

State of South Dakota

EIGHTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2011

493S0476

SENATE BILL NO. 157

Introduced by: Senators Rave, Hansen (Tom), Lederman, and Rhoden and Representatives Gosch, Brunner, Carson, Fargen, Lust, and Olson (Betty)

1 FOR AN ACT ENTITLED, An Act to establish an agricultural supplier's lien and to provide for
2 its grant, content, filing, priority, and effect.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms, as used in this Act, mean:

5 (1) "Agricultural supplies," pesticides, fertilizer, soil amendments, and animal feed,
6 together with the furnishing of services in delivering or applying the agricultural
7 supplies; and

8 (2) "Agricultural property," crops, products produced by the use of the agricultural
9 supplies, and livestock and their products, including milk. The term does not include
10 real property.

11 Section 2. Any person who furnishes agricultural supplies for the production of agricultural
12 property is entitled to an agricultural supplier's lien upon the agricultural property produced by
13 the use of the agricultural supplies. An agricultural supplier's lien is effective from the date of
14 the agricultural supplies are furnished or the services related to the agricultural supplies are
15 performed. An agricultural supplier's lien may not be filed to secure money advanced or loaned



1 for any purpose.

2 Section 3. To obtain an agricultural supplier's lien, the person entitled to the lien shall,
3 within one hundred twenty days after the agricultural supplies are furnished or the related
4 services are performed, file a verified statement in the office of the register of deeds where the
5 person ordering the agricultural supplies resides. The statement shall contain the following
6 information:

7 (1) The name and address of the person to whom the agricultural supplies were
8 furnished;

9 (2) The name and address of the person furnishing the agricultural supplies;

10 (3) A description of the agricultural property, including any livestock and their amount
11 or number, if known, together with a reasonable description, including the county as
12 to the location of the crops, agricultural supplies, or livestock and the year any crop
13 is to be harvested or was harvested; and

14 (4) A description and value of the agricultural supplies and the first date furnished.

15 The person claiming the lien shall, following the filing of the lien in the office of the register
16 of deeds, file a financing statement in accordance with chapter 57A-9.

17 Section 4. Before an agricultural supplier's lien may be filed, a billing statement for the
18 agricultural supplies furnished shall include notice to the producer that if the amount due to the
19 lien claimant is not satisfied, a lien may be filed. A copy of the billing statement for the
20 agricultural supplies shall be mailed to the last known post office address, by registered or
21 certified mail. A copy of such billing statement and the post office receipt for such mailing shall
22 be attached to the lien statement and filed by the agricultural supplier in the office of the register
23 of deeds.

24 Section 5. The register of deeds shall file such billing statement or agricultural supplier's lien

1 in numerical order and enter each upon a register to be kept for that purpose containing the name
2 of the owner of the property against whom the agricultural supplier's lien is claimed, date of
3 filing, amount, description of the property affected by the agricultural supplier's lien, and a blank
4 space for the date of release.

5 Section 6. An agricultural supplier's lien obtained under the provisions of this Act, timely
6 filed, has priority, as to the agricultural property covered, over all other liens or encumbrances
7 except for any agister's lien pursuant to chapter 40-27, vaccination lien pursuant to chapter 40-
8 27, crop lien pursuant to chapter 38-17, or processors'/threshers' lien pursuant to § 38-17-14.

9 Section 7. Any lienholder of an agricultural supplier's lien may file an amendment to correct
10 the spelling of the debtor's or lienholder's name or correct or change the address of the debtor
11 or lienholder. An amendment or assignment of the lien does not affect the priority of the lien.

12 Section 8. Enforcement, foreclosure, and satisfaction of any agricultural supplier's lien may
13 be had in the same manner as provided for in chapter 21-53 or as provided for in chapter 21-54.

14 Section 9. The register of deeds shall charge a fee in accordance with subdivision 7-9-15(3)
15 for the filing and indexing of any agricultural supplier's lien or assignment of the lien under the
16 provisions of this Act. Proceeds from the fee shall be deposited in the county general fund.
17 However, the register of deeds may not charge a fee for filing any satisfaction or termination of
18 the agricultural supplier's lien.