

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 3882

(SENATE AUTHORS: CARLSON)

DATE
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OFFICIAL STATUS
Introduction and first reading
Referred to Environment and Natural Resources Policy and Legacy Finance

1.1 A bill for an act
1.2 relating to environment; modifying lien provisions for environmental response
1.3 costs; amending Minnesota Statutes 2017 Supplement, section 115B.406,
1.4 subdivision 9.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2017 Supplement, section 115B.406, subdivision 9, is
1.7 amended to read:

1.8 Subd. 9. **Environmental response costs; liens.** (a) All environmental response costs,
1.9 including administrative and legal expenses, incurred by the commissioner at a priority
1.10 qualified facility constitute a lien in favor of the state upon any real property located in the
1.11 state, other than homestead property, owned by the owner or operator of the priority qualified
1.12 facility who is subject to the requirements of section 115B.40, subdivision 4 or 5.

1.13 Notwithstanding section 514.672, a lien under this paragraph continues until the earlier of
1.14 satisfaction of the lien or six years after completion of construction of the final environmental
1.15 response action, not including operation and maintenance.

1.16 (b) If the commissioner conducts an environmental response action at a priority qualified
1.17 facility and the environmental response action increases the fair market value of the facility
1.18 above the fair market value of the facility that existed before the response action was initiated,
1.19 then the state has a lien on the facility for the increase in the fair market value of the property
1.20 attributable to the response action, valued at the time construction of the final environmental
1.21 response action is completed, not including operation and maintenance, or, if earlier, at the
1.22 time of a sale or other disposition of the property, including enforcement of the lien.

1.23 Notwithstanding section 514.672, a lien under this paragraph continues until the earlier of
1.24 satisfaction of the lien by sale or other means or recovery of all response costs incurred at

2.1 the facility. A lien under this paragraph may not be extinguished, limited, or impaired by
2.2 application of section 500.20 or 541.023.

2.3 (c) A lien under this subdivision attaches when the environmental response costs are
2.4 first incurred. Notwithstanding section 514.672, a lien under this subdivision continues until
2.5 the lien is satisfied or six years after completion of construction of the final environmental
2.6 response action, not including operation and maintenance. Notice, filing, ~~and~~ release, and
2.7 enforcement of the lien are governed by sections 514.671 to 514.676, except where those
2.8 requirements specifically are related to only cleanup action expenses as defined in section
2.9 514.671. A lien under this subdivision is not subject to the foreclosure limitation described
2.10 in section 514.674, subdivision 2. Relative priority of a lien under this subdivision is governed
2.11 by section 514.672, except that a lien attached to property that was included in any permit
2.12 for the priority qualified facility takes precedence over all other liens regardless of when
2.13 the other liens were or are perfected. Amounts received to satisfy all or a part of a lien must
2.14 be deposited in the remediation fund.