

ENROLLED ACT NO. 60, SENATE

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING  
2020 BUDGET SESSION

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

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

**Section 1.** W.S. 39-13-108(d)(vi)(intro), (A), (B), (C)(intro), (E)(V) and (O) and by creating a new paragraph (vii) is amended to read:

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

(d) Liens. The following shall apply:

(vi) Liens on mineral production before January 1, 2021. The following shall apply:

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

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(B) A lien under this paragraph is also a lien on all interests of the ~~delinquent~~ taxpayer in the mineral estate from which the production was severed, and on all future production of the same mineral from the same leasehold, regardless of any change of ownership or change in the person extracting the mineral. A lien under this paragraph shall not apply to a royalty interest, overriding royalty or other interest carved out of the mineral estate of an owner who is not a delinquent taxpayer;

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

(E) In order to perfect or bring an action to enforce or foreclose a tax lien under this paragraph, the county treasurer shall file a notice of the tax lien and a certified copy of the delinquent tax statement with the clerk and recorder of the real estate records in the county in which the mineral production occurred. A copy of the lien shall be filed with the secretary of state, but such filing is not required to perfect, enforce or

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foreclose the lien. Nothing in this subparagraph shall be deemed to require a county to perfect a lien that is perfected immediately under subparagraph (A) of this paragraph. The notice of the tax lien shall contain:

(V) A statement that the amount of the unpaid tax, fees, penalties or interest is a lien on all property, real, tangible or intangible, including all after acquired property and rights to the property belonging to the delinquent taxpayer to the extent permitted by W.S. 39-14-103(c)(i), 39-14-203(c)(i), 39-14-303(c)(i), 39-14-403(c)(i), 39-14-503(c)(i), 39-14-603(c)(i) and 39-14-703(c)(i) and located within the county, as well as all interest of the delinquent taxpayer in the mineral estate from which the production was severed and any future production from the same mineral leasehold regardless of any change of ownership or change in the person extracting the mineral. Any new owner or new person extracting the mineral shall not be subject to a prior lien under this paragraph if the new owner or new person extracting the mineral furnishes evidence of a certification from the applicable taxing authorities to the previous owner or previous person extracting the mineral that at the time of the sale or transfer to the new owner or new person extracting the mineral, payment of all state and local taxes imposed upon mineral production was current or the applicable taxing authorities had released, settled or agreed to other payment terms.

(O) As used in this paragraph, "delinquent taxpayer" means any person who has ~~the legal~~ any responsibility to pay ad valorem taxes, fees, penalties or interest on mineral production and who has not made full payment as of the date due ~~of such~~ for payment of the taxes, fees, penalties or interest. A delinquent taxpayer

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may include a mineral lessee who is receiving production from the mineral interest; the mineral lessor to the extent of the lessor's retained interest; an owner of a royalty, overriding royalty or other interest carved out of the mineral estate; or a person severing the mineral. ~~if the person has the legal responsibility for remittance of ad valorem tax, fees, penalties or interest on the mineral production.~~ "Delinquent taxpayer" ~~does~~ shall not include an owner of a royalty interest, overriding royalty or other interest carved out of the mineral estate if the person who is producing the mineral ~~and legally responsible for remitting ad valorem taxes, fees, penalties or interest on production~~ withholds a portion of the royalty, overriding royalty or other interest carved out of the mineral estate for the purpose of remitting taxes, fees, penalties or interest on behalf of the owner.

(vii) Liens on mineral production on or after January 1, 2021. The following shall apply:

(A) All taxes, fees, penalties and interest imposed upon mineral production under this article are an automatic and continuing lien in favor of the county in which the mineral was produced. The county lien is perpetual against all persons excluding the United States and the state of Wyoming and attaches and is perfected immediately upon production of the mineral. The lien is on all property in the county, real, tangible and intangible, including all after acquired property rights, future production and rights to property, of any taxpayer to the extent permitted by W.S. 39-14-103(c)(i), 39-14-203(c)(i), 39-14-303(c)(i), 39-14-403(c)(i), 39-14-503(c)(i), 39-14-603(c)(i) and 39-14-703(c)(i);

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(B) A lien under this paragraph is also a lien on all interests of the taxpayer in the mineral estate from which the production was severed, and on all future production of the same mineral from the same leasehold, regardless of any change of ownership or change in the person extracting the mineral. A lien under this paragraph shall not apply to a royalty interest, overriding royalty or other interest carved out of the mineral estate of an owner who is not a delinquent taxpayer;

