

# State of South Dakota

## EIGHTY-FOURTH SESSION LEGISLATIVE ASSEMBLY, 2009

574Q0490

### HOUSE BILL NO. 1162

Introduced by: Representatives Gosch, Cutler, and Engels and Senators Gillespie and Abdallah

1 FOR AN ACT ENTITLED, An Act to provide for joinder of judgment creditors as third parties  
2 in certain foreclosure actions.

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

4 Section 1. That chapter 21-47 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 In any action for foreclosure under chapters 21-47 or 21-49 whenever a creditor has taken  
7 a prior judgment against the mortgagor, or mortgaged real property, the plaintiff shall join any  
8 judgment creditor as a third-party in the following form:

9

10 State of South Dakota \_\_\_\_\_ Court

11 County of \_\_\_\_\_.

12 John Doe, Plaintiff/Mortgagee, vs.

13 Richard Roe, Defendant/Mortgagor, and

14 Michael Moe, Lienholder/Defendant.

15



1       The lienholder/defendant need not answer the complaint or participate in the action. Neither  
2       the plaintiff nor the defendant may apply for costs, as defined in chapter 15-6, if the  
3       lienholder/defendant fails to answer. In any action for foreclosure if the lienholder/defendant  
4       fails to answer, judgment may be obtained only against the defendant/mortgagor.

5       Section 2. That chapter 21-47 be amended by adding thereto a NEW SECTION to read as  
6       follows:

7       In any action for foreclosure under chapters 21-47 or 21-49, the summons and complaint  
8       shall be served on the lienholder/defendant in accordance with subdivision 15-6-4(i).