

FEB 24 1999

COMMERCE AND REGULATION

HOUSE FILE
BY DIX

399

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

A BILL FOR

1 An Act relating to security interests and liens or in
2 agricultural products, providing for penalties, and providing
3 an effective date.

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

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1 acceptance of the statement by the secretary constitutes
2 filing under this subsection.

3 (1) An effective financing statement shall be valid if it
4 substantially complies with the requirements of paragraph "a"
5 even though it contains minor errors that are not seriously
6 misleading. An effective financing statement shall comply
7 with all of the following:

8 (a) The statement must be an original or reproduced copy
9 which is signed by the secured party and debtor. The
10 statement must be filed with the secretary by the secured
11 party. The secretary shall record the date and hour of the
12 filing of the effective financing statement. The statement
13 must contain information that the secretary requires to comply
14 with 7 U.S.C. § 1631 or to administer this section.

15 (b) The statement must contain all of the following:

16 (i) The name and address of the secured party.

17 (ii) The name and address of the debtor.

18 (iii) The social security number of the debtor or, in the
19 case of a debtor doing business other than as an individual,
20 the internal revenue service taxpayer identification number of
21 the debtor.

22 (iv) A description of the farm products subject to the
23 security interest, the county in Iowa where the farm products
24 are produced or will be produced, the crop year unless every
25 crop of the farm product in question for the duration of the
26 effective financing statement is to be subject to the
27 particular security interest, further details of the farm
28 product subject to the security interest if needed to
29 distinguish it from other quantities of the farm product owned
30 by the same person or persons but not subject to the
31 particular security interest, and other information that the
32 secretary requires to administer this section. The effective
33 financing statement may cover more than one farm product
34 located in more than one county.

35 (2) The following shall apply to an effective financing

1 statement:

2 (a) The statement shall remain effective for a period of
3 five years from the date of filing, subject to extensions for
4 additional periods of five years each by filing or refiling a
5 continuation statement within six months before the expiration
6 of the five-year period. A continuation statement shall be
7 signed by the secured party and the debtor, identify the
8 original effective financing statement by file number, and
9 state that the original financing statement is still
10 effective. Upon timely filing of a continuation statement,
11 the effectiveness of the original financing statement shall be
12 continued for five years after the last date to which the
13 filing was effective, whereupon it shall lapse unless another
14 continuation statement is filed prior to the lapse.
15 Succeeding continuation statements may be filed in the same
16 manner to continue the effectiveness of the original effective
17 financing statement.

18 (b) The statement shall be amended in writing to reflect a
19 material change, within three months of the change. The
20 amendment shall be signed and filed as required for an
21 original effective financing statement.

22 (c) The statement lapses upon the expiration of the
23 effective period of the effective financing statement or
24 terminates upon the filing of a notice signed by the secured
25 party that the statement is terminated. If the effective
26 financing statement has not lapsed or terminated and there is
27 no outstanding secured obligation and no commitment to make
28 advances, incur obligations, or otherwise give value, the
29 debtor may notify the secured party in writing to terminate
30 the effective financing statement. Until the debtor instructs
31 the secured party in writing to terminate the effective
32 financing statement, the secured party has no obligation to
33 terminate the effective financing statement. Within thirty
34 days after receipt by the secured party of the notice from the
35 debtor to terminate the effective financing statement, the

1 secured party shall file with the secretary a termination
2 statement with respect to the effective financing statement.

3 b. The secretary shall compile the effective financing
4 statements into a master list subject to all of the following:

5 (1) The master list shall be organized according to farm
6 products. The master list shall contain information required
7 to be contained in effective financing statements filed with
8 the secretary. The secretary shall arrange the master list
9 for each farm product as follows:

10 (a) In alphabetical order according to the last name of
11 the individual debtors or, in the case of debtors doing
12 business other than as individuals, the first word in the name
13 of such debtors.

14 (b) In numerical order according to the social security
15 numbers of the individual debtors or, in the case of debtors
16 doing business other than as individuals, the internal revenue
17 service taxpayer identification numbers of the debtors.

