

HB 719 INTRODUCED BY BROWN, D., ET AL.  
GENERALLY REVISE LIEN LAWS CONCERNING AGRICULTURAL  
PRODUCTS SUPPLIERS

2/12 INTRODUCED  
2/12 REFERRED TO BUSINESS & LABOR  
2/17 HEARING  
2/17 TABLED IN COMMITTEE

1  
 2 INTRODUCED BY House BILL NO. 719  
 3 Miller Kevin Spack

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 OR FERTILIZER, AND PETROLEUM  
 8 PRODUCTS; PROVIDING THAT AN AGRICULTURAL SUPPLIER SHALL  
 9 REQUEST A STATEMENT FROM A FINANCIAL INSTITUTION HAVING A  
 10 SECURITY INTEREST IN THE PRODUCT OR LAND IF THE SUPPLIER'S  
 11 LIEN IS TO HAVE PRIORITY; AND AMENDING SECTIONS 71-3-701  
 12 THROUGH 71-3-705, 77-2-336, AND 77-6-112, MCA."

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

15 Section 1. Section 71-3-701, MCA, is amended to read:  
 16 "71-3-701. Lien for seed-or-grain agricultural product  
 17 or feed. (1) For the purposes of this part, "agricultural  
 18 product" means seed, an agricultural chemical or fertilizer,  
 19 or a petroleum product.

20 (2) Any person, company, association, or corporation  
 21 who shall furnish to another seed-to-be-sown-or--planted an  
 22 agricultural product or funds or means with which to  
 23 purchase such seed-to-be-sown--or--planted--or agricultural  
 24 product to be used in the production or cultivation of a  
 25 crop or crops on the lands owned or contracted to be

1 purchased, used, leased, occupied, or rented by him or held  
 2 under government entry shall, upon filing the statement  
 3 provided for in 71-3-703, have a lien not-exceeding-the  
 4 purchase-price-of-700-bushels upon the crop produced from  
 5 the seed-or-grain product so furnished, or any part thereof,  
 6 and upon the seed or grain threshed from such crop to secure  
 7 the payment of the amount or the value of the seed-or-grain  
 8 product so furnished or the funds or means advanced to  
 9 purchase the same.

10 (3) An agricultural supply dealer who furnishes feed  
 11 to a farmer, upon filing the statement provided for in  
 12 71-3-703, has a lien for the unpaid amount of the retail  
 13 cost of the feed, including labor. The lien attaches to all  
 14 livestock consuming the feed."

15 Section 2. Section 71-3-702, MCA, is amended to read:  
 16 "71-3-702. Priority -- financial institution  
 17 memorandum to supplier. (1) (a) Upon the receipt of a  
 18 certified request from an agricultural supply dealer, prior  
 19 to or upon a sale on a credit basis of an agricultural  
 20 product or feed to a farmer, a financial institution,  
 21 including a production credit association, federal land  
 22 bank, or the farmers home administration, that has either a  
 23 security interest in collateral owned by the farmer or an  
 24 outstanding loan to the farmer for an agricultural purpose  
 25 shall, within 2 business days, issue a memorandum that



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1 states whether the farmer has a sufficient net worth or line  
 2 of credit to assure payment of the purchase price on the  
 3 terms of the sale.

4 (b) The certified request submitted by the  
 5 agricultural supply dealer must state the amount of the  
 6 purchase and the terms of sale and must be accompanied by a  
 7 waiver of confidentiality signed by the farmer and a \$15  
 8 fee.

9 (c) If the financial institution states in its  
 10 memorandum that the farmer has a sufficient net worth or  
 11 line of credit to assure payment of the purchase price, the  
 12 memorandum is an irrevocable and unconditional letter of  
 13 credit to the benefit of the agricultural supply dealer for  
 14 a period of 30 days following the date on which the final  
 15 payment is due for the amount of the purchase price that  
 16 remains unpaid.

17 (d) If the financial institution does not state in its  
 18 memorandum that the farmer has a sufficient net worth or  
 19 line of credit to assure payment of the purchase price, the  
 20 financial institution shall transmit the relevant financial  
 21 history that it holds on the person. This financial history  
 22 must remain confidential between the financial institution,  
 23 the agricultural supply dealer, and the farmer.

24 (2) An agricultural supply dealer may decide to make  
 25 the sale and secure the lien provided in 71-3-701 if:

1 (a) within 2 business days of receipt of a certified  
 2 request the financial institution fails to issue a  
 3 memorandum upon the request of the agricultural supply  
 4 dealer and the request from the agricultural supply dealer  
 5 was proper under subsection (1);

6 (b) the memorandum from the financial institution is  
 7 incomplete; or

8 (c) the memorandum from the financial institution  
 9 states that the farmer does not have a sufficient net worth  
 10 or line of credit to assure payment of the purchase price.

11 (3) Upon an action to enforce a lien secured under  
 12 71-3-701 against the interest of a financial institution  
 13 secured to the same collateral as that of the lien, it is an  
 14 affirmative defense to a financial institution and complete  
 15 proof of the priority of the financial institution's lien  
 16 that the financial institution:

17 (a) did not receive a certified request and a waiver  
 18 signed by the farmer; or

19 (b) received the request and a waiver signed by the  
 20 farmer and provided the full and complete relevant financial  
 21 history that it held on the farmer making the purchase from  
 22 the agricultural supply dealer on which the lien is based  
 23 and the financial history reasonably indicated that the  
 24 farmer did not have a sufficient net worth or line of credit  
 25 to assure payment of the purchase price.

