

State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

417Z0133

HOUSE BILL NO. 1115

Introduced by: Representatives Duvall, Bartling, Brunner, Chase, Gosch, Hawley, Hunhoff, Lake, McCleerey, Mickelson, Peterson (Kent), Qualm, Reed, Rhoden, Schaefer, and Wismer and Senators Ewing, Cammack, Cronin, Frerichs, Heinert, Klumb, Monroe, Otten (Ernie), and Tidemann

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding crop liens.

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

3 Section 1. That chapter 38-17 be amended by adding a NEW SECTION to read:

4 For the purposes of this chapter, the term, crop seeds, means the seeds of grass, forage,
5 cereal, oil, fiber, and other kinds of crop seed commonly recognized within this state as
6 agricultural seed and combinations of such seeds.

7 Section 2. That § 38-17-2 be amended to read:

8 38-17-2. In the absence of filing pursuant to § 38-17-1, the provision of any ~~such~~ contract
9 reserving title to the grain ~~or~~, seed, or crop produced from a crop growing or to be grown ~~upon~~
10 on any lands in this state ~~in the land~~ ~~shall~~ do not apply to or and may not be enforced against
11 ~~an innocent~~ a purchaser of ~~such~~ the grain ~~or~~, seeds, or crop or against ~~any innocent~~ an
12 encumbrancer perfecting a security interest in ~~such~~ the grain ~~or~~, seeds, or crop under the
13 provisions of ~~Title~~ title 57A.

14 Section 3. That § 38-17-3 be amended to read:



1 38-17-3. Any person who provides ~~wheat, oats, barley, rye, corn, flax, sudan, milo, millet,~~
2 ~~soybeans, sunflowers, or potatoes,~~ crop seeds to be planted ~~upon~~ on any lands owned, used, or
3 rented by another person has a lien ~~upon~~ on the crop produced from the seed; if the person
4 providing the seed files the notice ~~specified~~ described in § 38-17-5. A landlord and tenant may
5 limit the amount of seed to be furnished to a tenant by a provision in a lease if the lease is filed
6 in the office of the register of deeds ~~office~~ before the seed is furnished to the tenant.

7 Section 4. That § 38-17-4 be amended to read:

8 38-17-4. ~~Corporations~~ Any corporation created by virtue of the laws of any other state or
9 territory may furnish crop seed ~~grain~~ under the provisions of §§ 38-17-3 to 38-17-9, inclusive,
10 without complying with the laws in reference to foreign corporations doing business in this
11 state.

12 Section 5. That § 38-17-5 be amended to read:

13 38-17-5. Any person entitled to a lien ~~under~~ pursuant to § 38-17-3 shall ~~make an~~ provide a
14 written account ~~in writing,~~ stating the kind, quantity, and value of the seed ~~furnished in bushels,~~
15 ~~by kind, and the value thereof,~~ the name of the person ~~to whom~~ who furnished the seed, and a
16 description of the land ~~upon~~ on which the ~~same~~ seed has been or is to be planted or sown, and
17 after making oath to the correctness of the account, shall file the same in the office of the
18 register of deeds of the county ~~where~~ in which the crop is to be planted.

19 Section 6. That § 38-17-6 be amended to read:

20 38-17-6. ~~Where~~ If the person furnishing any crop seed ~~grain under the provisions of~~ pursuant
21 to §§ 38-17-3 to 38-17-9, inclusive, is not a resident of this state, the affidavit required by § 38-
22 17-5 may be made by ~~an~~ the person's attorney or agent ~~of such person residing in this state, and~~
23 ~~in such case such~~ who is a resident of this state. ~~The~~ affidavit shall ~~set forth the fact of~~ indicate
24 the nonresidence of ~~such~~ the person, and also the fact of the residence of ~~such~~ the attorney or

1 agent.

2 Section 7. That § 38-17-7 be amended to read:

3 38-17-7. ~~It shall be the duty of the~~ The office of the register of deeds to shall file and enter
4 the statements required by § 38-17-5 in the manner required by law in the personal property
5 index. The filing of ~~said the~~ statements in conformity to described in §§ 38-17-5 and 38-17-6
6 operates as a notice of ~~said the~~ lien to all subsequent purchasers and encumbrancers of ~~said the~~ the
7 property.

8 Section 8. That § 38-17-8 be amended to read:

9 38-17-8. ~~Liens~~ Any lien under the provisions of §§ 38-17-3 to 38-17-7, inclusive, if filed
10 within thirty days after the crop seed ~~grain~~ is furnished, ~~shall have~~ has preference in the order
11 of the filing ~~thereof, and shall have.~~ The lien has priority over all other liens and encumbrances
12 ~~upon said crops~~ on the crop, except threshers' liens.