18 (c) Geographically by county.

19 (d) By crop year.

20 (2) The master list shall include information regarding
21 buyers who register with the secretary on forms prescribed by
22 the secretary as provided in subparagraph (3).

23 (3) The secretary shall maintain a list of all buyers of
24 farm products who register with the secretary. A buyer
25 registering with the secretary shall pay a registration fee
26 set by the secretary and complete forms requiring all of the
27 following information, as prescribed by the secretary:

28 (a) The name and address of the buyer.

29 (b) The interest of the buyer in receiving the lists
30 described in this paragraph.

31 (c) The farm products in which the buyer has an interest.

32 (4) The secretary shall distribute to each registered
33 buyer a copy in written or printed form of those portions of
34 the master list relating to farm products in which the buyer
35 has registered an interest. The secretary may provide for the

1 distribution of the master list or portions of the list on any
2 other medium requested by a registered buyer. If a registered
3 buyer so requests, the information provided to the buyer may
4 be limited to a county or group of counties where the farm
5 product is produced or to a crop year or crop years or to a
6 combination of these identifiers. The secretary shall charge
7 a buyer an annual fee to cover costs of distributing the
8 lists. Distribution is subject to all of the following:

9 (a) The distribution shall be by regular mail.

10 (b) The secretary shall, by rule, establish the dates upon
11 which the monthly distributions will be made, the dates after
12 which a filing of an effective financing statement will not be
13 reflected on the next monthly distribution of lists, and the
14 dates by which a buyer must complete a registration to receive
15 the next monthly list.

16 (c) The secretary shall remove information pertaining to
17 lapsed and terminated effective financing statements or
18 notices of such financing statements from the master list
19 prior to preparation of the lists required to be distributed.

20 (d) Upon written notice to the secretary by a registered
21 buyer, the secretary shall terminate distribution of the list
22 to the registered buyer.

23 Oral and written inquiries by a buyer not registered
24 pursuant to subparagraph (3) may be made to the secretary
25 during hours determined by the secretary. An oral response to
26 inquiries shall be available to an inquiring nonregistered
27 buyer not later than on the regular business day following the
28 day on which the inquiry was received, at or before the time
29 of day when it was received. Written confirmation of the
30 information provided orally in response to the inquiry shall
31 be mailed by first class mail to the nonregistered buyer, at
32 an address provided by the buyer, by the secretary not later
33 than the second regular business day following the day on
34 which the inquiry was received. The secretary may provide for
35 a computerized system for inquiry and confirmation which may

1 be used in lieu of the inquiry and confirmation system
2 otherwise provided for in this section.

3 In order to verify the existence or nonexistence of a
4 security interest, a buyer may request a seller to disclose
5 the seller's social security number or, in the case of a
6 seller doing business other than as an individual, the
7 internal revenue service taxpayer identification number of the
8 seller.

9 3. Except as provided in this subsection, a buyer who buys
10 farm products from a seller engaged in farming operations
11 shall take free of a security interest created by the seller,
12 even though the security interest is perfected and the buyer
13 knows of the existence of the interest.

14 a. In the case where a centralized filing system is
15 utilized as provided in subsection 2, the buyer of farm
16 products takes subject to a security interest in the farm
17 product if either of the following applies:

18 (1) The buyer fails to register with the secretary prior
19 to the purchase of farm products, and the secured party has
20 filed an effective financing statement or notice that covers
21 the farm products being sold.

22 (2) The buyer receives from the secretary written notice
23 as provided in subsection 2 that identifies both the seller
24 and the farm product being sold by the seller as being subject
25 to an effective financing statement or notice, and the buyer
26 does not secure a waiver or release of the security interest
27 as specified in the effective financing statement or notice
28 from the secured party by performing any payment obligation.

