

Senate Study Bill 1162

Bill Text

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1 1 DIVISION I
1 2 CUSTOM CATTLE FEEDLOT LIEN
1 3 Section 1. Section [579A.1](#), Code 2001, is amended by adding
1 4 the following new subsection:
1 5 NEW SUBSECTION. 4A. "Lien" means a custom cattle feedlot
1 6 lien created in section 579A.2.
1 7 Sec. 2. Section [579A.1](#), subsection 5, Code 2001, is
1 8 amended to read as follows:
1 9 5. "Personal representative" means a person who is
1 10 authorized by the owner of a custom cattle feedlot to act on
1 11 behalf of the owner, including by executing an agreement,
1 12 managing a custom cattle feedlot,

~~or~~

- filing a financing
1 13 statement to perfect a lien, and enforcing

~~liens~~

- a lien under

1 14 this chapter.

1 15 Sec. 3. Section [579A.2](#), Code 2001, is amended to read as
1 16 follows:

1 17 579A.2 ESTABLISHMENT OF LIEN PRIORITY.

1 18 1. A custom cattle feedlot lien is created. The lien is
1 19 an agricultural lien as provided in section 554.9302.

1 20 2. A custom cattle feedlot operator shall have a lien upon
1 21 the cattle and the identifiable cash proceeds from the sale of
1 22 the cattle for the amount of the contract price for the feed
1 23 and care of the cattle at the custom cattle feedlot pursuant
1 24 to a written or oral agreement by the custom cattle feedlot
1 25 operator and the person who owns the cattle, which may be
1 26 enforced as provided in section 579A.3. The custom cattle
1 27 feedlot operator is a secured party and the owner of the
1 28 cattle is a debtor for purposes of chapter 554, article 9.
1 29

~~2.~~

- ~~3.~~

~~The~~

- A custom cattle feedlot lien

~~is created~~

- becomes

1 30 effective at the time the cattle arrive at the custom cattle
1 31 feedlot

~~and continues for one year after the cattle have left~~

-
1 32

~~the custom cattle feedlot~~

- In order to

~~preserve~~

- perfect the

1 33 lien, the custom cattle feedlot operator

~~must, within twenty~~

1 34

~~days after the cattle arrive at the custom cattle feedlot,~~

1 35

~~file~~

~~must file a financing statement in the office of the~~
2 1 secretary of state

~~, a lien statement on a form prescribed by~~

2 2

~~the secretary of state~~

~~as provided in section 554.9308 within~~

2 3 twenty days after the cattle arrive at the custom cattle
2 4 feedlot.

~~The secretary of state shall charge a fee of not~~

2 5

~~more than ten dollars for filing the statement. The secretary~~

2 6

~~of state may adopt rules pursuant to chapter 17A for the~~

2 7

~~electronic filing of the statements. The statement must~~

2 8

~~include all of the following:~~

2 9 a.

~~An estimate of the amount of feed and care provided to~~

2 10

~~the cattle pursuant to the contract.~~

~~The financing statement~~

2 11 shall meet the requirements of section 554.9502, subsection 1,
2 12 and include all applicable information described in section
2 13 554.9516.

2 14 b.

~~The estimated duration of the period when the cattle~~

2 15

~~are subject to feed and care at the custom cattle feedlot.~~

2 16 The lien terminates one year after the cattle have left the
2 17 custom cattle feedlot. Section 554.9515 shall not apply to a
2 18 financing statement perfecting the lien. The lien may be
2 19 terminated by the custom cattle feedlot operator who files a
2 20 termination statement as provided in chapter 554, article 9.
2 21

~~c. The name of the party to the contract whose cattle are~~

~~2 22~~

~~subject to feed and care at the custom cattle feedlot.~~

~~2 23~~

~~d. The description of the location of the custom cattle~~

~~2 24~~

~~feedlot, by county and township.~~

~~2 25~~

~~e. The printed name and signature of the person filing the~~

~~2 26~~

~~form.~~

~~2 27~~

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

~~2 30~~

~~3.~~

~~5. a. Except as provided in~~

~~chapter 581~~

~~this~~

2 31 paragraph, a custom cattle feedlot lien

~~created~~

~~that is~~

2 32 perfected under this section

~~until preserved and a lien~~

~~2 33~~

~~preserved under this section~~

~~is superior to and shall have~~

2 34 priority over a conflicting lien or security interest in the
2 35 cattle, including a lien or security interest that was
3 1 perfected prior to the

~~creation of the~~

~~perfection of the~~

3 2 custom cattle feedlot lien

~~provided under this section~~

~~3~~

3 3 However, a custom cattle feedlot lien shall not be superior to
3 4 a veterinarian's lien created under chapter 581, that is
3 5 perfected as an agricultural lien as provided in chapter 554,
3 6 article 9.

~~3 7~~

b. A custom cattle feedlot lien that is effective but not
3 8 perfected under this section has priority as provided in
3 9 section 554.9322.

