

Senate Bill 201

In The Senate

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| January 20, 1981 | Introduced and referred to Committee on Judiciary. |
| January 31, 1981 | Committee recommend bill do not pass. |

1 *Senate* BILL NO. *201*
2 INTRODUCED BY *Dove*

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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 OR FERTILIZER THAT IS USED IN THE PRODUCTION OR CULTIVATION
7 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 or fertilizer that is to be used in the
13 production or cultivation of crops on the lands owned or
14 contracted to be purchased, used, leased, occupied, or
15 rented or held under government entry by the buyer has a
16 lien upon all the crops so produced or cultivated upon
17 compliance with the provisions of [this act]. However, the
18 lien may not exceed the reasonable value of the fuel or
19 fertilizer in the particular locality where furnished.

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

24 Section 2. How lien obtained. (1) Any person who is
25 entitled to a lien under [this act] and who wishes to avail

1 himself of the benefits of [this act] must file with the
2 office of the county clerk and recorder of the county in
3 which the crops are grown and within 60 days after the fuel
4 or fertilizer is furnished to the buyer a statement that
5 contains:

6 (a) the amount due for the fuel or fertilizer after
7 allowing all proper credits and offsets;

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

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

12 (d) the name of the person to whom the fuel or
13 fertilizer was furnished; and

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

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

20 Section 3. Filing with county clerk. The county clerk
21 must endorse upon the lien the date of its filing and make
22 an abstract, in a properly indexed book kept for that
23 purpose, that contains the date of the filing, the name of
24 person claiming the lien, the amount of the lien, the name
25 of the person against whose crops the lien is filed, and a

1 description of the crops to be charged.

2 Section 4. Priority. The lien for the fuel or
3 fertilizer furnished does not have priority over an
4 encumbrance for money loaned by a financial institution or
5 production credit association for the current years'
6 purchase of fuel or fertilizer.

7 Section 5. Parties. All persons interested in the
8 matter in controversy or the property to be charged with the
9 lien or having liens thereon shall be made parties to an
10 action for the foreclosure thereof.

11 Section 6. Limitation of actions. All actions for the
12 foreclosure and enforcement of the lien provided for in
13 [this act] must be commenced within 1 year from the day of
14 the filing of the lien.

15 Section 7. Acknowledgment of satisfaction and
16 discharge of lien -- penalty. Whenever the indebtedness that
17 is a lien upon any crops is paid and satisfied, it is the
18 duty of the lienor to acknowledge satisfaction thereof and
19 to discharge the lienor of record. If any lienor fails to
20 acknowledge satisfaction and discharge the lien within 30
21 days after being requested to do so by a person having a
22 property interest in such crops, the lienor is liable to any
23 person injured thereby in the amount of such injury and the
24 costs of action.

25 Section 8. Rules of practice. Except as otherwise

1 provided, the provisions of Title 25 are applicable to and
2 constitute the rules of practice for the enforcement and
3 foreclosure of the lien herein provided for.

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