29 b. In the case where a centralized filing system is not
30 utilized as provided in subsection 2, the buyer of a farm
31 product takes subject to a security interest in the farm
32 product if, within one year before the sale of the farm
33 product, the buyer receives written notice directly from the
34 secured party or the debtor who sells the farm product. The
35 written notice must be an original or reproduced copy of the

1 written notice, which is signed by either the secured party or
2 the debtor who transmits the notice to the potential buyer.

3 (1) The notice must contain all of the following:

4 (a) The name and address of the secured party.

5 (b) The name and address of the debtor.

6 (c) The social security number of the debtor or, in the
7 case of a debtor doing business other than as an individual,
8 the internal revenue service taxpayer identification number of
9 the debtor.

10 (d) A description of the farm products subject to the
11 security interest created by the debtor, including the amount
12 of the products where applicable.

13 (e) An identification of the crop year in which the farm
14 products were produced.

15 (f) An identification of the county in which the farm
16 products were produced.

17 (g) A reasonable description of the property on which the
18 farm products were produced.

19 (h) A statement of any payment obligations imposed on the
20 buyer by the secured party as a condition for waiver or
21 release of the security interest.

22 (2) A secured party may require, in documents creating a
23 security interest, that a debtor engaged in farming
24 operations, who creates a security interest in a farm product,
25 furnish to the secured party a list of potential buyers to or
26 through whom the debtor may sell the farm product. Before a
27 secured party may furnish a potential buyer who is not on the
28 list with written notice of a security interest in a farm
29 product, the secured party shall notify the debtor of the name
30 and address of the potential buyer.

31 (3) A written notice shall be amended by the secured party
32 within three months of any material change. The amended
33 notice shall be signed and transmitted to the potential buyer
34 in the manner required for the original written notice, by
35 either the secured party or the debtor selling the farm

1 products. A written notice lapses on the earlier of either
2 one year from the date the notice was received by the buyer or
3 the date the buyer receives a notice signed by the secured
4 party that the security interest has lapsed.

5 (4) For purposes of this section, a written notice shall
6 be considered to be received by the person to whom it was sent
7 or delivered if the notice is delivered in hand to the person
8 with a written receipt returned. If written notice is mailed
9 by a secured party, the notice must be mailed by certified
10 mail with the proper postage and properly addressed to the
11 person to whom it was sent. The refusal of a person to whom a
12 notice is sent to accept delivery of the notice shall be
13 considered receipt.

14 (5) If the written notice to a potential buyer by a
15 secured party or debtor satisfies the requirements of
16 subparagraph (1), and the debtor sells the farm products
17 subject to the security interest to a buyer not included on
18 the list as a potential buyer as required in subparagraph (2),
19 or to any other buyer, if the name and address of the buyer
20 were not received by the debtor pursuant to subparagraph (2),
21 the debtor is subject to a civil penalty of the greater of
22 either five thousand dollars or fifteen percent of the value
23 or benefits received by the debtor for the farm products
24 described in the documents creating the security interest.
25 However, the penalty provided in this subparagraph shall be
26 imposed on the debtor in lieu of but not in addition to the
27 penalty described in 7 U.S.C. § 1631. A penalty shall not be
28 imposed on the debtor under this subparagraph if the debtor
29 has complied with any of the following:

30 (a) Notified the secured party in writing of the identity
31 of the buyer at least seven days prior to the sale.

32 (b) Accounted to the secured party for the proceeds of the
33 sale not later than ten days after the sale.

34 Sec. 4. DIRECTIONS TO THE SECRETARY OF STATE. The
35 secretary of state shall adopt rules necessary to implement

1 this division of this Act. If necessary to obtain federal
2 certification of the central filing system, additional or
3 alternative requirements made in conformity with 7 U.S.C. §
4 1631, may be imposed by the secretary of state by rule. The
5 secretary of state may computerize the central filing system.
6 Sec. 5. EFFECTIVE DATE. This division takes effect on
7 January 1, 2000.