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

5       Section 3. Section 71-3-703, MCA, is amended to read:

6       "71-3-703. How to obtain lien. (1) Any person who is  
7 entitled to a lien under 71-3-701 shall, within 90 days  
8 after the seed--or--grain agricultural product or feed is  
9 furnished or the funds, means, or moneys advanced therefor,  
10 file in the office of the county clerk and recorder of the  
11 county in which such seed-or-grain agricultural product or  
12 feed is to be planted--or used a statement in writing  
13 verified under oath showing:

14       (a) the kind and quantity of the seed--or--grain  
15 agricultural product or feed furnished;

16       (b) its value, or the amount of the funds or money  
17 advanced to pay therefor;

18       (c) the name of the person or persons to whom  
19 furnished; and

20       (d) a description of the land and of each tract of  
21 land upon which the same is to be or has been planted or  
22 sown or used in the production of a crop or livestock.

23       (2) Unless the person entitled to such lien ~~shall file~~  
24 files such statement within the time aforesaid, he ~~shall be~~  
25 deemed is considered to have waived the right thereto."

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

2       "71-3-704. Acknowledgment of satisfaction of lien --  
3 penalty. Whenever the indebtedness which is a lien upon such  
4 grain, or other crops, or livestock is paid and satisfied,  
5 it is the duty of the lienor to acknowledge satisfaction  
6 thereof and to discharge the lien of record. If any lienor  
7 fails to acknowledge satisfaction and discharge of said lien  
8 as aforesaid within 30 days after being requested to do so  
9 by a person having a property interest in such grain, or  
10 other crops, or livestock, he is liable to any person  
11 injured thereby in the amount of such injury and the costs  
12 of the action."

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

14       "71-3-705. Destruction of records -- when allowed. (1)  
15 All seed agricultural product and feed liens which have  
16 heretofore or shall hereafter be filed for record under  
17 71-3-703 in the office of any county clerk and recorder of  
18 the several counties in the state shall be retained by such  
19 county clerk in a file kept by him for such purposes for a  
20 period of 8 years from the time when said seed lien has  
21 ceased ceases to be a lien on the property described  
22 therein.

23       (2) Upon the expiration of the period of time  
24 specified in subsection (1), the county clerk and recorder  
25 may destroy all seed agricultural product and feed liens

1 which have been preserved for the period of time specified  
2 in this section."

3 Section 6. Section 77-2-336, MCA, is amended to read:

4 "77-2-336. Lien on improvements and crops for amount  
5 due state. (1) The state has a lien prior and superior to  
6 all other liens, except ~~threshermen's-liens-and--seed--liens~~  
7 agricultural product and feed liens and threshers' liens as  
8 specified in 71-3-701 and 71-3-801, which have priority, but  
9 only for the aggregate amount of the indebtedness then  
10 existing, including any advances theretofore made, interest  
11 due, and other charges, as evidenced by the original loan  
12 contract and indebtedness thereafter accumulating on such  
13 basis, exclusive of any other future advances originally  
14 contemplated. This lien is upon all buildings, structures,  
15 fences, and all other improvements upon the lands so sold  
16 and upon all crops growing upon any of these lands and also  
17 upon such crops after they have been separated from the  
18 lands for all due and delinquent installments of principal  
19 and interest and penalty interest and taxes under the  
20 certificate of purchase and also for all installments  
21 becoming due during the calendar year in which the crop is  
22 harvested, and this lien is hereby expressly reserved.

23 (2) Any person purchasing or otherwise acquiring the  
24 improvements or crops or any part thereof takes them subject  
25 to the lien.

1 (3) Any representative of the department or the  
2 sheriff of the county in which the land is located or his  
3 deputy may demand of the purchaser or his agent payment of  
4 the amounts due the state, and if they are not paid upon  
5 demand, the officer making the demand or any representative  
6 of the department may immediately seize the improvements and  
7 crops, and upon giving 3 days' notice, sell and dispose of,  
8 either at private or public sale, sufficient of the crops or  
9 improvements or of both to pay the amounts due the state,  
10 together with cost and expenses of seizure and sale."

11 Section 7. Section 77-6-112, MCA, is amended to read:

12 "77-6-112. Liens on crops and improvements. (1) The  
13 state has a lien upon all crops growing upon any of its  
14 lands and upon the crops after they have been separated from  
15 the lands for any rentals and penalties due or delinquent  
16 under the lease on the lands or becoming due during the  
17 calendar year in which the crops are harvested, for any year  
18 or part of a year that the land has been held or used by the  
19 lessee. This lien applies to all buildings, structures,  
20 fences, and all other improvements and is prior and superior  
21 to all other liens, except ~~threshermen's-liens-and-seed~~  
22 liens agricultural product and feed liens and threshers'  
23 liens specified in 71-3-701 and 71-3-801, which have  
24 priority, but only for the aggregate amount of the  
25 indebtedness then existing, including any advances

1 theretofore made, interest due and other charges as  
2 evidenced by the original loan-contract, and indebtedness  
3 thereafter accumulating on such basis, exclusive of any  
4 other future advances originally contemplated.

5 (2) Any person acquiring any of these crops or  
6 improvements takes them subject to this lien. The department  
7 or the sheriff of the county in which the land is located  
8 may demand of the lessee payment of the amounts due the  
9 state, and if they are not paid upon demand, the officer  
10 making the demand or the department may seize and sell,  
11 either at a private or public sale, upon giving notice for  
12 not less than 3 days of the sale, sufficient of those crops  
13 or improvements, or of both, to pay the amounts due the  
14 state together with costs and expenses of seizure and sale.  
15 These provisions relating to liens on crops and improvements  
16 shall be embodied in all leases for agricultural and grazing  
17 lands and for town, city, or other lots."

18 NEW SECTION. Section 8. Saving clause. This act does  
19 not affect rights and duties that matured, penalties that  
20 were incurred, or proceedings that were begun before the  
21 effective date of this act.

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