

**OIL AND GAS MINING (EXCERPT)**  
**Act 178 of 1941**

**319.108 Decree to be granted if requested by majority in interest; ty interest holders, option to join in development, procedure; bond.**

Sec. 8. If the court shall find that the material averments of the bill of complaint are true, and that the plaintiffs do in fact own a majority in interest of such lands, or of the oil and gas mineral rights therein, as joint tenants, tenants in common, cotenants, or coparceners, or that a majority in interest of such owners consent to the granting of the relief prayed in such bill of complaint, then the court shall enter a decree authorizing the plaintiffs to explore, drill, mine, develop and operate said lands for oil and gas mining purposes, and to remove oil and gas from such lands, and sell or dispose of same, so as to realize the full value thereof for the benefit of all the parties entitled thereto.

The defendants and minority interest holders, whether fee or royalty owners, or their lessees, shall have 15 days after the date upon which the decree becomes final in which to elect either to come in and join plaintiffs as producers or lessees in the exploration, drilling, mining, developing and operation of said lands for oil and gas mining purposes, and pay their proportionate part, based upon the interest which respective defendants own, of all expenses and costs in such undertaking, and receive their proportionate share of the net proceeds derived from the sale of the oil and gas produced from said lands, or the defendants may continue their position as fee or royalty owners and receive their proportionate proceeds derived from the sale of the royalty interest or portion of the oil and gas produced from such lands. Such royalty interest, unless otherwise fixed by lease, shall be 1/8 of the oil and gas produced from such lands.

If the defendants or any of them elect to join them as producers or operators of the lease and land involved, as above provided, then such defendants shall, within 15 days from the date upon which the decree of the court becomes final, file with the clerk a good and sufficient bond payable to the clerk of the court, with an authorized surety company as surety thereon. The amount of such bond shall be determined by the court as representing the proportionate share of such defendants based upon the interest which they own in such land of the estimated maximum reasonable cost of exploring, drilling, mining, developing and operating said lands for oil and gas purposes. Such bond shall be conditioned upon the payment when due of such proportionate share of such cost and shall be held by the clerk for the benefit of all interested persons. Said bond and the surety thereon shall be approved by the court prior to the filing of the same.

If the defendants or any of them, whether fee or royalty owners, or their lessees, file such bond within the time stated, they shall be entitled to their share of the proceeds from the sale of the working interest which, in the absence of contract or lease determining the same, shall be 7/8 of the oil and gas produced in addition to any royalty interest they may own. If, however, said defendants or any of them fail to file such bond within said period, then such defendants shall be treated and considered as royalty owners only and shall then receive only their proportionate share of the royalty interest which, in the absence of lease or contract determining the same, shall be 1/8 of the oil and gas produced.

The court shall also provide by decree for the disposition by the plaintiffs of the proportionate part of the proceeds from the sale of the defendants' portion of the oil and gas produced, and provide for the payment and distribution of the net proceeds thereof to the defendants, as their respective interests may appear, after deduction of the proportionate costs of such proceedings and of exploring, mining, drilling, producing and operating said lands for oil and gas, and disposing of such oil and gas.

If the whereabouts of any of the defendants is unknown, the court may require the plaintiffs to deposit such defendants' share of the net proceeds from the sale of oil and gas with the clerk of the court, to be held for said defendants, as the court may direct.

**History:** 1941, Act 178, Eff. Jan. 10, 1942;—CL 1948, 319.108.