8 DIVISION II

9 Sec. 6. NEW SECTION. 580A.1 DEFINITIONS.10 As used in this chapter, unless the context otherwise
11 requires:12 1. "Agricultural commodity" means any unprocessed
13 agricultural product, including livestock as defined in
14 section 717.1; agricultural crops; hay, straw, or stover; or
15 fruit from fruit trees, if the product is produced in this
16 state for sale in commercial channels.17 2. "Agricultural producer" means a person who owns the
18 agricultural commodity that is produced by or under the
19 direction or management of the person.20 3. "Commercial channels" means the processes of sale of an
21 agricultural commodity to any person, public or private, who
22 resells the agricultural commodity for breeding, processing,
23 slaughter, or distribution.24 4. "Produce" means to provide for the care and feeding of
25 livestock or to plant, grow, or harvest an agricultural
26 commodity other than livestock.27 Sec. 7. NEW SECTION. 580A.2 AGRICULTURAL PRODUCER'S
28 LIEN.29 1. An agricultural producer has a lien for the contract
30 price of an agricultural commodity produced by the person and
31 delivered to a buyer. The lien attaches to the agricultural
32 commodity and products created from the agricultural
33 commodities and proceeds received from the sale of the
34 agricultural commodity.

35 2. If an agricultural commodity is commingled with other

1 agricultural commodities, the lien continues in the
2 proportionate share of the other agricultural commodities. If
3 an agricultural commodity to which the lien attaches becomes
4 manufactured or processed to become part of another product,
5 the lien continues and attaches to the product manufactured or
6 processed.

7 3. An agricultural producer's lien does not attach to an
8 agricultural commodity which is purchased free of a security
9 interest in farm products as provided in section 554.9307A.

10 Sec. 8. NEW SECTION. 580A.3 PERFECTION.

11 An agricultural producer's lien is perfected from the time
12 an agricultural commodity is delivered until forty-five days
13 after the agricultural commodity is delivered without filing.
14 An agricultural producer's lien may continue to be perfected
15 if a lien statement under this chapter is filed with the
16 secretary of state within forty-five days after the
17 agricultural commodity is delivered.

18 Sec. 9. NEW SECTION. 580A.4 LIEN STATEMENT.

19 1. A lien statement must be in writing and verified by the
20 producer. The statement must include all of the following:

21 a. The amount due for the agricultural commodity after
22 deducting applicable credits and offsets.

23 b. The name of the purchaser to whom the agricultural
24 commodity was delivered.

25 c. A description sufficient to identify the agricultural
26 commodity delivered and subject to the lien.

27 d. The date and location to which the agricultural
28 commodity was delivered.

29 e. The date when payment was due for the agricultural
30 commodity subject to the lien.

31 2. A lien statement is void and may be removed from the
32 filing system six months after the date of filing. The lien
33 statement may be physically destroyed thirty months after the
34 date of filing.

35 Sec. 10. NEW SECTION. 580A.5 PRIORITY.

- 1 1. An agricultural producer's lien has priority over all
2 other liens and encumbrances in all of the following:
- 3 a. The agricultural commodity.
4 b. The proceeds from the agricultural commodity.
5 c. The proportionate share of the agricultural commodities
6 with which the agricultural commodity has been commingled.
7 d. The products manufactured or processed with the
8 agricultural commodity.
- 9 2. An agricultural producer's lien that is continuously
10 perfected from the time of delivery has priority over other
11 liens and encumbrances whether they are filed before or after
12 the agricultural producer's lien.
- 13 3. An agricultural producer's lien that is filed after
14 twenty days after delivery of the agricultural commodity has
15 priority in the order it is filed.
- 16 4. Priority among perfected agricultural producers' liens
17 is according to the first lien filed.
- 18 5. An agricultural producer's lien that is not perfected
19 has the priority of an unperfected security interest under
20 section 554.9312.

21 Sec. 11. NEW SECTION. 580A.6 LIEN TERMINATED.

22 An agricultural producer's lien is terminated when any of
23 the following occurs:

- 24 1. Full payment is made for the agricultural commodity
25 delivered.
- 26 2. The agricultural commodity is recovered in kind.
- 27 3. Six months passes after the agricultural commodity was
28 delivered and an action to enforce the lien has not been
29 commenced.

