

HOUSE BILL NO. 701
INTRODUCED BY SWYSGOOD

IN THE HOUSE

| | |
|-------------------|---|
| FEBRUARY 14, 1989 | INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION. |
| FEBRUARY 15, 1989 | FIRST READING. |
| FEBRUARY 18, 1989 | COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED. |
| FEBRUARY 20, 1989 | PRINTING REPORT. |
| FEBRUARY 21, 1989 | SECOND READING, DO PASS. ENGROSSING REPORT. |
| FEBRUARY 22, 1989 | THIRD READING, PASSED. AYES, 99; NOES, 1. TRANSMITTED TO SENATE. |

IN THE SENATE

| | |
|-------------------|---|
| FEBRUARY 28, 1989 | INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION. FIRST READING. |
| MARCH 21, 1989 | COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED. |
| MARCH 22, 1989 | SECOND READING, CONCURRED IN AS AMENDED. ON MOTION, SEGREGATED FROM COMMITTEE OF THE WHOLE REPORT. |
| MARCH 23, 1989 | SECOND READING, CONCURRED IN AS AMENDED. |
| MARCH 28, 1989 | THIRD READING, CONCURRED IN. |

AYES, 44; NOES, 6.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 31, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 1, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 701
 2 INTRODUCED BY Sen. [Signature]
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR CENTRAL
 5 FILING IN THE OFFICE OF THE SECRETARY OF STATE OF CERTAIN
 6 STATUTORY AGRICULTURAL LIENS; AMENDING SECTIONS 71-3-125,
 7 71-3-402, 71-3-404, 71-3-703, 71-3-712, 71-3-802, AND
 8 71-3-902, MCA; REPEALING SECTIONS 71-3-403, 71-3-803, AND
 9 71-3-903, MCA; AND PROVIDING AN APPLICABILITY DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 71-3-125, MCA, is amended to read:

13 "71-3-125. Notice Filing of agricultural lien
 14 statements. (1) Unless a notice statement of an agricultural
 15 lien has been filed in the office of the secretary of state
 16 as provided in this chapter, a buyer who, in ordinary course
 17 of business as defined in 30-1-201(9), buys a farm product
 18 takes it free of any lien created by this chapter even
 19 though the lien is otherwise perfected.

20 (2) A notice statement of an agricultural lien is
 21 sufficient if it:

22 (a) gives the names and addresses of the debtor and
 23 lienor and the county of residence of the debtor;

24 (b) describes the type of lien and its statutory
 25 authority;

1 (c) describes the collateral;
 2 (d) contains the notation by the county clerk and
 3 recorder secretary of state of the date of filing and filing
 4 number; and
 5 (e) is signed by the lienor;;
 6 (f) describes the service or product furnished. If the
 7 collateral is farm products, the statement must state the
 8 county in which the farm products are located, designated by
 9 type of farm product.
 10 (g) states the price or wage agreed upon or, if the
 11 price or wage was not agreed upon, the reasonable value of
 12 the service or product furnished;
 13 (h) states the amount remaining unpaid;
 14 (i) state the terms and period of employment if it is
 15 a farm laborer's lien filed pursuant to part 4 of this
 16 chapter;
 17 (j) describes the land upon which seed or grain was or
 18 will be sown, planted, or used if it is a lien for seed or
 19 grain filed pursuant to part 7 of this chapter;
 20 (k) describes the land upon which the grain or crops
 21 were grown and the place the grain or crops are presently
 22 stored if it is a thresher's lien filed pursuant to part 8
 23 of this chapter;
 24 (l) describes the land upon which the service was
 25 performed if it is a lien for spraying or dusting filed

1 pursuant to part 9 of this chapter; and

2 (m) states the starting date of insurance coverage, if
3 it is a lien for hail insurance filed pursuant to Title 80,
4 chapter 2, part 2, or pursuant to part 7 of this chapter.

5 (3) Such notice The agricultural lien statement must
6 be in the form prescribed by the secretary of state.

7 (4) The secretary of state shall:

8 (a) record such notice the agricultural lien statement
9 on the centralized computer system as set forth in 30-9-403;
10 and

11 (b) establish fees for such recordings as set forth in
12 30-9-403.

13 (5) For the purposes of this section, an agricultural
14 lien means a lien under parts Title 80, chapter 2, part 2,
15 or under part 4, 7, 8, or 9 of this chapter.

16 (6) A statement of an agricultural lien or
17 continuation statement that has been filed at the office of
18 the county clerk and recorder lapses on March 31, 1990,
19 unless prior to that date there is filed in the office of
20 the secretary of state a certified copy of the statement and
21 all related documents on file with the county clerk and
22 recorder."

