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SENATE FILE 2137
BY COMMITTEE ON AGRICULTURE
(formerly SSB #2020)
Approved (1/25/88)

Passed Senate, Date 2/12/88 (p. 306) Passed House, Date _____
Vote: Ayes 41 Nays 4 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to financial responsibility requirements for
2 the licensing of commercial applicators of pesticides.

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

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SF 2137

1 Section 1. Section 206.13, Code 1987, is amended to read
2 as follows:

3 206.13 SURETY BOND, OR INSURANCE, OR HOMESTEAD SECURITY
4 AGREEMENT REQUIRED OF COMMERCIAL APPLICATOR.

5 The secretary shall not issue a commercial applicator's
6 license as required in section 206.6 until the applicant has
7 furnished evidence of financial responsibility with the
8 secretary. consisting-either Evidence of financial
9 responsibility consists of one or a combination of a surety
10 bond, or a liability insurance policy or certification
11 thereof, or a homestead security agreement. Such surety bond,
12 or liability insurance policy, or homestead security agreement
13 shall provide coverage to pay on behalf of the insured
14 applicant all sums which the insured applicant shall become
15 legally obligated to pay as damages as a result of the
16 pesticide operations of the applicant. However, the surety
17 bond, or liability insurance policy, ~~will~~ or homestead
18 security agreement does not apply to damages or injury which
19 are either expected or intended from the standpoint of the
20 insured applicant. Any such liability insurance policy shall
21 be subject to the insurer's policy provisions filed with and
22 approved by the commissioner of insurance. The surety bond,
23 or liability insurance policy, or homestead security agreement
24 submitted as evidence of financial responsibility need not
25 apply to damages or injury to agricultural crops, plants, or
26 land being worked upon by the applicant.

27 The amount of the surety bond or liability insurance as
28 provided for in this section shall be not less than fifty
29 thousand dollars for property damage and public liability
30 insurance, each separately. Such surety bond or liability
31 insurance shall be maintained at not less than that sum at all
32 times during the licensed period. The secretary shall be
33 notified ten days prior to any reduction at the request of the
34 applicant or cancellation of such surety bond or liability
35 insurance by the surety or insurer. The total and aggregate

1 of the surety and insurer for all claims shall be limited to
2 the face of the bond or liability insurance policy. The
3 amount of the homestead security agreement shall not be more
4 than fifty thousand dollars for property damage and public
5 liability insurance, each separately.

6 A homestead security agreement is an agreement between the
7 the applicant and the department representing potential
8 claimants harmed by the applicant operating as a licensed
9 commercial applicator. The agreement constitutes a waiver of
10 homestead protections as against claimants enforcing a
11 judgment under section 561.23. Before the department may
12 approve an agreement, the agreement must contain all of the
13 following:

14 1. A homestead value which is the fair market value of the
15 homestead, sworn by a qualified appraiser who is approved by
16 the department, up to the amount required for a security
17 agreement to be approved and decreased by the amount of debt
18 on the homestead at the time of the appraisal. The homestead
19 value must be an amount at least as much as required under
20 this section.

21 2. A statement in substantially the following form, in
22 boldface type of a minimum size of ten points, and signed and
23 dated by the owner and the owner's spouse, if any: "I
24 understand that homestead property is in many cases protected
25 from the claims of creditors and exempt from judicial sale;
26 that if I am the spouse of the owner I have a right to
27 continue to occupy the homestead for my lifetime, even after
28 my spouse has transferred the property; and that by signing
29 this form, I voluntarily give up my rights to this protection
30 for the homestead property with respect to judgments for all
31 sums which I or my spouse become legally obligated to pay for
32 damages as a result of my or my spouse's operations as a
33 licensed commercial applicator."

34 The department, before issuing a commercial applicator's
35 license to the applicant based on a homestead security

1 agreement, shall file with the recorder in the county where
2 the homestead is located, on behalf of persons who may have a
3 claim based on the operations of the owner as a licensed
4 commercial applicator, a lien on the homestead for the amount
5 stated in the homestead security agreement. The department
6 shall notify the county recorder that the lien is no longer
7 valid when either of the following occurs:

8 a. The commercial applicator has furnished other evidence
9 of financial responsibility.

10 b. The commercial applicator's license has expired or has
11 been terminated and limitation of action as provided in
12 chapter 614 may be used as a defense to bar all causes of
13 action based on the pesticide operation of the applicator.

14 Sec. 2. Section 561.21, Code 1987, is amended by adding
15 the following new subsection:

16 NEW SUBSECTION. 5. Those incurred as damages as a result
17 of the owner's operations as a licensed commercial applicator
18 under chapter 206, if a homestead security agreement has been
19 approved by the department of agriculture and land stewardship
20 and the department has recorded a lien on the homestead as
21 provided in section 206.13.

22 Sec. 3. NEW SECTION. 561.23 HOMESTEAD SECURITY LIEN --
23 COMMERCIAL APPLICATORS.

24 A person executing a judgment against a homestead owner
25 licensed as a commercial applicator under chapter 206, which
26 judgment is based on the actions of the owner as a licensed
27 commercial applicator, may foreclose on the owner's homestead
28 for the amount of the lien filed by the department of
29 agriculture and land stewardship pursuant to section 206.13,
30 after the person notifies the department. The proceeds from
31 the sale of the homestead shall be used to satisfy the
32 judgment before being used to satisfy other debts, except for
33 liens upon the homestead filed with the county recorder prior
34 to the filing of the departmental lien.

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EXPLANATION

1 This bill provides that a person applying to be licensed as
2 a commercial applicator may use equity in a homestead as
3 security for financial responsibility. The department of
4 agriculture and land stewardship shall file a lien on the
5 homestead on behalf of persons who may be harmed by the
6 pesticide operations of the applicator. Such a person may
7 foreclose on the homestead for the amount of the lien.

8 SUCCESSOR TO SSB 2020 (LSB 7516SC)

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