30 Sec. 12. NEW SECTION. 580A.7 ENFORCEMENT.

31 The holder of an agricultural producer's lien may enforce
32 the lien in the manner provided in sections 554.9501 through
33 554.9507. For enforcement of the lien, the lienholder is the
34 secured party and the person receiving the agricultural
35 commodity is the debtor, and each has the respective rights

1 and duties of a secured party and a debtor under sections
2 554.9501 through 554.9507. If a right or duty under sections
3 554.9501 through 554.9507 is contingent upon the existence of
4 express language in a security agreement or may be waived by
5 express language in a security agreement, the requisite
6 language is deemed not to exist.

7 Sec. 13. NEW SECTION. 580A.8 SATISFACTION OF LIEN.

8 A lienholder must remove a lien statement from the filing
9 system after the lien is satisfied. If the lienholder does
10 not remove the lien statement, the secretary of state shall
11 remove the lien statement upon request of an affected party
12 providing proof that the lien has terminated.

13 Sec. 14. NEW SECTION. 580A.9 ENFORCEMENT ACTION.

14 An action to enforce an agricultural producer's lien may be
15 brought in district court in a county where the property to
16 which the lien attaches is located or the county where the
17 agricultural commodity was originally delivered. The court
18 shall allow costs including attorney fees to the prevailing
19 party.

20 EXPLANATION

21 Division I: Under Code section 554.9307 of Iowa's uniform
22 commercial code, a buyer in the ordinary course of business
23 takes free of a security interest created by the seller,
24 unless the buyer purchases farm products. This is sometimes
25 referred to as "the farm products rule". In 1985, Congress
26 enacted legislation providing two approaches for notifying
27 buyers of farm products; a system of certified central filing
28 and the already-existing system for actual notification.

29 In 1987, the general assembly enacted legislation requiring
30 actual notification to buyers. Under current law, a buyer in
31 the ordinary course of business buying farm products from a
32 debtor engaged in farming operations takes subject to a
33 security interest created by the debtor only if within one
34 year before the sale of the farm products the buyer receives
35 prior written notice of the security interest.

1 This division creates a centralized filing system for this
2 state. The system is administered by the secretary of state
3 who must provide for filing effective financing statements on
4 a statewide basis. The secretary of state must produce a
5 master list of information required to be contained in the
6 effective financing statements. The division provides
7 requirements for the contents and duration of an effective
8 financing statement. The division provides for the
9 distribution of information by the secretary regarding
10 effective financing statements to interested persons by
11 sending the information to buyers registered with the
12 secretary and by answering specific oral and written
13 inquiries.

14 The division authorizes the secretary of state to establish
15 fees for filing effective financing statements and
16 distributing information. The division provides for penalties
17 for persons who fail to provide lists of potential buyers to
18 secured parties. The division takes effect on January 1,
19 2000.

20 Division II: This division creates an agricultural
21 producer's lien for the value of agricultural commodities sold
22 by a producer. The lien attaches to the agricultural
23 commodity and products created by the agricultural commodity
24 and proceeds received from the sale of the agricultural
25 commodity. If the agricultural commodity is commingled with
26 other agricultural commodities, the lien continues in the
27 proportionate share of the other agricultural commodities. If
28 an agricultural commodity to which the lien attaches becomes
29 manufactured or processed to become part of another product,
30 the lien continues and attaches to the product manufactured or
31 processed. The division provides for the mechanics of
32 perfecting a lien, including the filing of a lien statement,
33 and provides for the enforcement and termination of the lien.
34 The bill provides that the lien has priority over all other
35 liens and encumbrances in the agricultural commodity, the

1 proceeds from the agricultural commodity, the proportionate
2 share of the agricultural commodities with which the
3 agricultural commodity has been commingled, and products
4 manufactured or processed with the agricultural commodity.

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