23 **Section 2.** Section 71-3-402, MCA, is amended to read:

24 **"71-3-402. How lien obtained.** {1} In order to acquire
25 a lien, as specified in 71-3-401, the person performing such

1 services shall, within 30 days after the services are fully
2 performed, file in the office of the clerk-and-recorder-in
3 the-county-in-which-any-of-the-real-estate--is--situated--on
4 which--any--crop--is--grown, upon which a lien is claimed, a
5 statement verified by affidavit of the person claiming--such
6 lien,--his--duly--authorized--agent,--or--attorney--having
7 knowledge--of--the--facts,--setting--forth--the--terms--of
8 employment,--the--name--of--the--employer,--the--time--when--the
9 services--were--commenced--and--when--ended,--the--wages--agreed
10 upon,--if--any,--and--if--not--agreed--upon--then--the--reasonable
11 value--of--the--same,--the--terms--of--payment,--if--any,--and--a
12 description--of--the--real--estate--on--which--any--crop--is--grown--or
13 has--been--grown--or--harvested--on--which--a--lien--is--claimed,--the
14 amount--paid--him,--if--any,--and--the--amount--remaining--unpaid--and
15 that--said--laborer--claims--a--lien--for--the--same secretary of
16 state a statement of agricultural lien, as provided in
17 71-3-125, and the address to which notice shall must be
18 directed as required by 71-3-404.

19 {2}--Notice--of--the--lien--also--must--be--filed--in--the
20 office--of--the--secretary--of--state--as--required--by--71-3-125."

21 **Section 3.** Section 71-3-404, MCA, is amended to read:

22 **"71-3-404. Notice to other lienholders.** (1) Every A
23 person intending to foreclose a lien secured under the
24 provisions of this part must shall give a written notice to
25 the owner or the person against whom the lien is claimed and

1 all chattel mortgagees, encumbrancers, and all other
 2 lienholders who appear on record in the office of the county
 3 ~~clerk-and-recorder-or~~ secretary of state that in not less
 4 than 10 days from the date of said-lien notice he will
 5 institute proceedings for the foreclosure of his lien, ~~and~~
 6 ~~all~~ Any other labor lienholders lienholder to whom notice is
 7 given ~~shall--have--the--right--to~~ may join in said the
 8 foreclosure proceedings and be is entitled to a pro rata
 9 share of the proceeds of the foreclosure sale, as
 10 hereinafter provided in this part. However, if the notified
 11 labor ~~lienholders--do--not--join--in--said--proceedings,--they~~
 12 ~~shall--not--be~~ lienholder does not join in the proceedings, he
 13 is not entitled to share pro rata in the proceeds of the
 14 sale.

15 (2) The lien notice required herein must be given by
 16 ~~registered-or~~ certified mail and directed to the last-known
 17 address of the owner or the person against whom the lien is
 18 claimed and to the addresses of the chattel mortgagees,
 19 encumbrancers, and all other lienholders as their addresses
 20 appear of record. The return of the foreclosure sale must be
 21 accompanied by due proof of the giving of such notice as
 22 required to be given ~~herein~~ in this section."

23 **Section 4.** Section 71-3-703, MCA, is amended to read:

24 "71-3-703. How to obtain lien. {1} Any person,
 25 company, association, or corporation who is entitled to a

1 lien under 71-3-701 shall, within 90 days after the seed or
 2 grain is furnished or the funds, means, or ~~moneys~~ money
 3 advanced therefor for the seed or grain, file in the office
 4 of the ~~county-clerk-and-recorder-of-the-county-in-which-such~~
 5 ~~seed--or--grain--is--to--be--planted--or-used-a-statement-in~~
 6 ~~writing-verified-under-oath-showing-the-kind-and-quantity-of~~
 7 ~~the-seed-or-grain-furnished,--its-value,--or-the-amount-of-the~~
 8 ~~funds-or-money-advanced-to-pay-therefor,--the--name--of--the~~
 9 ~~person--or--persons--to-whom-furnished,--and-a-description-of~~
 10 ~~the-land-and-of-each-tract-of-land-upon-which-the-same-is-to~~
 11 ~~be-or-has-been-planted-or-sown-or-used-in-the-production-of~~
 12 ~~a--crop~~ secretary of state a statement of agricultural lien
 13 as provided in 71-3-125. Unless the person entitled to such
 14 a lien shall file such files the lien statement within the
 15 time aforesaid required, he ~~shall-be-deemed~~ is considered to
 16 have waived the right thereto to a lien.

