

SENATE BILL 96

IN THE SENATE

January 13, 1979	Introduced and referred to Committee on Agriculture, Livestock and Irrigation.
January 20, 1979	Committee recommend bill, as amended.
January 22, 1979	Printed and placed on members' desks.
January 23, 1979	Second reading, pass consideration.
January 24, 1979	Second reading, indefinitely postponed.

1 *Senate* BILL NO. *96*
 2 INTRODUCED BY *Charles Hager Lower*
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4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE FILING
 5 AND ENFORCING OF A LIEN UPON CROPS FOR THE SUPPLIER OF FUEL,
 6 FERTILIZER, OR CHEMICAL SPRAY THAT IS USED IN THE PRODUCTION
 7 OR CULTIVATION OF THE CROPS."

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 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Who may have lien -- amount. (1) Any person
 11 who under a contract, express or implied, furnishes to a
 12 buyer fuel, fertilizer, or chemical spray or the funds or
 13 means with which to purchase fuel, fertilizer, or chemical
 14 spray that is to be used in the production or cultivation of
 15 crops on the lands owned or contracted to be purchased,
 16 used, leased, occupied, or rented or held under government
 17 entry by the buyer has a lien upon all the crops so produced
 18 or cultivated upon compliance with the provisions of this
 19 part. However, the lien may not exceed the reasonable value
 20 of the fuel, fertilizer, or chemical spray in the particular
 21 locality where furnished.

22 (2) For the purpose of [this act], unless otherwise
 23 indicated, "person" means a legal entity, including but not
 24 limited to an individual, corporation, association, or
 25 partnership.

1 Section 2. How lien obtained. (1) Any person who is
 2 entitled to a lien under this part and wishes to avail
 3 himself of the benefits of this part must file, with the
 4 office of the county clerk and recorder of the county in
 5 which the crops are grown and within 60 days after the fuel,
 6 fertilizer, or chemical spray was furnished to the buyer, a
 7 statement that contains:

8 (a) the amount due for the fuel, fertilizer, or
 9 chemical spray, after allowing all proper credits and
 10 offsets;

11 (b) a correct description of the crops to be charged
 12 with the lien;

13 (c) the price agreed upon for the fuel, fertilizer, or
 14 chemical spray or, if no price was agreed upon, the
 15 reasonable value;

16 (d) the name of the person to whom the fuel,
 17 fertilizer, or chemical spray was furnished; and

18 (e) a description of the lands as nearly as possible
 19 upon which the crops were raised.

20 (2) This statement of facts must be verified by
 21 affidavit of the person claiming the lien or the person's
 22 duly authorized agent or attorney having knowledge of the
 23 facts.

24 Section 3. Filing with county clerk. The county clerk
 25 must endorse upon the lien the date of its filing and make

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1 an abstract, in a properly indexed book kept for that
 2 purpose, that contains the date of the filing, the name of
 3 person claiming the lien, the amount of the lien, the name
 4 of the person against whose crops the lien is filed, and a
 5 description of the crops to be charged.

6 Section 4. Priority. The lien for the fuel,
 7 fertilizer, or chemical spray furnished as specified in this
 8 part is prior to and has precedence over any mortgage,
 9 encumbrance, or other lien upon the crops, except the lien
 10 for seed, hail insurance, threshing, labor, spraying or
 11 dusting, and warehouse services furnished for the purpose of
 12 growing or handling the crops.

13 Section 5. Parties. All persons interested in the
 14 matter in controversy or the property to be charged with the
 15 lien or having liens thereon shall be made parties to an
 16 action for the foreclosure thereof.

17 Section 6. Limitations of actions. All actions for the
 18 foreclosure and enforcement of the lien herein provided for
 19 must be commenced within 1 year from the day of the filing
 20 of the lien.

21 Section 7. Acknowledgement of satisfaction and
 22 discharge of lien -- penalty. Whenever the indebtedness
 23 which is a lien upon any crops is paid and satisfied, it is
 24 the duty of the lienor to acknowledge satisfaction thereof
 25 and to discharge the lien of record. If any lienor fails to

1 acknowledge satisfaction and discharge the lien within 30
 2 days after being requested to do so by a person having a
 3 property interest in such crops, he is liable to any person
 4 injured thereby in the amount of such injury and the costs
 5 of action.

6 Section 8. Rules of practice. Except as otherwise
 7 provided, the provisions of Title 25 are applicable to and
 8 constitute the rules of practice for the enforcement and
 9 foreclosure of the lien herein provided for.

-End-

Approved by Committee
on Agriculture Livestock
& Irrigation

SENATE BILL NO. 96

INTRODUCED BY DOVER, HAGER, LOWE

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE FILING AND ENFORCING OF A LIEN UPON CROPS FOR THE SUPPLIER OF FUEL, FERTILIZER, OR CHEMICAL SPRAY THAT IS USED IN THE PRODUCTION OR CULTIVATION OF THE CROPS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Who may have lien -- amount. (1) Any person who under a contract, express or implied, furnishes to a buyer fuel, fertilizer, or chemical spray or the funds or means with which to purchase fuel, fertilizer, or chemical spray that is to be used in the production or cultivation of crops on the lands owned or contracted to be purchased, used, leased, occupied, or rented or held under government entry by the buyer has a lien upon all the crops so produced or cultivated upon compliance with the provisions of [this part ACI]. However, the lien may not exceed the reasonable value of the fuel, fertilizer, or chemical spray in the particular locality where furnished.

(2) For the purpose of [this act], unless otherwise indicated, "person" means a legal entity, including but not limited to an individual, corporation, association, or partnership.

Section 2. How lien obtained. (1) Any person who is entitled to a lien under [this part ACI] and wishes to avail himself of the benefits of [this part ACI] must file, with the office of the county clerk and recorder of the county in which the crops are grown and within 60 days after the fuel, fertilizer, or chemical spray was IS furnished to the buyer, a statement that contains:

(a) the amount due for the fuel, fertilizer, or chemical spray, after allowing all proper credits and offsets;

(b) a correct description of the crops to be charged with the lien;

(c) the price agreed upon for the fuel, fertilizer, or chemical spray or, if no price was agreed upon, the reasonable value;

(d) the name of the person to whom the fuel, fertilizer, or chemical spray was furnished; and

(e) a description of the lands as nearly as possible upon which the crops were raised.

(2) This statement of facts must be verified by affidavit of the person claiming the lien or the person's duly authorized agent or attorney having knowledge of the facts.

Section 3. Filing with county clerk. The county clerk must endorse upon the lien the date of its filing and make

1 an abstract, in a properly indexed book kept for that
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