

CHAPTER 1071**DEPOSIT OF INTEREST EARNINGS IN CERTAIN INSURANCE FUNDS***S.F. 2312*

AN ACT relating to the deposit of interest earnings in designated employee insurance funds.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 509A.5, Code 1983, is amended to read as follows:

509A.5 FUND UNDER CONTROL OF GOVERNING BODY. The fund for each plan shall be under the control and shall be expended under the directions of the governing body and shall be used solely for the purpose of administering and carrying out the provisions of the plan adopted by the governing body. Any interest earnings from investments or time deposits of the funds under the control of the state executive council and deposited in the health insurance premium operating fund, the health insurance premium reserve fund, and the life insurance premium operating fund used for the payment of health and life insurance premiums shall be deposited to the credit of these funds.

Approved April 11, 1984

CHAPTER 1072**LIENS FOR AGRICULTURAL CHEMICALS, SEED, FEED
AND PETROLEUM PRODUCTS***S.F. 510*

AN ACT relating to liens against crops and livestock to secure payment for agricultural chemicals, seed, petroleum products, and feed used in the production of growing crops and livestock and providing for the perfection, enforcement, assignment, and satisfaction of these liens, and providing for statutory damages.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 570A.1 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Agricultural chemical" means a fertilizer or agricultural chemical which is applied to crops or land which is used for the raising of crops, including but not limited to fertilizer as defined in section 200.3, and pesticide as defined in section 206.2.

2. "Agricultural purpose" means a purpose related to the production, harvest, marketing, or transportation of agricultural products by a person who cultivates, plants, propagates or nurtures the agricultural products including agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any other products raised or produced on farms.

3. "Agricultural supply dealer" means a person engaged in the retail sale of agricultural chemicals, seed, feed, or petroleum products used for an agricultural purpose.

4. "Certified request" means a request delivered by registered or certified mail, or a request delivered in person in writing signed and dated by the respective parties.

5. "Farmer" means a person engaged in a business which has an agricultural purpose.

6. "Feed" means a commercial feed, feed ingredient, mineral feed, drug, animal health product, or customer-formula feed which is used for the feeding of livestock, including but not limited to feed as defined in section 198.3.

7. "Financial history" means the record of a person's current loans, the date of a person's loans, the amount of the loans, the person's payment record on the loans, current liens against the person's property, and the person's most recent financial statement.

8. "Financial institution" means a bank, credit union, insurance company, mortgage banking company or savings and loan association, industrial loan company, production credit association, farmer's home administration, or like institution which operates or has a place of business in this state.

9. "Labor" means labor performed in the application, delivery, or preparation of a product defined in subsections 1, 6, 11, and 13.

10. "Letter of credit" means an engagement by a financial institution to honor drafts or other demands for payment.

11. "Petroleum product" means a motor fuel or special fuel which is used in the production of crops and livestock, including but not limited to motor fuel as defined in section 324.2.

12. "Sale on a credit basis" means a transaction in which the purchase price is due on a date after the date of the sale.

13. "Seed" means agricultural seeds which are used in the production of crops, including but not limited to agricultural seed as defined in section 199.1.

Sec. 2. NEW SECTION. 570A.2 FINANCIAL INSTITUTION MEMORANDUM TO AGRICULTURAL SUPPLY DEALERS.

1. Upon the receipt of a certified request of an agricultural supply dealer, prior to or upon a sale on a credit basis of agricultural chemicals, seed, feed, or petroleum products to a farmer, a financial institution which has either a security interest in collateral owned by the farmer or an outstanding loan to the farmer for an agricultural purpose shall issue within two business days a memorandum which states whether or not the farmer has a sufficient net worth or line of credit to assure payment of the purchase price on the terms of the sale. The certified request submitted by the agricultural supply dealer shall state the amount of the purchase and the terms of sale, and be accompanied by a waiver of confidentiality signed by the farmer, and a fifteen dollar fee. If the financial institution states in its memorandum that the farmer has a sufficient net worth or line of credit to assure payment of the purchase price, the memorandum is an irrevocable and unconditional letter of credit to the benefit of the agricultural supply dealer for a period of thirty days following the date on which the final payment is due for the amount of the purchase price which remains unpaid. If the financial institution does not state in its memorandum that the farmer has a sufficient net worth or line of credit to assure payment of the purchase price, the financial institution shall transmit the relevant financial history which it holds on the person. This financial history shall remain confidential between the financial institution, the agricultural supply dealer, and the farmer.

