

HOUSE BILL NO. 712

2/07 Introduced
2/07 Referred to Judiciary
2/18 Hearing
2/19 Committee Report-Bill Pass As Amended
2/21 2nd Reading Pass
2/23 3rd Reading Pass

Transmitted to Senate

3/04 Referred to Judiciary
3/18 Hearing
3/20 Tabled in Committee

1 HOUSE BILL NO. 712
 2 INTRODUCED BY Miller Cobb Shami Spauld
 3 E. Smith Conover Due Brown Bradley Ernst
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING CROP LIEN
 5 PROVISIONS FOR SPRAYING OR DUSTING; CREATING A NEW LIEN
 6 AGAINST CROPS TO SECURE PAYMENT TO SUPPLIERS AND APPLICATORS
 7 OF AGRICULTURAL FERTILIZERS AND CHEMICALS; PROVIDING FOR
 8 PERFECTION, ENFORCEMENT, AND SATISFACTION OF THESE LIENS;
 9 AMENDING SECTIONS 71-3-711 AND 71-3-804, MCA; REPEALING
 10 SECTIONS 71-3-901 THROUGH 71-3-909, MCA; AND PROVIDING AN
 11 IMMEDIATE EFFECTIVE DATE."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 NEW SECTION. Section 1. Fertilizer and chemical lien
 15 -- scope and amount. Any person, including a firm,
 16 corporation, or business entity of any type, who under an
 17 express or implied contract furnishes or applies a
 18 fertilizer, soil conditioner, herbicide, pesticide, or other
 19 agricultural chemical, upon complying with the provisions of
 20 [this act], has a lien for the agreed charges or, in the
 21 absence of agreement, for the reasonable value thereof upon
 22 the crops produced within 1 year on the land where the
 23 product was applied and upon the proceeds from the sale of
 24 such crops.

25 NEW SECTION. Section 2. Perfection of lien. (1) A

1 lien under [this act] may be perfected by filing a notice of
 2 lien with the county clerk and recorder of the county in
 3 which is located the land on which the crops are growing or
 4 to be planted. The notice of lien must be filed within 90
 5 days of the last date on which the product was furnished or
 6 applied or not later than July 15 next succeeding such date,
 7 whichever is later.

- 8 (2) The notice of lien must include:
 9 (a) the name and address of the person to whom the
 10 product was furnished or for whom it was applied;
 11 (b) the name and address of the person claiming the
 12 lien;
 13 (c) the amount claimed to be due after all proper
 14 credits and offsets;
 15 (d) the last date on which the product was furnished
 16 or applied; and
 17 (e) the legal description of the land on which the
 18 crops are growing or are to be planted.

19 (3) The notice of lien must be verified by affidavit
 20 of the claimant or his agent or attorney to the effect that
 21 the affiant believes the information to be true.

22 NEW SECTION. Section 3. Priority. The lien provided
 23 for in [this act] has priority as to the crops covered
 24 thereby over all other security interests, liens, or
 25 encumbrances, regardless of when arising or perfected,



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1 except for seed and farm laborers' liens and prior filed
2 liens under [this act].

3 NEW SECTION. Section 4. Foreclosure. The lien
4 provided for in [this act] may be foreclosed in the manner
5 and according to the terms provided for the foreclosure of
6 security interests in Title 30, chapter 9, Uniform
7 Commercial Code.

8 NEW SECTION. Section 5. Release of lien -- penalty.
9 When a lien allowed by [this act] has been satisfied or the
10 claim thereof has been found invalid by final order or
11 judgment of a court of competent jurisdiction, the person
12 claiming such lien shall within 30 days following such
13 satisfaction, order, or judgment file a release of the lien
14 in the office of the county clerk and recorder in each
15 county in which the notice of lien was filed. If a lien
16 claimant fails to release the lien as required by this
17 section, such lien claimant is liable to any person injured
18 thereby for any actual damages caused that person for such
19 failure, together with costs of suit.

20 Section 6. Section 71-3-711, MCA, is amended to read:

21 "71-3-711. Lien for hail insurance. Any person,
22 company, association, or corporation which shall furnish to
23 another hail insurance for the purpose of protecting the
24 party's crop from damage by hail during the hail season of
25 the then-growing or seeded crop, whether the crop be on the

1 land owned or contracted to be purchased, used, leased,
2 occupied, or rented by the insured or held under government
3 entry, shall, upon filing the statement provided for in
4 71-3-712, have a lien, subject to any seed lien or
5 fertilizer and chemical lien that may then or thereafter be
6 placed on record against the crop, for the amount due the
7 person, company, association, or corporation furnishing the
8 hail insurance from the insured so protected, whether it be
9 on a note given, open account, or assessment, due or to
10 become due, for the current year's protection, upon the crop
11 produced on the land so protected or any part thereof and
12 upon the seed or grain threshed from such crop to secure the
13 payment of the amount due or the assessment levied against
14 the insured for the insurance provided."

15 Section 7. Section 71-3-804, MCA, is amended to read:

16 "71-3-804. Priority. The lien for work or labor done
17 or services rendered as specified in 71-3-801 shall be prior
18 to and have precedence over any mortgage, encumbrance, or
19 other lien upon said grain or other crops, except the lien
20 for the seed furnished for the purpose of growing this
21 particular crop and the lien for fertilizers and chemicals
22 established by [section 1]."

