

SENATE FILE NO. SF0052

Minerals-property tax lien.

Sponsored by: Senator(s) Case and Representative(s) Cooper

A BILL

for

1 AN ACT relating to taxation and revenue; providing for  
2 property tax liens on mineral production as specified;  
3 providing a definition; and providing for an effective  
4 date.

5

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

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8 **Section 1.** W.S. 39-13-108(d) by creating a new  
9 paragraph (vi) is amended to read:

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11 **39-13-108. Enforcement.**

12

13 (d) Liens. The following shall apply:

14

15 (vi) Liens on mineral production. The following  
16 shall apply:

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1                   (A) All taxes, fees, penalties and interest  
2 imposed upon mineral production under this article are an  
3 automatic and continuing lien in favor of the county in  
4 which the mineral was produced. The lien is on all property  
5 in the county, real, tangible and intangible, including all  
6 after acquired property rights, future production and  
7 rights to property, of any delinquent taxpayer to the  
8 extent permitted by W.S. 39-14-103(c)(i), 39-14-203(c)(i),  
9 39-14-303(c)(i), 39-14-403(c)(i), 39-14-503(c)(i),  
10 39-14-603(c)(i) and 39-14-703(c)(i);

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12                   (B) A lien under this paragraph is also a  
13 lien on all interests of the delinquent taxpayer in the  
14 mineral estate from which the production was severed, and  
15 on all future production of the same mineral from the same  
16 leasehold, regardless of any change of ownership or change  
17 in the person extracting the mineral;

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19                   (C) Any lien arising under this paragraph  
20 is superior and paramount to all other liens, claims,  
21 mortgages or any other encumbrance of any kind except a  
22 lien, claim, mortgage or other encumbrance of record held  
23 by a bona fide creditor and properly perfected, filed or

1 recorded under Wyoming law prior to the filing of a lien as  
2 provided by subparagraph (E) of this paragraph;

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

15  
16 (E) In order to perfect a tax lien under  
17 this paragraph, the county treasurer shall file a notice of  
18 the tax lien with the clerk and recorder of the real estate  
19 records in the county in which the mineral production  
20 occurred. The notice of the tax lien shall contain:

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22 (I) The name and last known address of  
23 the person or persons against whose property the lien is

1 filed including, but not limited to, the delinquent  
2 taxpayer;

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

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

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11 (IV) A legal description of the  
12 premises from which the mineral was produced;

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14 (V) A statement that the amount of the  
15 unpaid tax, fees, penalties or interest is a lien on all  
16 property, real, tangible or intangible, including all after  
17 acquired property and rights to the property belonging to  
18 the delinquent taxpayer to the extent permitted by W.S.  
19 39-14-103(c) (i), 39-14-203(c) (i), 39-14-303(c) (i),  
20 39-14-403(c) (i), 39-14-503(c) (i), 39-14-603(c) (i) and  
21 39-14-703(c) (i) and located within the county, as well as  
22 all interest of the delinquent taxpayer in the mineral  
23 estate from which the production was severed and any future  
24 production from the same mineral leasehold.

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

(G) The filing of the notice of the tax lien as described in subparagraph (E) of this paragraph shall constitute record notice of the tax lien;

(H) One (1) notice of the tax lien 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;

(J) Any tax lien created under this paragraph and duly filed 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;

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

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5                   (M) All notice of tax liens shall be  
6 released within sixty (60) days after taxes, penalties and  
7 interest due are paid or collected;

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9                   (N) Notwithstanding that the lien is a lien  
10 on all interests in the mineral estate from which the  
11 production was severed and on all future production from  
12 the same leasehold to the extent permitted by W.S.  
13 39-14-103(c)(i), 39-14-203(c)(i), 39-14-303(c)(i),  
14 39-14-403(c)(i), 39-14-503(c)(i), 39-14-603(c)(i) and  
15 39-14-703(c)(i), the county may for good cause shown,  
16 release the lien on all property in the county, real,  
17 tangible and intangible, and settle delinquent taxes,  
18 interest and penalties to be collected against future  
19 production from that leasehold;

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21                   (O) As used in this paragraph, "delinquent  
22 taxpayer" means any person who has the legal responsibility  
23 to pay ad valorem taxes, fees, penalties or interest on  
24 mineral production and who has not made payment as of the

1 date due of such taxes, fees, penalties or interest. A  
2 delinquent taxpayer may include a mineral lessee who is  
3 receiving production from the mineral interest; the mineral  
4 lessor to the extent of the lessor's retained interest; an  
5 owner of a royalty, overriding royalty or other interest  
6 carved out of the mineral estate; a person severing the  
7 mineral if the person has the legal responsibility for  
8 remittance of ad valorem tax, fees, penalties or interest  
9 on the mineral production.

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11 **Section 2.** This act is effective January 1, 2004.

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(END)