

2020 South Dakota Legislature

Senate Bill 104**AMENDMENT 104A FOR THE INTRODUCED BILL**1 **An Act to limit entitlement to mechanics' liens.**

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

3 **Section 1.** That § 44-9-1 be AMENDED:4 **44-9-1. Persons entitled to lien--Property affected--Extent of lien--**
5 **Exceptions.**

6 Whoever shall, at the request of the owner or the duly authorized agent or
7 representative of the owner, or of any contractor or subcontractor, furnish skill, labor,
8 services, including light, power, or water, equipment, or materials for the improvement,
9 development, or operation of property as hereinafter specified, shall have a first lien
10 thereon and the appurtenances thereto, prior and superior to all other liens except those
11 of the state or of the United States, and except existing liens, mortgages, or other
12 encumbrances then of record or of which the lien claimant has actual notice, for the price
13 or value of the same, so furnished, subject to the further provisions of this chapter, as
14 follows:

- 15 (1) For the erection, alteration, repair, or removal of any building, fixture, bridge, fence,
16 or other structure or for grading, filling in, or excavating the same, or for digging
17 or repairing any ditch, drain, well, cistern, reservoir, or vault thereon or for laying,
18 altering, or repairing any sidewalk, curb, gutter, paving, sewer, pipe, or conduit in
19 or upon the same or in or upon the adjoining half of any highway, street, or alley
20 upon which the property abuts, a lien upon the said improvement and the land on
21 which it is situated, or to which it may be removed;
- 22 (2) For the construction, alteration, or repair of any line of railway or of any telegraph,
23 telephone, electric light, or power line, or of any line of pipe, conduit, or subway or
24 any structure, appliance, or fixture upon or appertaining to any of them, a lien upon
25 the public utility so constructed, altered, or repaired and upon the line, plants, and
26 property thereof and upon all the rights, franchises, and privileges of the owner

1 appertaining thereto;

2 (3) Upon any mine or mining claim, oil or gas well or spring, a lien upon the same and
3 any rights, privileges, franchises, easements, and tangible property and other
4 property or appliances appurtenant thereto, for any of the items hereinbefore
5 specified or referred to as giving right to a lien.

6 ~~Entitlement to a first lien, as provided for in this section, does not extend to a~~
7 ~~contractor or subcontractor, who furnishes skill, labor, services, or materials, for the~~
8 ~~development, improvement, operation, or repair of a public highway or roadway, if the~~
9 ~~development, improvement, operation, or repair is undertaken principally for the benefit~~
10 ~~of a private entity that is not the owner of the abutting property. The owner of real~~
11 ~~property upon which a county highway or road has been constructed, improved,~~
12 ~~maintained, or repaired is not liable for the cost of the project, and no lien under chapter~~
13 ~~44-9 may be attached to the real property as security for payment of the costs, unless~~
14 ~~the real property owner agreed in writing to pay all or a portion of the cost of the project.~~