23 NEW SECTION. Section 8. Repealer. Sections 71-3-901
24 through 71-3-909, MCA, are repealed.

25 NEW SECTION. Section 9. Codification instruction.

1 Sections 1 through 5 are intended to be codified as an
2 integral part of Title 71, chapter 3.

3 NEW SECTION. Section 10. Effective date. This act is
4 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 712

INTRODUCED BY MILLER, COBB, ABRAMS, SPAETH, E. SMITH
CONOVER, D. BROWN, BRADLEY, ERNST, JENKINS, BOYLAN

A BILL FOR AN ACT ENTITLED: "AN ACT REPEALING CROP LIEN PROVISIONS FOR SPRAYING OR DUSTING; CREATING A NEW LIEN AGAINST CROPS TO SECURE PAYMENT TO SUPPLIERS AND APPLICATORS OF AGRICULTURAL FERTILIZERS AND CHEMICALS; PROVIDING FOR PERFECTION, ENFORCEMENT, AND SATISFACTION OF THESE LIENS; AMENDING SECTIONS SECTION 71-3-711 AND--71-3-884, MCA; REPEALING SECTIONS 71-3-901 THROUGH 71-3-909, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Fertilizer and chemical lien -- scope and amount. Any person, including a firm, corporation, or business entity of any type, who under an express or implied contract furnishes or applies a fertilizer, soil conditioner, herbicide, pesticide, or other agricultural chemical, upon complying with the provisions of [this act], has a lien for the agreed charges or, in the absence of agreement, for the reasonable value thereof upon the crops produced within 1 year on the land where the product was applied and upon the proceeds from the sale of such crops.

NEW SECTION. Section 2. Perfection of lien. (1) A lien under [this act] may be perfected by filing a notice of lien with the county clerk and recorder of the county in which is located the land on which the crops are growing or to be planted. The notice of lien must be filed within 90 days of the last date on which the product was furnished or applied ~~or not later than July 15 next succeeding such date, whichever is later.~~

(2) The notice of lien must include:

(a) the name and address of the person to whom the product was furnished or for whom it was applied;

(b) the name and address of the person claiming the lien;

(c) the amount claimed to be due after all proper credits and offsets;

(d) the last date on which the product was furnished or applied; and

(e) the legal description of the land on which the crops are growing or are to be planted.

(3) The notice of lien must be verified by affidavit of the claimant or his agent or attorney to the effect that the affiant believes the information to be true.

NEW SECTION. Section 3. Priority. The lien provided for in [this act] has priority as to the crops covered thereby over all other security interests, liens, or

1 encumbrances, regardless of when arising or perfected,
2 except for seed and farm laborers' liens and prior filed
3 liens under [this act].

4 NEW SECTION. Section 4. Foreclosure. The lien
5 provided for in [this act] may be foreclosed in the manner
6 and according to the terms provided for the foreclosure of
7 security interests in Title 30, chapter 9, Uniform
8 Commercial Code.

9 NEW SECTION. Section 5. Release of lien -- penalty.
10 When a lien allowed by [this act] has been satisfied or the
11 claim thereof has been found invalid by final order or
12 judgment of a court of competent jurisdiction, the person
13 claiming such lien shall within 30 days following such
14 satisfaction, order, or judgment file a release of the lien
15 in the office of the county clerk and recorder in each
16 county in which the notice of lien was filed. If a lien
17 claimant fails to release the lien as required by this
18 section, such lien claimant is liable to any person injured
19 thereby for any actual damages caused that person for such
20 failure, together with costs of suit.

21 Section 6. Section 71-3-711, MCA, is amended to read:
22 "71-3-711. Lien for hail insurance. Any person,
23 company, association, or corporation which shall furnish to
24 another hail insurance for the purpose of protecting the
25 party's crop from damage by hail during the hail season of

1 the then-growing or seeded crop, whether the crop be on the
2 land owned or contracted to be purchased, used, leased,
3 occupied, or rented by the insured or held under government
4 entry, shall, upon filing the statement provided for in
5 71-3-712, have a lien, subject to any seed lien or
6 fertilizer and chemical lien that may then or thereafter be
7 placed on record against the crop, for the amount due the
8 person, company, association, or corporation furnishing the
9 hail insurance from the insured so protected, whether it be
10 on a note given, open account, or assessment, due or to
11 become due, for the current year's protection, upon the crop
12 produced on the land so protected or any part thereof and
13 upon the seed or grain threshed from such crop to secure the
14 payment of the amount due or the assessment levied against
15 the insured for the insurance provided."

16 ~~Section 7. Section 71-3-804, MCA, is amended to read:~~
17 ~~"71-3-804. Priority. The lien for work or labor done~~
18 ~~or services rendered as specified in 71-3-801 shall be prior~~
19 ~~to and have precedence over any mortgage, encumbrance, or~~
20 ~~other lien upon said grain or other crops, except the lien~~
21 ~~for the seed furnished for the purpose of growing this~~
22 ~~particular crop and the lien for fertilizers and chemicals~~
23 ~~established by [section 1]."~~

24 NEW SECTION. Section 7. Repealer. Sections 71-3-901
25 through 71-3-909, MCA, are repealed.

1 NEW SECTION. Section 8. Codification instruction.
2 Sections 1 through 5 are intended to be codified as an
3 integral part of Title 71, chapter 3.
4 NEW SECTION. Section 9. Effective date. This act is
5 effective on passage and approval.

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8 whichever-is-later.

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13 lien;14 (c) the amount claimed to be due after all proper
15 credits and offsets;16 (d) the last date on which the product was furnished
17 or applied; and18 (e) the legal description of the land on which the
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 15 in the office of the county clerk and recorder in each
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 11 become due, for the current year's protection, upon the crop
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 13 upon the seed or grain threshed from such crop to secure the
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