

HOUSE BILL NO. 819

2/14 Introduced
2/14 Referred to Business & Labor
2/20 Hearing
2/22 Committee Report-Bill Pass As Amended
2/26 2nd Reading Do Not Pass
2/26 Bill Killed

1 HOUSE BILL NO. 819
 2 INTRODUCED BY K. K. Egan Dave Brown
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 5 LIEN LAWS CONCERNING SUPPLIERS OF AGRICULTURAL PRODUCTS;
 6 PROVIDING FOR LIENS FOR SUPPLIERS OF SEED, FEED,
 7 AGRICULTURAL CHEMICALS, AND PETROLEUM PRODUCTS; PROVIDING
 8 THAT AN AGRICULTURAL SUPPLIER MUST SUBMIT A STATEMENT TO A
 9 FINANCIAL INSTITUTION HAVING A SECURITY INTEREST IN THE
 10 PRODUCT OR LAND IF THE SUPPLIER'S LIEN IS TO HAVE PRIORITY;
 11 AMENDING SECTIONS 71-3-701 THROUGH 71-3-705, MCA."

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

13 Section 1. Section 71-3-701, MCA, is amended to read:
 14 "71-3-701. Lien for ~~seed---or---grain~~ agricultural
 15 supplies. (1) Any person, company, association, or
 16 corporation who shall furnish to another ~~seed, to-be-sown-or~~
 17 ~~planted~~ an agricultural chemical, or a petroleum product or
 18 funds or means with which to purchase such ~~seed, to-be-sown~~
 19 ~~or-planted-or~~ agricultural chemical, or petroleum product to
 20 be used in the production or cultivation of a crop or crops
 21 on the lands owned or contracted to be purchased, used,
 22 leased, occupied, or rented by him or held under government
 23 entry shall, upon filing the statement provided for in
 24 71-3-703, have a ~~lien not-exceeding-the-purchase-price-of~~

1 ~~700-bushels~~ upon the crop produced from the ~~seed--or--grain~~
 2 product so furnished, or any part thereof, and upon the seed
 3 or grain threshed from such crop to secure the payment of
 4 the amount or the value of the ~~seed, or-grain~~ chemical, or
 5 product so furnished or the funds or means advanced to
 6 purchase the same.

7 (2) An agricultural supply dealer who furnishes feed
 8 to a farmer, upon filing the statement provided for in
 9 71-3-703, has a lien for the unpaid amount of the retail
 10 cost of the feed, including labor. The lien attaches to all
 11 livestock consuming the feed."

12 Section 2. Section 71-3-702, MCA, is amended to read:
 13 "71-3-702. Priority ~~--~~ financial institution
 14 memorandum to supplier. (1) Upon the receipt of a certified
 15 request of an agricultural supply dealer, prior to or upon a
 16 sale on a credit basis of an agricultural chemical, seed,
 17 feed, or petroleum product to a farmer, a financial
 18 institution, including a production credit association,
 19 federal land bank, or the farmers home administration, which
 20 has either a security interest in collateral owned by the
 21 farmer or an outstanding loan to the farmer for an
 22 agricultural purpose shall, within 2 business days, issue a
 23 memorandum which states whether the farmer has a sufficient
 24 net worth or line of credit to assure payment of the
 25 purchase price on the terms of the sale. The certified



1 request submitted by the agricultural supply dealer must
 2 state the amount of the purchase and the terms of sale and
 3 must be accompanied by a waiver of confidentiality signed by
 4 the farmer and a \$15 fee. If the financial institution
 5 states in its memorandum that the farmer has a sufficient
 6 net worth or line of credit to assure payment of the
 7 purchase price, the memorandum is an irrevocable and
 8 unconditional letter of credit to the benefit of the
 9 agricultural supply dealer for a period of 30 days following
 10 the date on which the final payment is due for the amount of
 11 the purchase price which remains unpaid. If the financial
 12 institution does not state in its memorandum that the farmer
 13 has a sufficient net worth or line of credit to assure
 14 payment of the purchase price, the financial institution
 15 shall transmit the relevant financial history which it holds
 16 on the person. This financial history must remain
 17 confidential between the financial institution, the
 18 agricultural supply dealer, and the farmer.

19 (2) If within 2 business days of receipt of a
 20 certified request a financial institution fails to issue a
 21 memorandum upon the request of an agricultural supply dealer
 22 and the request from the agricultural supply dealer was
 23 proper under subsection (1) or if the memorandum from the
 24 financial institution is incomplete or if the memorandum
 25 from the financial institution states that the farmer does

1 not have a sufficient net worth or line of credit to assure
 2 payment of the purchase price, the agricultural supply
 3 dealer may decide to make the sale and secure the lien
 4 provided in 71-3-701.