(C) A county lien arising under this paragraph is superior and paramount to all other liens, claims, mortgages or any other encumbrance of any kind except any superior lien existing before January 1, 2021 and the lien shall survive foreclosure actions until paid in full or until released by the lienholder. Any new owner or new person extracting the mineral shall not be subject to a prior lien under this paragraph if the new owner or new person extracting the mineral furnishes evidence of a certification from the applicable taxing authorities to the previous owner or previous person extracting the mineral that at the time of the sale or transfer to the new owner or new person extracting the mineral, payment of all state and local taxes imposed upon mineral production was current or the applicable taxing authorities had released, settled or agreed to other payment terms;

(D) No lien shall be enforced until the right of the taxpayer to file and properly perfect an appeal concerning tax delinquent property before the state board of equalization has expired. A properly perfected appeal on the tax delinquent property before the state board of equalization or any subsequent properly perfected appeal on the same property to a district court or the supreme court shall stay enforcement of a lien filed by the

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county until such appeal has been exhausted or concluded. Nothing in this subparagraph shall be deemed to relieve any taxpayer of the requirement to pay any tax when due under this title;

(E) In order to foreclose a tax lien under this paragraph pursuant to a tax sale under subsection (e) of this section, the county treasurer shall file a notice of the intent to foreclose and a certified copy of the delinquent tax statement with the clerk and recorder of the real estate records in the county in which the mineral production occurred. A copy of the intent to foreclose shall be provided to the person against whose property the lien is filed at the last known address of the person. The notice of the intent to foreclose shall contain:

(I) The name and last known address of the person or persons against whose property the lien is filed including, but not limited to, the delinquent taxpayer;

(II) The name and address of the county as the holder of the lien and the name of the contact person within the county;

(III) The amount of the tax, fees, penalties and interest owed;

(IV) A legal description of the premises of the mineral estate of the taxpayer from which the mineral was produced, detailed to at least the township, range and section.

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(F) No other action beyond that described in subparagraph (E) of this paragraph shall be required to foreclose a tax lien;

(G) One (1) notice of the intent to foreclose shall be deemed sufficient to cover all taxes, together with interest, fees and penalty of the same nature which may accrue after the filing of the notice;

(H) Any tax lien created under this paragraph shall survive the death or incapacitation of any person, and shall survive any other destruction or attempted destruction of any interest in property owned by any person liable under Wyoming law for the collection, payment or remittance of taxes, fees, penalties or interest to the county;

(J) In the event of foreclosure, the county shall be entitled to recover the costs of filing the lien, foreclosing on the lien and reasonable attorney's fees;

(K) A notice of intent to foreclose shall be released within sixty (60) days after taxes, penalties and interest due are paid or collected;

(M) Notwithstanding that the lien is a lien on all interests in the mineral estate from which the production was severed and on all future production from the same leasehold to the extent permitted by W.S. 39-14-103(c)(i), 39-14-203(c)(i), 39-14-303(c)(i), 39-14-403(c)(i), 39-14-503(c)(i), 39-14-603(c)(i) and 39-14-703(c)(i), the county may, for good cause shown, release the lien on all property in the county, real, tangible and intangible, and settle delinquent taxes,

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interest and penalties to be collected against future production from that leasehold;

(N) As used in this paragraph, "delinquent taxpayer" means any person who has any responsibility to pay ad valorem taxes, fees, penalties or interest on mineral production and who has not made full payment as of the date due for payment of the taxes, fees, penalties or interest. A delinquent taxpayer may include a mineral lessee who is receiving production from the mineral interest; the mineral lessor to the extent of the lessor's retained interest; an owner of a royalty, overriding royalty or other interest carved out of the mineral estate; or a person severing the mineral. "Delinquent taxpayer" shall not include an owner of a royalty interest, overriding royalty or other interest carved out of the mineral estate if the person who is producing the mineral withholds a portion of the royalty, overriding royalty or other interest carved out of the mineral estate for the purpose of remitting taxes, fees, penalties or interest on behalf of the owner.

ORIGINAL SENATE  
FILE NO. SF0139

ENGROSSED

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

(END)

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Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

\_\_\_\_\_  
Chief Clerk