2. If within two business days of receipt of a certified request a financial institution fails to issue a memorandum upon the request of an agricultural supply dealer and the request from the agricultural supply dealer was proper under subsection 1, or if the memorandum from the financial institution is incomplete, or if the memorandum from the financial institution states that the farmer does not have a sufficient net worth or line of credit to assure payment of the purchase price, the agricultural supply dealer may decide to make the sale and secure the lien provided in section 570A.3.

3. Upon an action to enforce a lien secured under section 570A.3 against the interest of a financial institution secured to the same collateral as that of the lien, it shall be an affirmative defense to a financial institution and complete proof of the superior priority of the financial institution's lien that the financial institution either did not receive a certified request and a waiver signed by the farmer, or received the request and a waiver signed by the farmer and provided the full and complete relevant financial history which it held on the farmer making the purchase from the agricultural supply dealer on which the lien is based and that financial history reasonably indicated that the farmer did not have a sufficient net worth or line of credit to assure payment of the purchase price.

Sec. 3. NEW SECTION. 570A.3 LIEN CREATED.

1. An agricultural supply dealer furnishing an agricultural chemical, seed, or a petroleum product to a farmer has a lien for the retail cost of the agricultural chemical, seed, or petroleum product, including labor furnished. The lien attaches to all crops which are produced upon the land to which the agricultural chemical was applied within sixteen months following the last date on which the agricultural chemical was applied, or produced from seed furnished, or produced using the petroleum product furnished. However, the lien does not attach to that portion of the crops of a farmer who has paid all amounts due from the farmer for the retail cost, including labor, of the agricultural chemical, seed, or petroleum product provided.

2. An agricultural supply dealer furnishing feed to a farmer has a lien for the unpaid amount of the retail cost of the feed, including labor. The lien attaches to all livestock consuming the feed. However, the lien does not attach to that portion of the livestock of a farmer who has paid all amounts due from the farmer for the retail cost, including labor, of the feed.

Sec. 4. NEW SECTION. 570A.4 PERFECTION OF LIEN.

1. In order to perfect the lien created by section 570A.3, the agricultural supply dealer entitled to the lien shall file a verified lien statement with the office of the secretary of state. The lien statement must be filed either within thirty-one days after the first date on which payment is due from the farmer, or for an agricultural chemical, seed, or feed on or before September 1 of the current crop year and for a petroleum product on or before December 1 of the current crop year, whichever is earlier, except that lien statements related to feed may be filed at the time the feed is purchased or delivered. The lien statement shall disclose all of the following:

- a. The name and address of the agricultural supply dealer claiming the lien.
- b. An itemized declaration of the nature and retail cost of the agricultural chemical, seed, feed, or petroleum product which was furnished.
- c. The last date on which the agricultural supply dealer claiming the lien furnished the agricultural chemical, seed, feed, or petroleum product for which the lien is claimed.
- d. The first date on which payment was due from the farmer for whom the agricultural chemical, seed, feed, or petroleum product was furnished.
- e. The name and address of the farmer for whom the agricultural chemical, seed, feed, or petroleum product was furnished.
- f. The legal description of the real property on which the crops to which the lien attaches are growing or are to be grown or the description of the livestock or animals to which the lien attaches.

2. The secretary of state shall enter on the lien statement the time of day and date of filing.

3. If an agricultural supply dealer fails to file the lien statement within the time required by subsection 1, the lien and all benefits under this chapter are forfeited.

4. The secretary of state shall note the filing of a lien statement under this section in the manner provided by chapter 554, the uniform commercial code, and shall charge a four dollar filing fee if the statement is the standard form prescribed by the secretary of state, and otherwise a fee of five dollars.

5. An agricultural supply dealer filing a verified lien statement shall request from the secretary of state a certificate showing any effective financing statement or verified lien statements naming the debtor and the crops or livestock to which the lien attaches. The agricultural supply dealer shall notify by registered mail any other creditor who holds a lien or security interest which is subordinate or equal to the agricultural supply dealer's lien.

Sec. 5. NEW SECTION. 570A.5 PRIORITY OF LIEN.

