

State of South Dakota

NINETY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2017

400Y0201

SENATE BILL NO. 37

Introduced by: The Committee on Taxation at the request of the Department of Revenue

1 FOR AN ACT ENTITLED, An Act to repeal and revise certain outdated provisions regarding
2 liens.

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

4 Section 1. That § 10-46-47 be repealed.

5 ~~— 10-46-47. All of the provisions of §§ 10-43-63 to 10-43-73, inclusive, and all amendments~~
6 ~~that may hereafter be made thereto, providing for creation, notice, recording, and enforcement~~
7 ~~of liens and collection by distress warrant shall apply to and be available for collection of the~~
8 ~~tax imposed by this chapter and said §§ 10-43-63 to 10-43-73, inclusive, are by reference~~
9 ~~incorporated herein.~~

10 Section 2. That § 10-46A-9 be repealed.

11 ~~— 10-46A-9. All of the provisions of §§ 10-43-63 to 10-43-73, inclusive, and all amendments~~
12 ~~that may hereafter be made thereto providing for creation, notice, recording, and enforcement~~
13 ~~of liens and collections by distress warrant shall apply to and be available for collection of the~~
14 ~~tax imposed by this chapter and said sections are by reference incorporated herein.~~

15 Section 3. That § 10-46B-8 be repealed.



1 ~~10-46B-8. All of the provisions of §§ 10-43-63 to 10-43-73, inclusive, and all amendments~~
2 ~~that may hereafter be made thereto providing for creation, notice, recording, and enforcement~~
3 ~~of liens and collections by distress warrant shall apply to and be available for collection of the~~
4 ~~tax imposed by this chapter and said sections are by reference incorporated herein.~~

5 Section 4. That § 10-39-47 be repealed.

6 ~~10-39-47. A tax due and unpaid under this chapter is a lien on all of the property of the~~
7 ~~taxpayer. The lien shall be perfected by the filing and recording of a notice of lien with the~~
8 ~~register of deeds in the county where the taxpayer resides or has property and shall thereafter~~
9 ~~constitute constructive notice to purchasers of the existence and superiority of the lien. The~~
10 ~~notice of lien shall contain the name of the tax debtor, the amount of taxes claimed to be due,~~
11 ~~and a description of the property against which the lien is claimed. The register of deeds of any~~
12 ~~county in which the lien is filed shall index the lien in the same form and manner and in the~~
13 ~~same book as provided for the indexing of income tax liens in chapter 10-43, except that the~~
14 ~~entry in the index shall show that the lien is a severance tax lien. On payment of the tax, the~~
15 ~~secretary of revenue shall release the lien.~~

16 Section 5. That § 10-39A-17 be repealed.

17 ~~10-39A-17. A tax due and unpaid under this chapter is a lien upon all the property of the~~
18 ~~taxpayer against whom the taxes are assessed. A lien is perfected by the filing and recording of~~
19 ~~a notice of lien with the register of deeds of the county where the taxpayer resides or has~~
20 ~~property and constitutes constructive notice to purchasers of the existence and superiority of the~~
21 ~~lien. A notice of lien shall contain the name of the tax debtor, the amount of taxes claimed to~~
22 ~~be due, and a description of the property against which the lien is claimed. The register of deeds~~
23 ~~of the county in which such a lien is filed shall index the lien in the same form and manner and~~
24 ~~in the same book as provided for the indexing of income tax liens in chapter 10-43, except that~~

1 ~~the entry in the index shall show that the lien is a severance tax lien. Upon payment of the tax,~~
2 ~~the secretary shall release the lien.~~

3 Section 6. That § 40-31-16 be amended to read:

4 40-31-16. In the case of failure to pay the tax or any portion ~~thereof~~ of the tax, or any penalty
5 or interest provided for in this chapter, when due, the Department of Agriculture may recover
6 the amount of ~~such~~ the tax, penalty, and interest. ~~All of the~~ The provisions of ~~§§ 10-43-64 to 10-~~
7 ~~43-73~~ §§ 10-59-11 to 10-59-15, inclusive, providing for which provide for the creation, notice,
8 recording, and enforcement of liens, collection by distress warrant, and injunction ~~shall~~, apply
9 to and ~~be~~ are available for collection of the tax imposed by this chapter, ~~and the~~. The secretary
10 of agriculture shall perform the duties specified for the secretary of revenue in ~~said chapter~~, but
11 ~~liens filed and suits brought~~ chapter 10-59. However, any lien or suit filed shall be in the name
12 of the ~~department~~ Department of Agriculture.