

FEB 22 2001
Agriculture

HOUSE FILE 377
BY TEIG

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for agricultural liens.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

CUSTOM CATTLE FEEDLOT LIEN

Section 1. Section 579A.1, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. "Lien" means a custom cattle feedlot lien created in section 579A.2.

Sec. 2. Section 579A.1, subsection 5, Code 2001, is amended to read as follows:

5. "Personal representative" means a person who is authorized by the owner of a custom cattle feedlot to act on behalf of the owner, including by executing an agreement, managing a custom cattle feedlot, ~~or~~ filing a financing statement to perfect a lien, and enforcing ~~liens~~ a lien under this chapter.

Sec. 3. Section 579A.2, Code 2001, is amended to read as follows:

579A.2 ESTABLISHMENT OF LIEN -- PRIORITY.

1. A custom cattle feedlot lien is created. The lien is an agricultural lien as provided in section 554.9302.

2. A custom cattle feedlot operator shall have a lien upon the cattle and the identifiable cash proceeds from the sale of the cattle for the amount of the contract price for the feed and care of the cattle at the custom cattle feedlot pursuant to a written or oral agreement by the custom cattle feedlot operator and the person who owns the cattle, which may be enforced as provided in section 579A.3. The custom cattle feedlot operator is a secured party and the owner of the cattle is a debtor for purposes of chapter 554, article 9.

~~2. 3. The~~ A custom cattle feedlot lien is created becomes effective at the time the cattle arrive at the custom cattle feedlot ~~and continues for one year after the cattle have left the custom cattle feedlot.~~ In order to preserve perfect the lien, the custom cattle feedlot operator ~~must, within twenty days after the cattle arrive at the custom cattle feedlot,~~ file must file a financing statement in the office of the

1 secretary of state, a lien statement on a form prescribed by
2 the secretary of state as provided in section 554.9308 within
3 twenty days after the cattle arrive at the custom cattle
4 feedlot. The secretary of state shall charge a fee of not
5 more than ten dollars for filing the statement. The secretary
6 of state may adopt rules pursuant to chapter 17A for the
7 electronic filing of the statements. The statement must
8 include all of the following:

9 a. An estimate of the amount of feed and care provided to
10 the cattle pursuant to the contract. The financing statement
11 shall meet the requirements of section 554.9502, subsection 1,
12 and include all applicable information described in section
13 554.9516.

14 b. The estimated duration of the period when the cattle
15 are subject to feed and care at the custom cattle feedlot.
16 The lien terminates one year after the cattle have left the
17 custom cattle feedlot. Section 554.9515 shall not apply to a
18 financing statement perfecting the lien. The lien may be
19 terminated by the custom cattle feedlot operator who files a
20 termination statement as provided in chapter 554, article 9.

21 c. The name of the party to the contract whose cattle are
22 subject to feed and care at the custom cattle feedlot.

23 d. The description of the location of the custom cattle
24 feedlot, by county and township.

25 e. The printed name and signature of the person filing the
26 form.

27 4. Filing a financing statement as provided in this
28 section satisfies all requirements for perfection of an
29 agricultural lien as provided in chapter 554, article 9.

30 3. 5. a. Except as provided in chapter 58, this
31 paragraph, a custom cattle feedlot lien created that is
32 perfected under this section until preserved and a lien
33 preserved under this section is superior to and shall have
34 priority over a conflicting lien or security interest in the
35 cattle, including a lien or security interest that was

1 perfected prior to the ~~creation-of-the~~ perfection of the
2 custom cattle feedlot lien provided-under-this-section.
3 However, a custom cattle feedlot lien shall not be superior to
4 a veterinarian's lien created under chapter 581, that is
5 perfected as an agricultural lien as provided in chapter 554,
6 article 9.

7 b. A custom cattle feedlot lien that is effective but not
8 perfected under this section has priority as provided in
9 section 554.9322.

10 Sec. 4. Section 579A.4, Code 2001, is amended to read as
11 follows:

12 579A.4 WAIVERS UNENFORCEABLE.

13 A waiver of a right created by this chapter, including but
14 not limited to, a waiver of the right to file a ~~lien~~ financing
15 statement pursuant to this chapter is void and unenforceable.
16 This section does not affect other provisions of a contract,
17 including a production contract or a related document, policy,
18 or agreement which can be given effect without the voided
19 provision.

