

AN ACT

ENTITLED, An Act to provide for the collection of certain gaming taxes, penalties, and interest and to declare an emergency.

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

Section 1. That chapter 42-7B be amended by adding thereto a NEW SECTION to read as follows:

Any tax, penalty, or interest due under this chapter is a lien in favor of the commission upon all property and rights to property whether real or personal belonging to the taxpayer. In order to preserve the lien against subsequent mortgages, purchasers, or judgment creditors for value and without actual notice of the lien on any property situated in a county, the commission may file with the register of deeds of the county a notice of the tax lien in such form as the commission determines. The priority of the lien shall be determined as of the date the notice of tax lien is received and indexed by the register of deeds. The notice of tax lien shall create a lien in each county where the notice of tax lien is recorded.

Section 2. That chapter 42-7B be amended by adding thereto a NEW SECTION to read as follows:

After a notice of lien has been filed as provided in section 1 of this Act, the commission may at any time require the county treasurer to issue a distress warrant in the manner provided in chapter 10-56. Immediately upon receipt of the warrant, the sheriff shall proceed to collect the tax, penalty, or interest due by seizure and sale of personal property as provided in chapter 10-56. The sheriff shall remit the amount collected to the county treasurer who shall remit the money to the commission. For such service, the sheriff may collect from the taxpayer and retain the compensation provided in chapter 10-56, but the sheriff's compensation may not be deducted from any tax, penalty, or interest collected.

Checking, savings, and similar accounts are personal property and are subject to seizure by the sheriff for the purpose of satisfying the distress warrant.

Section 3. That chapter 42-7B be amended by adding thereto a NEW SECTION to read as follows:

If a corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership subject to tax under this chapter fails for any reason to file the required returns or to pay the tax due, any of the corporate officers, member-managers or managers of limited liability companies, or partners of partnerships that control, supervise, or are charged with the responsibility of filing the returns or remitting tax payments shall be personally liable for the failure. The dissolution of a corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership does not discharge an officer, member-manager, manager, or partner's liability for a prior failure of the corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership to file a return or remit the tax due. The sum due for such a liability may be assessed and collected as provided by law.

If the corporate officers, limited liability company member-managers or managers, or partners elect not to be personally liable for the failure to file the required returns or to pay the tax due, the corporation, limited liability company, limited partnership, limited liability partnership, or limited liability limited partnership shall provide the commission with a surety bond or certificate of deposit as security for payment of any tax that may become due. The bond or certificate of deposit provided for in this section shall be in an amount equal to the estimated annual taxes due under this chapter.

Section 4. Whereas, this Act is necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full force and effect from and after its passage and approval.

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I certify that the attached Act originated in the

SENATE as Bill No. 146

Secretary of the Senate

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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 146
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