~~3 10~~

Sec. 4. Section 579A.4, Code 2001, is amended to read as
3 11 follows:

~~3 12~~

579A.4 WAIVERS UNENFORCEABLE.

~~3 13~~

A waiver of a right created by this chapter, including but
3 14 not limited to, a waiver of the right to file a

~~—lien~~

— financing

3 15 statement pursuant to this chapter is void and unenforceable.
3 16 This section does not affect other provisions of a contract,
3 17 including a production contract or a related document, policy,
3 18 or agreement which can be given effect without the voided
3 19 provision.

3 20 Sec. 5. Section 579B.5, Code 2001, is amended to read as
3 21 follows:

3 22 579A.5 ALTERNATE LIEN PROCEDURE.

3 23 A person who is a custom cattle feedlot operator may file a
3 24 financing statement and enforce a lien as a contract producer
3 25 under this chapter or chapter 579B, but not both.

3 26 DIVISION II
3 27 COMMODITY PRODUCTION CONTRACT LIEN

3 28 Sec. 6. Section 579B.1, Code 2001, is amended by adding
3 29 the following new subsection:

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

3 32 Sec. 7. Section 579B.1, subsection 11, Code 2001, is
3 33 amended to read as follows:

3 34 11. "Personal representative" means a person who is
3 35 authorized by a contract producer to act on behalf of the
4 1 contract producer, including by executing an agreement,
4 2 managing a contract operation, or filing a financing statement
4 3 perfecting a lien, and enforcing a lien as provided in this
4 4 chapter.

4 5 Sec. 8. Section 579B.3, unnumbered paragraph 1, Code 2001,
4 6 is amended to read as follows:

4 7 0A. A commodity production contract lien is created. The
4 8 lien is an agricultural lien as provided in section 554.9302.

4 9 0B. A contract producer who is a party to a production
4 10 contract executed pursuant to section 579B.2 shall have a lien
4 11 as provided in this section. The contract producer is a
4 12 secured party and the owner of the commodity is a debtor for
4 13 purposes of chapter 554, article 9. The amount of the lien
4 14 shall be the amount owed to the contract producer pursuant to
4 15 the terms of the production contract, which may be enforced as
4 16 provided in section 579B.5.

4 17 Sec. 9. Section 579B.3, subsection 1, paragraph b, Code
4 18 2001, is amended by striking the paragraph.

4 19 Sec. 10. Section 579B.3, subsection 2, paragraph b, Code
4 20 2001, is amended by striking the paragraph.

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

4 23 579B.4

~~—PRESERVING~~

— PERFECTING THE LIEN FILING

4 24 REQUIREMENTS.

4 25 1.

~~In order to preserve a lien created pursuant to section~~

~~—~~
4 26

~~579B.3, a contract producer must file in the office of the~~

~~—~~
4 27

~~secretary of state a lien statement on a form prescribed by~~

~~—~~
4 28

~~the secretary of state.~~

— A commodity production contract lien

4 29 becomes effective and is perfected as follows:

4 30 a.

~~If the~~
~~For a lien~~

~~arises~~
~~arising out of producing~~
4 31 livestock or raw milk, the lien becomes effective the

~~contract~~

4 32

~~producer must file the lien within forty five days after the~~

4 33 day that the livestock first arrives at the contract livestock
4 34 facility. In order to perfect the lien, the contract producer
4 35 must file a financing statement in the office of the secretary
5 1 of state provided in section 554.9308 within forty-five days
5 2 after the livestock's arrival. The lien terminates one year
5 3 after the livestock is no longer under the authority of the
5 4 contract producer. For purposes of this section, livestock is
5 5 no longer under the authority of the contract producer when
5 6 the livestock leaves the contract livestock facility. Section
5 7 554.9515 shall not apply to a financing statement perfecting
5 8 the lien. The lien may be terminated by the contract producer
5 9 who files a termination statement as provided in chapter 554,
5 10 article 9.
5 11 b.

~~If the~~
~~For a lien~~

~~arises~~
~~arising out of producing a~~
5 12 crop,

~~the contract producer must file the lien within forty~~

5 13

~~five days after~~
~~the lien becomes effective the day that the~~
5 14 crop is first planted. In order to perfect the lien, the
5 15 contract producer must file a financing statement in the
5 16 office of the secretary of state as provided in section
5 17 554.9308 within forty-five days after the crop is first
5 18 planted.

~~The secretary of state shall charge a fee of not~~

5 19

~~more than ten dollars for filing the statement. The secretary~~

5 20

~~of state may adopt rules pursuant to chapter 17A for the~~

5 21

~~electronic filing of the statements.~~

~~The lien terminates one~~
5 22 year after the crop is no longer under the authority of the
5 23 contract producer. For purposes of this section, a crop is no
5 24 longer under the authority of the contract producer when the
5 25 crop or a warehouse receipt issued by a warehouse operator

5 26 licensed under chapter 203C for grain from the crop is no
5 27 longer under the custody or control of the contract producer.
5 28 Section 554.9515 shall not apply to a financing statement
5 29 perfecting the lien. The lien may be terminated by the
5 30 contract producer who files a termination statement as
5 31 provided in chapter 554, article 9.
5 32 2.

