



**LOUISIANA STATE LAW INSTITUTE**

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February 6, 2019

Representative Taylor Barras  
Speaker of the House of Representatives  
P.O. Box 94062  
Baton Rouge, Louisiana 70804

**RE: HOUSE RESOLUTION NO. 238 OF THE 2018 REGULAR SESSION**

Dear Mr. Speaker:

The Louisiana State Law Institute respectfully submits its interim report to the legislature relative to the classification of production payments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Guy Holdridge".

Guy Holdridge  
Director

cc: Representative Jean-Paul Coussan  
Representative Stuart J. Bishop

email cc: David R. Poynter Legislative Research Library  
[drplibrary@legis.la.gov](mailto:drplibrary@legis.la.gov)  
Secretary of State, Mr. R. Kyle Ardoin  
[admin@sos.louisiana.gov](mailto:admin@sos.louisiana.gov)

**LOUISIANA STATE LAW INSTITUTE  
MINERAL LAW COMMITTEE**

**INTERIM REPORT TO THE LEGISLATURE  
IN RESPONSE TO HR NO. 238 OF THE 2018 REGULAR SESSION**

**Relative to the classification of production payments**

Prepared for the  
Louisiana Legislature on

**February 6, 2019**

Baton Rouge, Louisiana

**LOUISIANA STATE LAW INSTITUTE  
MINERAL LAW COMMITTEE**

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\* \* \* \* \*

Patrick S. Ottinger, Reporter

Nick Kunkel, Staff Attorney

2018 Regular Session

HOUSE RESOLUTION NO. 238

BY REPRESENTATIVES COUSSAN AND BISHOP

A RESOLUTION

To urge and request that the Louisiana State Law Institute study the classification of a production payment under Louisiana law, and to submit a written report of its findings with any recommendations.

WHEREAS, there have been legal disputes relating to issues involving mineral production payments with respect to unleased mineral owners; and

WHEREAS, in 2014, the United States Court of Appeals, Fifth Circuit held in the case of *Adams v. Chesapeake Operating, Inc.*, 561 Fed. Appx. 322, that an owner of an unleased mineral interest was not a purchaser or owner of a mineral production payment, and thus was not entitled to bring a statutory claim for production payments against the operator under R.S. 31:212.21 through 212.23 in an attempt to invoke the remedies provide therein; and

WHEREAS, this case has been cited and discussed in several cases in the United States District Court for the Western District of Louisiana, Shreveport Division.

THEREFORE, BE IT RESOLVED that the House of Representatives of the Legislature of Louisiana does hereby request that the Louisiana State Law Institute study the history, reasoning, classification, and definition of a production payment in R.S. 31:171, 212.21 through 212.23, and 213, providing a recommendation to the Legislature of Louisiana with regard to a possible codification of the court decisions no later than sixty days prior to the convening of the 2019 Regular Session.

BE IT FURTHER RESOLVED that during the study of these issues and prior to submitting any recommendations to the legislature, the Louisiana State Law Institute shall include in its research or consideration of these issues such information or input as it might receive from all of the following:

- (1) The Louisiana Landowners Association.
- (2) The Louisiana Mid-Continent Oil and Gas Association.
- (3) The Louisiana Oil and Gas Association.
- (4) The Louisiana Chapter of the National Association of Royalty Owners.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the director of the Louisiana State Law Institute, the secretary of the Department of Natural Resources, the chairman of the Louisiana State Mineral and Energy Board, the executive director of the Louisiana Landowners Association, the president of the Louisiana Mid-Continent Oil and Gas Association, the president of the Louisiana Oil and Gas Association, and the executive director of the Louisiana Chapter of the National Association of Royalty Owners.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

February 6, 2019

Representative Taylor F. Barras  
Speaker of the House of Representatives  
P.O. Box 94062  
Baton Rouge, Louisiana 70804

**INTERIM REPORT TO THE LEGISLATURE IN RESPONSE TO  
HOUSE RESOLUTION NO. 238 OF THE 2018 REGULAR SESSION**

House Resolution No. 238 of the 2018 Regular Session urges and requests that the Louisiana State Law Institute study the classification of production payments under Louisiana law. Specifically, the resolution calls on the Law Institute to consider and make recommendations with respect to a possible clarification of Louisiana law on the subject of production payments, and to consider a codification of the U.S. Fifth Circuit Court of Appeals' holding in the case of *Adams v. Chesapeake Operating, Inc.* In fulfillment of this request, the Law Institute assigned this project to its Mineral Law Committee. The several identified constituencies as set forth in the resolution have been invited to participate in the meetings of the Committee.

The Committee has conducted background research with respect to the issue listed above, including *Adams v. Chesapeake Operating, Inc.*, related cases, and production payments under Title 31 of the Louisiana Revised Statutes, and plans to meet in the near future to discuss and prepare recommendations on the issue. Upon approval of such recommendation by the Law Institute's Council, a final report will be submitted to the Legislature.

Respectfully submitted,

Patrick S. Ottinger, Reporter  
Mineral Law Committee  
Louisiana State Law Institute