

AN ACT

ENTITLED, An Act to revise certain provisions regarding crop liens.

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

Section 1. That chapter 38-17 be amended by adding a NEW SECTION to read:

For the purposes of this chapter, the term, crop seeds, means the seeds of grass, forage, cereal, oil, fiber, and other kinds of crop seed commonly recognized within this state as agricultural seed and combinations of such seeds.

Section 2. That § 38-17-2 be amended to read:

38-17-2. In the absence of filing pursuant to § 38-17-1, the provision of any contract reserving title to the grain, seed, or crop produced from a crop growing or to be grown on any lands in this state do not apply to and may not be enforced against an innocent purchaser of the grain, seeds, or crop or against any innocent encumbrancer perfecting a security interest in the grain, seeds, or crop under the provisions of title 57A.

Section 3. That § 38-17-3 be amended to read:

38-17-3. Any person who provides crop seeds to be planted on any lands owned, used, or rented by another person has a lien on the crop produced from the seed if the person providing the seed files the notice described in § 38-17-5. A landlord and tenant may limit the amount of seed to be furnished to a tenant by a provision in a lease if the lease is filed in the office of the register of deeds before the seed is furnished to the tenant.

Section 4. That § 38-17-4 be amended to read:

38-17-4. Any corporation created by virtue of the laws of any other state or territory may furnish crop seed under the provisions of §§ 38-17-3 to 38-17-9, inclusive, without complying with the laws in reference to foreign corporations doing business in this state.

Section 5. That § 38-17-5 be amended to read:

38-17-5. Any person entitled to a lien pursuant to § 38-17-3 shall provide a written account stating the kind, quantity, and value of the seed, the name of the person who furnished the seed, and a description of the land on which the seed has been or is to be planted or sown, and after making oath to the correctness of the account, shall file the same in the office of the register of deeds of the county in which the crop is to be planted.

Section 6. That § 38-17-6 be amended to read:

38-17-6. If the person furnishing any crop seed pursuant to §§ 38-17-3 to 38-17-9, inclusive, is not a resident of this state, the affidavit required by § 38-17-5 may be made by the person's attorney or agent who is a resident of this state. The affidavit shall indicate the nonresidence of the person, and also the fact of the residence of the attorney or agent.

Section 7. That § 38-17-7 be amended to read:

38-17-7. The office of the register of deeds shall file and enter the statements required by § 38-17-5 in the manner required by law in the personal property index. The filing of the statements described in §§ 38-17-5 and 38-17-6 operates as a notice of the lien to all subsequent purchasers and encumbrancers of the property.

Section 8. That § 38-17-8 be amended to read:

38-17-8. Any lien under the provisions of §§ 38-17-3 to 38-17-7, inclusive, if filed within thirty days after the crop seed is furnished, has preference in the order of the filing. The lien has priority over all other liens and encumbrances on the crop, except threshers' liens.

Section 9. That § 38-17-9 be amended to read:

38-17-9. Any person who obtains crop seeds subject to a lien under the provisions of §§ 38-17-3 to 38-17-8, inclusive, and who uses the seed or any part of the seed without the written consent of the person who furnished the seed for any other purpose, is guilty of a Class 2 misdemeanor.

Section 10. That § 38-17-11 be amended to read:

38-17-11. The lien of the United States or its agency is perfected by filing, in like manner as similar lien notices or accounts are filed under § 38-17-5, in the office of the register of deeds of the county in which the seed is to be planted, a notice in writing, verified by the oath of the officer, agent, or representative of the government or agency thereof furnishing the seed or making the loan. The notice shall include: the kind, quantity, and value of the seed furnished or the amount of money loaned; the name of the person to whom the seed was furnished or the money loaned; and a description of the land which the seed has been or is to be sown or planted.

Section 11. That § 38-17-12 be amended to read:

38-17-12. Any person who misappropriates any of the seed, or money loaned to purchase the seed, furnished by the United States or any agency, or any crop grown from the seed, and for which the United States or agency has a lien under the provisions of § 38-17-10, to any purpose except that for which it was furnished or produced, is guilty of a Class 1 misdemeanor.

Section 12. That § 38-17-13 be amended to read:

38-17-13. All other statutes of South Dakota applicable to crop seed liens, including the duties of register of deeds, priorities, foreclosure, and penal provisions, except if a different intention plainly appears, are applicable to federal agency seed liens as provided in §§ 38-17-10 and 38-17-11.

Section 13. That § 38-17-14 be amended to read:

38-17-14. Any person owning and operating farm machinery has a lien from the date of operation on all grain threshed or combined, corn shelled, husked or shredded, silage cut, seeds hulled, or agricultural products baled, mowed, ground, raked, or pulverized by the person with the machine for the value of the services so rendered in operation.

Section 14. That § 38-17-15 be amended to read:

38-17-15. Any person entitled to a lien under § 38-17-14 shall provide a written account stating the kind of grain, and the quantity harvested, threshed, shelled, or otherwise processed, the price

agreed upon for such work, which may not exceed the price usually charged for the service, the name of the person for whom the work was done, and a description of the land on which the crop was grown. After making oath to the correctness of the account, the person shall file the account in the office of the register of deeds in the county in which the land producing the crop is located, and also in the county of the residence of the person who produced the crop, if the person is a resident of this state. The office of the register of deeds shall file and enter the account in the manner required by law in the personal property index. The filing serves as notice to all purchasers and encumbrancers subsequent to the date of the filing.

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I certify that the attached Act
originated in the
HOUSE as Bill No. 1115

\_\_\_\_\_  
Chief Clerk
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\_\_\_\_\_  
Speaker of the House

Attest:

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

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

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1115  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office
this \_\_\_\_ day of \_\_\_\_\_,
20\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor
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The attached Act is hereby
approved this \_\_\_\_\_ day of
\_\_\_\_\_, A.D., 20\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State