



2020 South Dakota Legislature

Senate Bill 104

SENATE COMMERCE AND ENERGY ENGROSSED

Introduced by: **Senator Cammack**

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 The owner of real property upon which a county highway or road has been
7 constructed, improved, maintained, or repaired is not liable for the cost of the project,
8 and no lien under chapter 44-9 may be attached to the real property as security for
9 payment of the costs, unless the real property owner agreed in writing to pay all or a
10 portion of the cost of the project.