20 Sec. 5. Section 579A.5, Code 2001, is amended to read as
21 follows:

22 579A.5 ALTERNATE LIEN PROCEDURE.

23 A person who is a custom cattle feedlot operator may file a
24 financing statement and enforce a lien as a contract producer
25 under this chapter or chapter 579B, but not both.

26 DIVISION II

27 COMMODITY PRODUCTION CONTRACT LIEN

28 Sec. 6. Section 579B.1, Code 2001, is amended by adding
29 the following new subsection:

30 NEW SUBSECTION. 8A. "Lien" means a commodity production
31 contract lien created in section 579B.3.

32 Sec. 7. Section 579B.1, subsection 11, Code 2001, is
33 amended to read as follows:

34 11. "Personal representative" means a person who is
35 authorized by a contract producer to act on behalf of the

1 contract producer, including by executing an agreement,
2 managing a contract operation, or filing a financing statement
3 perfecting a lien, and enforcing a lien as provided in this
4 chapter.

5 Sec. 8. Section 579B.3, unnumbered paragraph 1, Code 2001,
6 is amended to read as follows:

7 0A. A commodity production contract lien is created. The
8 lien is an agricultural lien as provided in section 554.9302.

9 0B. A contract producer who is a party to a production
10 contract executed pursuant to section 579B.2 shall have a lien
11 as provided in this section. The contract producer is a
12 secured party and the owner of the commodity is a debtor for
13 purposes of chapter 554, article 9. The amount of the lien
14 shall be the amount owed to the contract producer pursuant to
15 the terms of the production contract, which may be enforced as
16 provided in section 579B.5.

17 Sec. 9. Section 579B.3, subsection 1, paragraph b, Code
18 2001, is amended by striking the paragraph.

19 Sec. 10. Section 579B.3, subsection 2, paragraph b, Code
20 2001, is amended by striking the paragraph.

21 Sec. 11. Section 579B.4, Code 2001, is amended to read as
22 follows:

23 579B.4 PRESERVING PERFECTING THE LIEN -- FILING
24 REQUIREMENTS.

25 1. ~~In order to preserve a lien created pursuant to section~~
26 ~~579B.3, a contract producer must file in the office of the~~
27 ~~secretary of state a lien statement on a form prescribed by~~
28 ~~the secretary of state. A commodity production contract lien~~
29 becomes effective and is perfected as follows:

30 a. If the For a lien arises arising out of producing
31 livestock or raw milk, the lien becomes effective the contract
32 producer must file the lien within forty-five days after the
33 day that the livestock first arrives at the contract livestock
34 facility. In order to perfect the lien, the contract producer
35 must file a financing statement in the office of the secretary

1 of state provided in section 554.9308 within forty-five days
2 after the livestock's arrival. The lien terminates one year
3 after the livestock is no longer under the authority of the
4 contract producer. For purposes of this section, livestock is
5 no longer under the authority of the contract producer when
6 the livestock leaves the contract livestock facility. Section
7 554.9515 shall not apply to a financing statement perfecting
8 the lien. The lien may be terminated by the contract producer
9 who files a termination statement as provided in chapter 554,
10 article 9.

11 b. ~~If the~~ For a lien arises arising out of producing a
12 crop, ~~the contract producer must file the lien within forty-~~
13 five days after the lien becomes effective the day that the
14 crop is first planted. In order to perfect the lien, the
15 contract producer must file a financing statement in the
16 office of the secretary of state as provided in section
17 554.9308 within forty-five days after the crop is first
18 planted. ~~The secretary of state shall charge a fee of not~~
19 more than ten dollars for filing the statement. ~~The secretary~~
20 of state may adopt rules pursuant to chapter 17A for the
21 electronic filing of the statements. The lien terminates one
22 year after the crop is no longer under the authority of the
23 contract producer. For purposes of this section, a crop is no
24 longer under the authority of the contract producer when the
25 crop or a warehouse receipt issued by a warehouse operator
26 licensed under chapter 203C for grain from the crop is no
27 longer under the custody or control of the contract producer.
28 Section 554.9515 shall not apply to a financing statement
29 perfecting the lien. The lien may be terminated by the
30 contract producer who files a termination statement as
31 provided in chapter 554, article 9.

32 2. ~~The statement must include all of the following:~~ The
33 financing statement shall meet the requirements of section
34 554.9502, subsection 1, and include all applicable information
35 described in section 554.9516.