5 (3) Upon an action to enforce a lien secured under
 6 71-3-701 against the interest of a financial institution
 7 secured to the same collateral as that of the lien, it is an
 8 affirmative defense to a financial institution and complete
 9 proof of the priority of the financial institution's lien
 10 that the financial institution either did not receive a
 11 certified request and a waiver signed by the farmer or
 12 received the request and a waiver signed by the farmer and
 13 provided the full and complete relevant financial history
 14 which it held on the farmer making the purchase from the
 15 agricultural supply dealer on which the lien is based and
 16 that financial history reasonably indicated that the farmer
 17 did not have a sufficient net worth or line of credit to
 18 assure payment of the purchase price.

19 (4) The lien provided by 71-3-701 shall, as to the
 20 crop or livestock covered thereby, have priority over all
 21 other liens and encumbrances thereon except as provided in
 22 subsections (1) through (3)."

23 Section 3. Section 71-3-703, MCA, is amended to read:
 24 "71-3-703. How to obtain lien. Any person who is
 25 entitled to a lien under 71-3-701 shall, within 90 days

1 after the seed, or-grain agricultural chemical, petroleum
 2 product, or feed is furnished or the funds, means, or
 3 moneys advanced therefor, file in the office of the county
 4 clerk and recorder of the county in which such seed, or
 5 grain chemical, product, or feed is to be planted-or used a
 6 statement in writing verified under oath showing the kind
 7 and quantity of the seed, or--grain chemical, product, or
 8 feed furnished, its value, or the amount of the funds or
 9 money advanced to pay therefor, the name of the person or
 10 persons to whom furnished, and a description of the land and
 11 of each tract of land upon which the same is to be or has
 12 been planted or sown or used in the production of a crop or
 13 livestock. Unless the person entitled to such lien shall
 14 file such statement within the time aforesaid, he shall be
 15 deemed to have waived the right thereto."

16 Section 4. Section 71-3-704, MCA, is amended to read:

17 "71-3-704. Acknowledgment of satisfaction of lien --
 18 penalty. Whenever the indebtedness which is a lien upon such
 19 grain, or--other crops, or livestock is paid and satisfied,
 20 it is the duty of the lienor to acknowledge satisfaction
 21 thereof and to discharge the lien of record. If any lienor
 22 fails to acknowledge satisfaction and discharge of said lien
 23 as aforesaid within 30 days after being requested to do so
 24 by a person having a property interest in such grain, or
 25 other crops, or livestock, he is liable to any person

1 injured thereby in the amount of such injury and the costs
 2 of the action."

3 Section 5. Section 71-3-705, MCA, is amended to read:

4 "71-3-705. Destruction of records -- when allowed. (1)
 5 All seed agricultural product liens which have heretofore or
 6 shall hereafter be filed for record under 71-3-703 in the
 7 office of any county clerk and recorder of the several
 8 counties in the state shall be retained by such county clerk
 9 in a file kept by him for such purposes for a period of 8
 10 years from the time when said seed lien has ceased to be a
 11 lien on the property described therein.

12 (2) Upon the expiration of the period of time
 13 specified in subsection (1), the county clerk and recorder
 14 may destroy all seed agricultural product liens which have
 15 been preserved for the period of time specified in this
 16 section."

17 NEW SECTION. Section 6. Saving clause. This act does
 18 not affect rights and duties that matured, penalties that
 19 were incurred, or proceedings that were begun before the
 20 effective date of this act.

-End-

APPROVED BY COMM. ON
BUSINESS AND LABOR

HOUSE BILL NO. 819

INTRODUCED BY KRUEGER, D. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LIEN LAWS CONCERNING SUPPLIERS OF AGRICULTURAL PRODUCTS; PROVIDING FOR LIENS FOR SUPPLIERS OF SEED, FEED, AGRICULTURAL-CHEMICALS, AND PETROLEUM PRODUCTS; PROVIDING THAT AN AGRICULTURAL SUPPLIER MUST SUBMIT A STATEMENT TO A FINANCIAL INSTITUTION HAVING A SECURITY INTEREST IN THE PRODUCT OR LAND IF THE SUPPLIER'S LIEN IS TO HAVE PRIORITY; AMENDING SECTIONS 71-3-701 THROUGH 71-3-705, MCA."

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~~price-of-700-bushels~~ upon the crop produced from the ~~seed-or-grain product~~ so furnished, or any part thereof, and upon the seed or grain threshed from such crop to secure the payment of the amount or the value of the ~~seed, or-grain-chemical, or product~~ so furnished or the funds or means advanced to purchase the same.

(2) An agricultural supply dealer who furnishes feed to a farmer, upon filing the statement provided for in 71-3-703, has a lien for the unpaid amount of the retail cost of the feed, including labor. The lien attaches to all livestock consuming the feed.

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 9 in a file kept by him for such purposes for a period of 8
 10 years from the time when said seed lien has ceased to be a
 11 lien on the property described therein.

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 14 may destroy all seed agricultural product liens which have
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