

SENATE FILE NO. SF0139

Tax lien enforcement-2.

Sponsored by: Select Committee on Coal/Mineral Bankruptcies

A BILL

for

1 AN ACT relating to ad valorem taxation; amending provisions  
 2 for perfection of tax liens; amending notice of tax lien  
 3 provisions; amending the definition of "delinquent  
 4 taxpayer" for purposes of liens on mineral production; and  
 5 providing for an effective date.

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

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9       **Section 1.** W.S. 39-13-108(d)(vi)(A), (B), (C)(intro),  
 10 (D), (E)(intro), (V), (F) and (O) is amended to read:

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12       **39-13-108. Enforcement.**

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14       (d) Liens. The following shall apply:

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1           (vi) Liens on mineral production. The following  
2 shall apply:

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4           (A) All taxes, fees, penalties and interest  
5 imposed upon mineral production under this article are an  
6 automatic and continuing lien in favor of the county in  
7 which the mineral was produced. For any lien related to  
8 mineral production on or after January 1, 2021, the county  
9 lien is perpetual against all persons excluding the United  
10 States and the state of Wyoming and attaches and is  
11 perfected immediately upon production of the mineral.  
12 ~~subject to all prior existing liens.~~ The lien is on all  
13 property in the county, real, tangible and intangible,  
14 including all after acquired property rights, future  
15 production and rights to property, of any ~~delinquent~~  
16 taxpayer to the extent permitted by W.S. 39-14-103(c)(i),  
17 39-14-203(c)(i), 39-14-303(c)(i), 39-14-403(c)(i),  
18 39-14-503(c)(i), 39-14-603(c)(i) and 39-14-703(c)(i);

19  
20           (B) A lien under this paragraph is also a  
21 lien on all interests of the ~~delinquent~~-taxpayer in the  
22 mineral estate from which the production was severed, and  
23 on all future production of the same mineral from the same

1 leasehold, regardless of any change of ownership or change  
2 in the person extracting the mineral. A lien under this  
3 paragraph shall not apply to a royalty interest, overriding  
4 royalty or other interest carved out of the mineral estate  
5 of an owner who is not a delinquent taxpayer;

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7 (C) For any lien related to mineral  
8 production on or after January 1, 2021, a county lien  
9 arising under this paragraph is superior and paramount to  
10 all other liens, claims, mortgages or any other encumbrance  
11 of any kind except ~~as provided in subparagraph (A) of this~~  
12 ~~section~~ any superior lien existing before January 1, 2021,  
13 and the lien shall survive foreclosure actions until paid  
14 in full or until released by the lienholder. Except as  
15 otherwise provided in this subparagraph, any lien arising  
16 under this paragraph related to mineral production before  
17 January 1, 2021 is superior and paramount to all other  
18 liens, claims, mortgages or any other encumbrance of any  
19 kind held by any person except a lien, claim, mortgage or  
20 other encumbrance of record held by a bona fide creditor  
21 and properly perfected, filed or recorded under Wyoming law  
22 prior to the filing of a lien as provided by subparagraph  
23 (E) of this paragraph if the county fails to:

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

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15 (E) In order to perfect any lien arising  
16 under this paragraph related to mineral production before  
17 January 1, 2021, or bring an action to enforce or foreclose  
18 a tax lien under this paragraph, the county treasurer shall  
19 file a notice of the tax lien and a certified copy of the  
20 delinquent tax statement with the clerk and recorder of the  
21 real estate records in the county in which the mineral  
22 production occurred. A copy of the lien shall be filed with  
23 the secretary of state, but such filing is not required to

1 perfect, enforce or foreclose the lien. Nothing in this  
2 subparagraph shall be deemed to require a county to perfect  
3 a lien that is perfected immediately under subparagraph (A)  
4 of this paragraph. The notice of the tax lien shall  
5 contain:

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7 (V) A statement that the amount of the  
8 unpaid tax, fees, penalties or interest is a lien on all  
9 property, real, tangible or intangible, including all after  
10 acquired property and rights to the property belonging to  
11 the delinquent taxpayer to the extent permitted by W.S.  
12 39-14-103(c)(i), 39-14-203(c)(i), 39-14-303(c)(i),  
13 39-14-403(c)(i), 39-14-503(c)(i), 39-14-603(c)(i) and  
14 39-14-703(c)(i) and located within the county, as well as  
15 all interest of the delinquent taxpayer in the mineral  
16 estate from which the production was severed and any future  
17 production from the same mineral leasehold regardless of  
18 any change of ownership or change in the person extracting  
19 the mineral. Any new owner or new person extracting the  
20 mineral shall not be subject to a prior lien under this  
21 paragraph if the new owner or new person extracting the  
22 mineral furnishes evidence of a certification from the  
23 applicable taxing authorities to the previous owner or

1 previous person extracting the mineral that at the time of  
2 the sale or transfer to the new owner or new person  
3 extracting the mineral, payment of all state and local  
4 taxes imposed upon mineral production was current or the  
5 applicable taxing authorities had released, settled or  
6 agreed to other payment terms.

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8 (F) No other action beyond that described  
9 in subparagraph (E) of this paragraph shall be required to  
10 perfect any lien arising under this paragraph related to  
11 mineral production before January 1, 2021, or bring an  
12 action to enforce or foreclose a tax lien;

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14 (O) As used in this paragraph, "delinquent  
15 taxpayer" means any person who has ~~the legal~~ any  
16 responsibility to pay ad valorem taxes, fees, penalties or  
17 interest on mineral production and who has not made all or  
18 any portion of the required payment as of the date due ~~of~~  
19 ~~such~~ for payment of the taxes, fees, penalties or interest.

20 A delinquent taxpayer may include a mineral lessee who is  
21 receiving production from the mineral interest; the mineral  
22 lessor to the extent of the lessor's retained interest; an  
23 owner of a royalty, overriding royalty or other interest

1 carved out of the mineral estate; or a person severing the  
2 mineral. ~~if the person has the legal responsibility for~~  
3 ~~remittance of ad valorem tax, fees, penalties or interest~~  
4 ~~on the mineral production.~~ "Delinquent taxpayer" ~~does~~ shall  
5 not include an owner of a royalty interest, overriding  
6 royalty or other interest carved out of the mineral estate  
7 if the person who is producing the mineral ~~and legally~~  
8 ~~responsible for remitting ad valorem taxes, fees, penalties~~  
9 ~~or interest on production~~ withholds a portion of the  
10 royalty, overriding royalty or other interest carved out of  
11 the mineral estate for the purpose of remitting taxes,  
12 fees, penalties or interest on behalf of the owner.

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14 **Section 2.** This act is effective July 1, 2020.

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(END)