13 Section 9. That § 38-17-9 be amended to read:

14 38-17-9. Any person who obtains ~~wheat, oats, barley, rye, corn, flax, sudan, milo, millet,~~
15 ~~soybeans, sunflowers, or potatoes~~ crop seeds subject to a lien under the provisions of §§ 38-17-3
16 to 38-17-8, inclusive, and who uses the seed or any part of the seed without the written consent
17 of the person who furnished the seed for any other purpose, is guilty of a Class 2 misdemeanor.

18 Section 10. That § 38-17-11 be amended to read:

19 38-17-11. The ~~said~~ lien of the United States or its agency ~~shall be~~ is perfected by filing, in
20 like manner as similar lien notices or accounts are filed under § 38-17-5, in the office of the
21 register of deeds of the county ~~where such~~ in which the seed is to be planted, a notice in writing,
22 verified by the oath of the officer, agent, or representative of ~~such~~ the government or agency
23 thereof furnishing the seed or making the loan, ~~which.~~ The notice shall show include: the kind,
24 quantity, and value of the seed furnished or the amount of money loaned; the name of the person

1 to whom the seed was furnished or the money loaned; and a description of the ~~lands upon~~ land
2 which the seed has been or is to be sown or planted.

3 Section 11. That § 38-17-12 be amended to read:

4 38-17-12. ~~Whoever~~ Any person who misappropriates any of the seed, or money loaned to
5 purchase the ~~same~~ seed, furnished by the United States or any agency ~~thereof~~, or any crop grown
6 ~~therefrom~~ from the seed, and for which ~~it may have~~ the United States or agency has a lien under
7 the provisions of § 38-17-10, to any purpose except that for which it was furnished or produced,
8 is guilty of a Class 1 misdemeanor.

9 Section 12. That § 38-17-13 be amended to read:

10 38-17-13. All other statutes of South Dakota applicable to crop seed ~~grain~~ liens, including
11 the duties of register of deeds, priorities, foreclosure, and penal provisions, ~~and acts amendatory~~
12 ~~thereof~~, except ~~where~~ if a different intention plainly appears, are ~~hereby made~~ applicable to
13 federal agency seed liens as provided in §§ 38-17-10 and 38-17-11.

14 Section 13. That § 38-17-14 be amended to read:

15 38-17-14. ~~Every~~ Any person owning and operating a ~~threshing machine, combine,~~
16 ~~cornsheller, cornhusker, corn shredder, silage cutter, seed huller, baler, mower, grinder, rake,~~
17 ~~or agricultural pulverizing machine, shall have~~ farm machinery has a lien from the date of
18 ~~threshing, combining, shelling, husking, shredding, cutting, hulling, baling, mowing, grinding,~~
19 ~~raking, or pulverizing, upon~~ operation on all grain threshed or combined, corn shelled, husked
20 or shredded, silage cut, seeds hulled, or agricultural products baled, mowed, ground, raked, or
21 pulverized by ~~him~~ the person with ~~such~~ the machine for the value of the services so rendered
22 in ~~doing such threshing, combining, shelling, husking, shredding, cutting, or hulling, baling,~~
23 ~~mowing, grinding, raking, or pulverizing~~ operation.

24 Section 14. That § 38-17-15 be amended to read:

1 38-17-15. Any person entitled to a lien under § 38-17-14 shall ~~make an~~ provide a written
2 account ~~in writing~~ stating the kind of grain, and the quantity harvested, threshed, shelled, or
3 otherwise processed, the price agreed upon for such work, which ~~shall not be in excess of~~ may
4 not exceed the price usually charged for ~~such~~ the service, the name of the person for whom ~~said~~
5 the work was done, and a description of the land ~~upon on~~ which ~~said~~ the crop was grown, ~~and~~
6 ~~after.~~ After making oath to the correctness of the account, the person shall file the ~~same~~ account
7 in the office of the register of deeds in the county in which the land ~~from which said~~ producing
8 the crop ~~was produced~~ is located, and also in the county of the residence of the person who
9 produced ~~said~~ the crop, if ~~he be~~ the person is a resident of ~~South Dakota.~~ It shall be the duty of
10 ~~the~~ this state. The office of the register of deeds ~~to~~ shall file and enter ~~said~~ the account in the
11 manner required by law in the personal property index, ~~and such.~~ The filing shall operate serves
12 as notice to all purchasers and encumbrancers subsequent to the date of ~~said~~ the filing.