1. A lien perfected under this chapter is superior to a lien or security interest which attaches subsequent to the time the lien statement is filed with the secretary of state, except liens which arise under this chapter or under chapters 570 and 571.

2. A lien perfected under this chapter is equal to a lien or security interest which is of record or which is perfected prior to the time the lien statement is filed with the secretary of state except as provided in section 570A.2, subsection 3.

3. A lien perfected under this chapter for the purposes of feed will continue to be perfected in the livestock and takes priority over an earlier perfected lien or security interest to the extent of the difference between the acquisition price of the livestock and the fair market value of the livestock at the time the lien attaches or the sale price of the livestock, whichever is greater.

Sec. 6. NEW SECTION. 570A.6 ENFORCEMENT OF LIEN.

1. The holder of a lien perfected under this chapter may enforce the lien in the manner provided in chapter 554, article 9, part 5, for the enforcement of security interests. For purposes of enforcement of the lien, the lienholder is deemed to be the secured party, and the farmer for whom the agricultural chemical, seed, feed, or petroleum product was furnished is deemed to be the debtor, and each has the respective rights and duties of a secured party and a debtor as provided in chapter 554, article 9, part 5. Where a right or duty under chapter 554, article 9, part 5 is contingent upon the existence of express language in a security agreement, or may be waived by express language in a security agreement, the requisite language is deemed not to exist for purposes of enforcement of the lien created by this chapter.

Sec. 7. NEW SECTION. 570A.7 ENFORCEMENT ACTIONS. An action to enforce a lien arising under this chapter may be commenced in the district court after the lien is perfected. The action may be brought in any county in which some part of the crop and livestock or animals is located. The action shall be by equitable proceedings, and no other cause of action shall be joined with it. A lien statement may be amended by leave of the court in furtherance of justice, except as to the amount demanded. An action to enforce a lien under this chapter may be brought within one year after the date the lien statement is filed and not afterward.

Sec. 8. NEW SECTION. 570A.8 DEMAND FOR BRINGING SUIT.

1. A person who has an interest in crops or livestock to which a lien has attached under this chapter may serve upon the lienholder a written demand that the lienholder commence an action to enforce the lien within thirty days after the date of service. The written demand shall be served in the same manner provided for service of an original notice. If the lienholder fails to commence an action within thirty days after being served with the written demand, the lien and all benefits of the lien are extinguished.

2. Return of service of the written demand specified in subsection 1 shall be filed with the secretary of state.

3. The lienholder shall file with the secretary of state a file stamped copy of the petition to enforce the lien within thirty days of commencing the action. Failure to file the copy of the petition will cause the verified lien statement to lapse.

Sec. 9. NEW SECTION. 570A.9 ASSIGNMENT OF LIEN. A lien which has been perfected under this chapter is assignable, and follows the assignment of the debt for which it is claimed.

Sec. 10. NEW SECTION. 570A.10 ACKNOWLEDGMENT OF SATISFACTION. When a lien under this chapter is satisfied by payment of the claim, the lienholder shall acknowledge the satisfaction of the claim in writing to the secretary of state. If the lienholder failed to file an acknowledgment of satisfaction with the secretary of state within thirty days after written demand by a person having an interest in the crop or livestock, the lienholder is liable to the person for a penalty of twenty-five dollars, plus actual damages incurred as a result of the failure, plus attorney fees and court costs.

Sec. 11. NEW SECTION. 570A.11 RIGHTS AND REMEDIES. The rights and remedies provided for in this chapter are in addition to and not in lieu of the rights and remedies provided for in chapter 572.

Sec. 12. Section 554.9407, subsection 3, Code Supplement 1983, is amended to read as follows:

3. Upon written request of any person, the filing officer shall issue a certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement or verified lien statement under chapter 570A naming a particular debtor and any financing statement or verified lien statement changes and if there is are, giving the date and hour of filing of each such filing and the names and addresses of each secured party therein. The uniform fee for such a certificate shall be four dollars if the request for the certificate is on a form conforming to standards prescribed by the secretary of state; otherwise, five dollars. Upon request and the payment of the appropriate fee the filing officer shall furnish a certified copy of any filed financing statement or financing statement changes or verified lien statement or lien statement changes for a uniform fee of one dollar per page.

Approved April 12, 1984