and the extreme drop in demand for oil as a result of COVID-19, operators and mineral lessees that produce oil are struggling to produce or market the oil from leases within Louisiana, which forces such operators and mineral lessees to either decrease production substantially or to shut-in otherwise productive wells, which creates a hardship for both mineral lessees and mineral lessors; and

WHEREAS, the legislature recognizes that mineral lessors are harmed if, on the one hand, their lessees continue to produce oil at drastically reduced prices, reducing greatly the prices upon which royalties would be paid, or, on the other hand, if their lessees lose their leases when they shut-in production, resulting in premature lease termination, plugging of otherwise productive wells, removal of necessary infrastructure and loss of recoverable reserves; and

WHEREAS, the legislature further recognizes that the foregoing government restrictions impede the ability of mineral lessors and mineral lessees to attempt to negotiate and execute contractual provisions to specifically deal with these circumstances; and

WHEREAS, the legislature further recognizes that the oil industry is vital to the Louisiana economy, employs many citizens of this state, and must remain strong in order
to help continue to drive the state’s economy; and that the challenges to lease maintenance caused by COVID-19, related governmental directives, the historically low oil prices, and the limitations on oil storage capacity were unforeseeable and not susceptible to mitigation by most operators and mineral lessors in the state; and

WHEREAS, this resolution is enacted to prevent additional hardship on operators and mineral lessees that produce oil, and their mineral lessors, by temporarily allowing certain mineral leases to be deemed to have continued to produce oil in paying quantities regardless of the actual production from such leases during the temporary period, which will in turn promote stability and security in the oil industry during this public health emergency and unprecedented period for the state.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana hereby suspends until September 30, 2020, the provisions of R.S. 31:124 relative to oil and gas leases that were producing in paying quantities on March 11, 2020, within the state of Louisiana except those leases on lands and water bottoms owned by the state of Louisiana which are affected by Resolution Number 20-04-001 adopted by the State Mineral and Energy Board and those leases which all parties have entered into a specific agreement on or after March 11, 2020 with respect to the effect on lease maintenance of the unprecedented collapse of oil prices.

BE IT FURTHER RESOLVED that it is the intention of the Legislature of Louisiana that as a result and during the period of this suspension, the mineral leases to which it applies shall be deemed to have continued to produce oil in paying quantities regardless of the actual amount of production.

BE IT FURTHER RESOLVED that this suspension shall become effective upon adoption of the resolution and shall remain in effect until and through September 30, 2020.

BE IT FURTHER RESOLVED that for periods on and after October 1, 2020, actual production, proceeds and costs shall be used to determine production of oil in paying quantities for applicable mineral leases.

BE IT FURTHER RESOLVED that royalties and other payments for production of oil during the period of suspension payable under applicable mineral leases shall be calculated and paid at the time and in the manner provided for by the provisions of said leases using actual production, proceeds, or other factors provided in said lease.
HCR NO. 90

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HCR 90 Original 2020 Regular Session Coussan

Abstract: Suspend from March 11, 2020, until September 30, 2020, the provisions of law applicable to oil and gas leases maintained in production in paying quantities.

Present law provides that when a mineral lease is being maintained by production of oil or gas, the production must be in paying quantities. Further, present law specifies that paying quantities means that production allocable to the total original right of the lessee to share in production under the lease is sufficient to induce an operator to continue production in an effort to secure a return on his investment or to minimize any loss.

Proposed law suspends this provision until Sept. 30, 2020, for wells that were producing in paying quantities on March 11, 2020. Further, present law excepts leases on lands and water bottoms owned by the state of Louisiana which are affected by Resolution Number 20-04-001 adopted by the State Mineral and Energy Board and those leases for which all parties have entered into a specific agreement on or after March 11, 2020, with respect to the effect on lease maintenance of the unprecedented collapse of oil prices.

Proposed law further provides that it is the intention of the Legislature of Louisiana that during the period of suspension, the mineral leases to which it applies shall be deemed to have continued to produce oil in paying quantities regardless of the actual amount of production.

Further provides that for periods on and after October 1, 2020, actual production, proceeds and costs shall be used to determine production of oil in paying quantities for applicable mineral leases.

Further provides that royalties and other payments for production of oil during the period of suspension payable under applicable mineral leases shall be calculated and paid at the time and in the manner provided for by the provisions of said leases using actual production, proceeds or other factors provided in said lease.

Effective upon adoption of the resolution and it shall remain in effect through September 30, 2020.

(Suspends R.S. 31:124)