~~The statement must include all of the following:~~

~~- The~~

5 33 financing statement shall meet the requirements of section
5 34 554.9502, subsection 1, and include all applicable information
5 35 described in section 554.9516.

6 1

~~a. An estimate of the amount owed pursuant to the~~

~~-~~
6 2

~~production contract.~~

~~-~~
6 3

~~b. The date when the livestock arrives at the contract~~

~~-~~
6 4

~~livestock facility or the date when the crop was planted.~~

~~-~~
6 5

~~c. The estimated duration of the period when the commodity~~

~~-~~
6 6

~~will be under the authority of the contract producer.~~

~~-~~
6 7

~~d. The name of the party to the production contract whose~~

~~-~~
6 8

~~commodity is produced pursuant to the production contract.~~

~~-~~
6 9

~~e. The description of the location of the contract~~

~~-~~
6 10

~~operation, by county and township.~~

~~-~~
6 11

~~f. The printed name and signature of the person filing the~~

~~-~~
6 12

~~form.~~

6 13 3. Filing a financing statement as provided in this
6 14 section satisfies all requirements for perfection of an
6 15 agricultural lien as provided in chapter 554, article 9.
6 16

~~-3-~~

- 4. a. Except as provided in

~~chapter 581~~

- ~~this~~

6 17 paragraph, a commodity production contract lien

~~created~~

- ~~that~~

6 18 is perfected under this section

~~579B.3 and a lien preserved~~

- 6 19

~~under this section are~~

- is superior to and shall have priority

6 20 over a conflicting lien or security interest in the commodity,

6 21 including a lien or security interest that was perfected prior

6 22 to the

~~creation~~

- perfection of the commodity production

6 23 contract lien under this chapter. However, a commodity

6 24 production contract lien shall not be superior to a

6 25 veterinarian's lien created under chapter 581 that is

6 26 perfected as an agricultural lien.

6 27 b. A commodity production contract lien that is effective

6 28 but not perfected under this section has priority as provided

6 29 in section 554.9322.

6 30

EXPLANATION

6 31 In 1999, the general assembly enacted House File 322 (1999

6 32 Iowa Acts, chapter 169) that regulated the relationship

6 33 between an agricultural producer (contract producer) and the

6 34 owner of a commodity (contractor) in which the producer

6 35 produced a commodity under contract. In part, the Act created

7 1 Code chapter 579B providing for a lien upon commodities

7 2 produced at a contractor producer's contract operation in

7 3 favor of the contract producer. The chapter was based on Code

7 4 chapter 579A which allows a custom cattle feedlot operator to

7 5 file a lien on cattle produced at a custom cattle feedlot.

7 6 Under both chapters the contract producer or custom cattle

7 7 feedlot operator must file a lien statement with the secretary

7 8 of state. The lien becomes effective prior to filing.

7 9 Generally a lien created under these chapters is superior to

7 10 and has priority over conflicting liens or security interests.

7 11 In 2000, the general assembly enacted House File 2513 (2000

7 12 Iowa Acts, chapter 1149) adopting revised article 9 of the

7 13 uniform commercial code (Code chapter 554) as proposed by the

7 14 American law institute and the national conference of

7 15 commissioners on uniform state laws, and conforming amendments

7 16 to a number of articles within that chapter as well as other

7 17 chapters providing for security interests and liens. This Act

7 18 goes into effect on July 1, 2001.

7 19 With limited exceptions, new article 9 governs the

7 20 creation, priority, and enforcement of creditors' consensual

7 21 liens, which are defined as security interests in personal

7 22 property and fixtures. Revised article 9, like its

7 23 predecessor, provides generally for the effectiveness of

7 24 security agreements and the rights and duties of creditors

7 25 (i.e., secured parties), including parties having possession

7 26 and control of collateral. Much of revised article 9 provides

7 27 for perfecting a security interest, usually accomplished by

7 28 filing a financing statement. The article provides for the

7 29 contents of financing statements and the location where such

7 30 financing statements must be filed (e.g., with the secretary

7 31 of state). In perfecting a security interest, a debtor is

7 32 generally assured rights in the collateral superior to a

7 33 security interest perfected later in time.

7 34 Prior to the revision of article 9, liens created in
7 35 statutes outside Code chapter 554 were not affected by its
8 1 provisions. These liens include types of agricultural liens
8 2 such as those created in Code chapters 579A and 579B. Revised
8 3 article 9 provides filing requirements for perfecting
8 4 agricultural liens and therefore may control issues relating
8 5 to priority of conflicting security interests and liens.

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

8 19 LSB 2377SC 79

8 20 da/pj/5