1 a.--An-estimate-of-the-amount-owed-pursuant-to-the
2 production-contract-

3 b.--The-date-when-the-livestock-arrives-at-the-contract
4 livestock-facility-or-the-date-when-the-crop-was-planted-

5 c.--The-estimated-duration-of-the-period-when-the-commodity
6 will-be-under-the-authority-of-the-contract-producer-

7 d.--The-name-of-the-party-to-the-production-contract-whose
8 commodity-is-produced-pursuant-to-the-production-contract-

9 e.--The-description-of-the-location-of-the-contract
10 operation,-by-county-and-township-

11 f.--The-printed-name-and-signature-of-the-person-filing-the
12 form-

13 3. Filing a financing statement as provided in this
14 section satisfies all requirements for perfection of an
15 agricultural lien as provided in chapter 554, article 9.

16 3- 4. a. Except as provided in chapter-581 this
17 paragraph, a commodity production contract lien created that
18 is perfected under this section 579B-3-and-a-lien-preserved
19 under-this-section-are is superior to and shall have priority
20 over a conflicting lien or security interest in the commodity,
21 including a lien or security interest that was perfected prior
22 to the creation perfection of the commodity production
23 contract lien under this chapter. However, a commodity
24 production contract lien shall not be superior to a
25 veterinarian's lien created under chapter 581 that is
26 perfected as an agricultural lien.

27 b. A commodity production contract lien that is effective
28 but not perfected under this section has priority as provided
29 in section 554.9322.

30 EXPLANATION

31 In 1999, the general assembly enacted House File 322 (1999
32 Iowa Acts, chapter 169) that regulated the relationship
33 between an agricultural producer (contract producer) and the
34 owner of a commodity (contractor) in which the producer
35 produced a commodity under contract. In part, the Act created

1 Code chapter 579B providing for a lien upon commodities
2 produced at a contractor producer's contract operation in
3 favor of the contract producer. The chapter was based on Code
4 chapter 579A which allows a custom cattle feedlot operator to
5 file a lien on cattle produced at a custom cattle feedlot.
6 Under both chapters the contract producer or custom cattle
7 feedlot operator must file a lien statement with the secretary
8 of state. The lien becomes effective prior to filing.

9 Generally a lien created under these chapters is superior to
10 and has priority over conflicting liens or security interests.

11 In 2000, the general assembly enacted House File 2513 (2000
12 Iowa Acts, chapter 1149) adopting revised article 9 of the
13 uniform commercial code (Code chapter 554) as proposed by the
14 American law institute and the national conference of
15 commissioners on uniform state laws, and conforming amendments
16 to a number of articles within that chapter as well as other
17 chapters providing for security interests and liens. This Act
18 goes into effect on July 1, 2001.

19 With limited exceptions, new article 9 governs the
20 creation, priority, and enforcement of creditors' consensual
21 liens, which are defined as security interests in personal
22 property and fixtures. Revised article 9, like its
23 predecessor, provides generally for the effectiveness of
24 security agreements and the rights and duties of creditors
25 (i.e., secured parties), including parties having possession
26 and control of collateral. Much of revised article 9 provides
27 for perfecting a security interest, usually accomplished by
28 filing a financing statement. The article provides for the
29 contents of financing statements and the location where such
30 financing statements must be filed (e.g., with the secretary
31 of state). In perfecting a security interest, a debtor is
32 generally assured rights in the collateral superior to a
33 security interest perfected later in time.

34 Prior to the revision of article 9, liens created in
35 statutes outside Code chapter 554 were not affected by its

1 provisions. These liens include types of agricultural liens
2 such as those created in Code chapters 579A and 579B. Revised
3 article 9 provides filing requirements for perfecting
4 agricultural liens and therefore may control issues relating
5 to priority of conflicting security interests and liens.

6 The bill amends both Code chapters 579A and 579B by
7 eliminating requirements for filing that are inconsistent with
8 the requirements contained in revised article 9. The bill
9 expressly states that the two types of liens are agricultural
10 liens, replaces references to lien statements to financing
11 statements, and provides for their super-priority status over
12 other security interests and liens with the exception of
13 veterinarian liens to the extent that these liens also have
14 been perfected as agricultural liens under revised article 9.
15 The bill provides for the priority of competing liens
16 perfected as required under revised article 9, or effective
17 but not perfected under the article by following the first-in-
18 time rule adopted under the uniform commercial code.

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