

SENATE FILE NO. SF0139

Tax lien enforcement-2.

Sponsored by: Select Committee on Coal/Mineral Bankruptcies

A BILL

for

1 AN ACT relating to ad valorem taxation; amending provisions
 2 for perfection of tax liens; amending notice of tax lien
 3 provisions; amending the definition of "delinquent
 4 taxpayer" for purposes of liens on mineral production; and
 5 providing for an effective date.

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7 *Be It Enacted by the Legislature of the State of Wyoming:*

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9 **Section 1.** W.S. 39-13-108(d)(vi)(A), (B), (C)(intro),
 10 (D), (E)(intro), (V), (F) and (O) is amended to read:

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12 **39-13-108. Enforcement.**

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14 (d) Liens. The following shall apply:

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1 (vi) Liens on mineral production. The following
2 shall apply:

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4 (A) All taxes, fees, penalties and interest
5 imposed upon mineral production under this article are an
6 automatic and continuing lien in favor of the county in
7 which the mineral was produced. For any lien related to
8 mineral production on or after January 1, 2021, the county
9 lien is perpetual against all persons excluding the United
10 States and the state of Wyoming and attaches and is
11 perfected immediately upon production of the mineral.
12 ~~subject to all prior existing liens.~~The lien is on all
13 property in the county, real, tangible and intangible,
14 including all after acquired property rights, future
15 production and rights to property, of any ~~delinquent~~
16 taxpayer to the extent permitted by W.S. 39-14-103(c)(i),
17 39-14-203(c)(i), 39-14-303(c)(i), 39-14-403(c)(i),
18 39-14-503(c)(i), 39-14-603(c)(i) and 39-14-703(c)(i);

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20 (B) A lien under this paragraph is also a
21 lien on all interests of the ~~delinquent~~-taxpayer in the
22 mineral estate from which the production was severed, and
23 on all future production of the same mineral from the same

1 leasehold, regardless of any change of ownership or change
2 in the person extracting the mineral. A lien under this
3 paragraph shall not apply to a royalty interest, overriding
4 royalty or other interest carved out of the mineral estate
5 of an owner who is not a delinquent taxpayer;

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7 (C) For any lien related to mineral
8 production on or after January 1, 2021, a county lien
9 arising under this paragraph is superior and paramount to
10 all other liens, claims, mortgages or any other encumbrance
11 of any kind ~~except as provided in subparagraph (A) of this~~
12 ~~section~~ and the lien shall survive foreclosure actions
13 until paid in full or until released by the lienholder.
14 Except as otherwise provided in this subparagraph, any lien
15 arising under this paragraph related to mineral production
16 before January 1, 2021 is superior and paramount to all
17 other liens, claims, mortgages or any other encumbrance of
18 any kind held by any person except a lien, claim, mortgage
19 or other encumbrance of record held by a bona fide creditor
20 and properly perfected, filed or recorded under Wyoming law
21 prior to the filing of a lien as provided by subparagraph
22 (E) of this paragraph if the county fails to:

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1 (D) The county may file a notice of lien at
2 any time at its discretion, ~~subject to the priorities in~~
3 ~~subparagraph (C)~~ as provided in subparagraph (E) of this
4 paragraph, except no lien shall be enforced until the right
5 of the taxpayer to file and properly perfect an appeal
6 concerning the tax delinquent property before the state
7 board of equalization has expired. A properly perfected
8 appeal on the tax delinquent property before the state
9 board of equalization or any subsequent properly perfected
10 appeal on the same property to a district court or the
11 supreme court shall stay enforcement of a lien filed by the
12 county until such appeal has been exhausted or concluded;

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14 (E) In order to perfect any lien arising
15 under this paragraph related to mineral production before
16 January 1, 2021, or bring an action to enforce or foreclose
17 a tax lien under this paragraph, the county treasurer shall
18 file a notice of the tax lien and a certified copy of the
19 delinquent tax statement with the clerk and recorder of the
20 real estate records in the county in which the mineral
21 production occurred. A copy of the lien shall be filed with
22 the secretary of state, but such filing is not required to
23 perfect, enforce or foreclose the lien. Nothing in this

1 subparagraph shall be deemed to require a county to perfect
2 a lien that is perfected immediately under subparagraph (A)
3 of this paragraph. The notice of the tax lien shall
4 contain:

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6 (V) A statement that the amount of the
7 unpaid tax, fees, penalties or interest is a lien on all
8 property, real, tangible or intangible, including all after
9 acquired property and rights to the property belonging to
10 the delinquent taxpayer to the extent permitted by W.S.
11 39-14-103(c)(i), 39-14-203(c)(i), 39-14-303(c)(i),
12 39-14-403(c)(i), 39-14-503(c)(i), 39-14-603(c)(i) and
13 39-14-703(c)(i) and located within the county, as well as
14 all interest of the delinquent taxpayer in the mineral
15 estate from which the production was severed and any future
16 production from the same mineral leasehold regardless of
17 any change of ownership or change in the person extracting
18 the mineral.

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20 (F) No other action beyond that described
21 in subparagraph (E) of this paragraph shall be required to
22 perfect any lien arising under this paragraph related to

1 mineral production before January 1, 2021, or bring an
2 action to enforce or foreclose a tax lien;

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4 (0) As used in this paragraph, "delinquent
5 taxpayer" means any person who has ~~the legal~~ any
6 responsibility to pay ad valorem taxes, fees, penalties or
7 interest on mineral production and who has not made all or
8 any portion of the required payment as of the date due ~~of~~
9 ~~such for payment of the~~ taxes, fees, penalties or interest.

10 A delinquent taxpayer may include a mineral lessee who is
11 receiving production from the mineral interest; the mineral
12 lessor to the extent of the lessor's retained interest; an
13 owner of a royalty, overriding royalty or other interest
14 carved out of the mineral estate; or a person severing the
15 mineral, ~~if the person has the legal responsibility for~~
16 ~~remittance of ad valorem tax, fees, penalties or interest~~
17 ~~on the mineral production.~~ "Delinquent taxpayer" ~~does~~ shall
18 not include an owner of a royalty interest, overriding
19 royalty or other interest carved out of the mineral estate
20 if the person who is producing the mineral ~~and legally~~
21 ~~responsible for remitting ad valorem taxes, fees, penalties~~
22 ~~or interest on production~~ withholds a portion of the
23 royalty, overriding royalty or other interest carved out of

1 the mineral estate for the purpose of remitting taxes,
2 fees, penalties or interest on behalf of the owner.

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4 **Section 2.** This act is effective July 1, 2020.

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(END)