



SF0139

Tax lien enforcement-2.

Sponsored By: Select Committee on Coal/Mineral Bankruptcies

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.

2/13/2020 Bill Number Assigned
2/13/2020 S Received for Introduction
2/14/2020 S Introduced and Referred to S01 - Judiciary 30-0-0-0-0

ROLL CALL

Ayes: Senator(s) Agar, Anderson, Anselmi-Dalton, Baldwin, Bebout, Biteman, Boner, Bouchard, Case, Coe, Dockstader, Driskill, Ellis, Gierau, Hicks, Hutchings, James, Kinskey, Kost, Landen, Moniz, Nethercott, Pappas, Perkins, Rothfuss, Schuler, Scott, Steinmetz, Von Flatern, Wasserburger

Ayes 30 Nays 0 Excused 0 Absent 0 Conflicts 0

2/20/2020 S01 - Judiciary:Recommend Do Pass 5-0-0-0-0

ROLL CALL

Ayes: Senator(s) Anselmi-Dalton, Boner, Kost, Nethercott, Von Flatern

Ayes 5 Nays 0 Excused 0 Absent 0 Conflicts 0

2/20/2020 S Placed on General File
2/25/2020 S COW:Passed
2/26/2020 S 2nd Reading:Passed

SF0139S3001/ADOPTED

Page 5-line 18 After "mineral." insert:

"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.". PERKINS

SF0139S3002/ADOPTED

Page 3-line 12 Before "and the lien" insert "except any superior lien existing before January 1, 2021,". PERKINS

2/27/2020 S 3rd Reading:Passed 29-1-0-0-0

ROLL CALL

Ayes: Senator(s) Agar, Anderson, Anselmi-Dalton, Baldwin, Bebout, Boner, Bouchard, Case, Coe, Dockstader, Driskill, Ellis, Gierau, Hicks, Hutchings, James, Kinskey, Kost, Landen, Moniz, Nethercott, Pappas, Perkins, Rothfuss, Schuler, Scott, Steinmetz, Von Flatern, Wasserburger

Nays: Senator Biteman

Ayes 29 Nays 1 Excused 0 Absent 0 Conflicts 0

3/2/2020 H Received for Introduction
3/3/2020 H Introduced and Referred to H09 - Minerals
3/4/2020 H09 - Minerals:Recommend Do Pass 9-0-0-0-0

ROLL CALL

Ayes: Representative(s) Burkhart, Crank, Duncan, Eyre, Furphy, Greear, Henderson, Loucks, Macguire

Ayes 9 **Nays** 0 **Excused** 0 **Absent** 0 **Conflicts** 0

3/4/2020 H Placed on General File

SF0139HW001/ADOPTED

(TO ENGROSSED COPY)

Page 1-line 9 After "(d)(vi)" insert "(intro)".

Page 1-line 10 Delete entirely and insert "(E)(V) and (O) and by creating a new paragraph (vii) is amended to read:".

Page 2-line 1 After "production" insert "before January 1, 2021".

Page 2-line 7 After "produced" strike balance of line.

Page 2-lines 8 through 10 Strike entirely.

Page 2-line 11 Strike line through "mineral"; delete ".".

Page 2-line 12 Reinsert all stricken language.

Page 3-line 7 After "(C)" strike balance of line.

Page 3-lines 8 through 10 Strike entirely.

Page 3-line 11 Strike "of any kind except".

Page 3-line 12 Delete all new language.

Page 3-lines 13 and 14 Strike entirely.

Page 3-line 15 Strike line through "subparagraph".

Page 3-line 16 After "paragraph" strike balance of line.

Page 3-line 17 Strike "January 1, 2021".

Page 4-lines 2 through 13 Delete entirely.

Page 4-lines 15 through 17 Delete all new language.

Page 6-lines 8 through 12 Delete entirely.

Page 6-line 17 Delete "all or".

Page 6-line 18 Delete "any portion of the required" and insert "full".

Page 7-after line 12 Insert:

"(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);

(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 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.

(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, 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." . GREEAR, BARLOW

3/9/2020 H COW:Passed
3/10/2020 H 2nd Reading:Passed
3/11/2020 H 3rd Reading:Passed 47-12-1-0-0

ROLL CALL

Ayes: Representative(s) Barlow, Blackburn, Blake, Brown, Burkhart, Burlingame, Clausen, Clem, Clifford, Connolly, Crank, Dayton-Selman, Duncan, Eklund, Eyre, Flitner, Freeman, Greear, Haley, Harshman, Hunt, Kinner, Kirkbride, Larsen Lloyd, Lindholm, Loucks, Macguire, Miller, Nicholas, Northrup, Obermueller, Olsen, Paxton, Pelkey, Pownall, Roscoe, Schwartz, Simpson, Sommers, Stith, Sweeney, Walters, Washut, Western, Wilson, Yin, Zwonitzer

Nays: Representative(s) Edwards, Furphy, Gray, Hallinan, Jennings, Laursen Dan, Newsome, Piiparinen, Salazar, Styvar, Tass, Winter

Excused: Representative Henderson

Ayes 47 **Nays** 12 **Excused** 1 **Absent** 0 **Conflicts** 0

3/11/2020 S Received for Concurrence

3/11/2020 S Concur:Passed 25-4-1-0-0

ROLL CALL

Ayes: Senator(s) Anderson, Anselmi-Dalton, Baldwin, Bebout, Boner, Case, Coe, Dockstader, Driskill, Ellis, Gierau, Hicks, Kinskey, Kost, Landen, Moniz, Nethercott, Pappas, Perkins, Rothfuss, Schuler, Scott, Steinmetz, Von Flatern, Wasserburger

Nays: Senator(s) Biteman, Bouchard, Hutchings, James

Excused: Senator Agar

Ayes 25 **Nays** 4 **Excused** 1 **Absent** 0 **Conflicts** 0

3/11/2020 Assigned Number SEA No. 0060

3/12/2020 S President Signed SEA No. 0060

3/12/2020 H Speaker Signed SEA No. 0060

3/24/2020 Governor Signed SEA No. 0060

3/24/2020 Assigned Chapter Number 141

Chapter No. 141 Session Laws of Wyoming 2020