17 {2} ~~Notice-of-the-lien--also--must--be--filed--in--the~~
 18 ~~office--of--the-secretary-of-state-as-required-by-71-3-125."~~

19 **Section 5.** Section 71-3-712, MCA, is amended to read:

20 "71-3-712. How lien obtained. {1} Any person, company,
 21 association, or corporation who is entitled to a lien under
 22 71-3-711 shall, within 30 days after the insurance is
 23 issued, file in the office of the ~~county-clerk-and-recorder~~
 24 ~~of-the-county-in-which-the-crop--so--insured--is--located--a~~
 25 ~~statement---in---writing-verified--under--oath--giving--the~~

1 description-of-the-land-upon--which--the--crop--is--planted,
 2 together-with-the-kind-of-crop-insured; secretary of state a
 3 statement of agricultural lien as provided in 71-3-125.
 4 provided-that-with-a A mutual company it may file a lien for
 5 the largest amount that may become due under its assessment
 6 power, and in the event that the amount assessed shall is
 7 not be as large as the amount of the lien claimed, then the
 8 amount assessed and due shall-be is the amount the mutual
 9 insurance company shall-be is entitled to under this lien.
 10 Unless the person, company, association, or corporation
 11 entitled to such a lien shall--file--such files the
 12 agricultural lien statement within the time aforesaid
 13 required, he or it shall-be-deemed is considered to have
 14 waived the right thereto to a lien.

15 {2}--Notice--of--the--lien--also--must--be--filed--in--the
 16 office-of-the-secretary-of-state-as-required--by--71-3-125."

17 **Section 6.** Section 71-3-802, MCA, is amended to read:

18 "71-3-802. How lien obtained. (1) Every A person
 19 intending to avail himself of the benefits of this part must
 20 shall file with the county-clerk-of-the-county-in-which-said
 21 grain--or--other-crops-were-grown office of the secretary of
 22 state a statement of agricultural lien as provided in
 23 71-3-125, within 10 days after the last service was rendered
 24 or labor performed in the threshing of said grain or other
 25 crops or the cutting and harvesting and threshing by said

1 the combined harvester and thresher, a notice that within 20
 2 days a lien, as specified in 71-3-801, will be claimed. and
 3 within-20-days-thereafter-shall-file-with-the--county--clerk
 4 and--recorder--of--the--county--in-which-said-grain-or-other
 5 crops-were-grown-a-just-and-true-account-of-the--amount--due
 6 him--or--them--for-such-services-or-labor-after-allowing-all
 7 just--credits--and--offsets---and---containing---a---correct
 8 description--of--the-grain-or-other-crops-to-be-charged-with
 9 such-lien, the price agreed-upon--for--such--threshing--or
 10 cutting--and--harvesting,--the--name-of-the-person, firm, or
 11 corporation-for-whom-such-labor-and-services-were-performed,
 12 and-a-description-of-the-lands-as-nearly--as--possible--upon
 13 which---said-grain--or--other--crops--were--raised,--and--a
 14 description-of-the-legal-subdivision-of-land-upon-which-said
 15 grain-is-stored-and, if said-grain-is-stored-in-an-elevator,
 16 the-locality-of-the--elevator,--which--statements--of--facts
 17 shall--be--verified-by-affidavit-of-the-person-claiming-such
 18 lien--or--his--duly--authorized--agent--or--attorney--having
 19 knowledge-of-the-facts---Any-error-or-mistake-in-the-account
 20 or--description--of--the--grain--or--other--crops--or-of-the
 21 property-upon-which-it-was-raised-shall-not-invalidate--such
 22 lien.

23 (2) If the grain or other crops so cut, harvested, and
 24 threshed are being hauled from the machine or combine direct
 25 to the elevator or to any other purchaser, then the

1 threshermen, swather, or owner of the combine desiring to
 2 claim such a lien shall also serve written notices upon the
 3 elevatorman or other private purchaser that he will claim
 4 and file a lien upon said the grain or other crops for his
 5 services or labor performed in threshing or combining and
 6 threshing the same grain or crops.

7 ~~{3}--Notice--of--the--lien--also--must--be--filed--in--the~~
 8 ~~office--of--the--secretary--of--state--as--required--by--71-3-125--"~~

9 **Section 7.** Section 71-3-902, MCA, is amended to read:

10 "71-3-902. How lien obtained. {1} Any person, firm,
 11 corporation, or partnership who is entitled to a lien under
 12 this part shall, within 60 days after the last labor or
 13 service was performed or material furnished in crop dusting
 14 or spraying grains or crops, file in the office of the
 15 ~~county-clerk-and-recorder-of-the-county-in-which-said-grains~~
 16 ~~or--crops--were--grown-a-just-and-true-account-of-the-amount~~
 17 ~~due-for-such-services, labor, or material after allowing all~~
 18 ~~proper-credits-and-offsets-and-containing-a-description--of~~
 19 ~~the--grain--or-crops-to-be-charged-with-such-lien, the price~~
 20 ~~agreed-upon-for-such-labor-or-service-or-material-or, if--no~~
 21 ~~price--was--agreed--upon,--the-reasonable-value-of-the-same,~~
 22 ~~together-with-the-name-of-the-person, firm, or--corporation~~
 23 ~~for--whom--such-labor-or-services-were-performed-or-material~~
 24 ~~furnished-and-a-description--of--the--lands--as-nearly--as~~
 25 ~~possible--upon-which-said-grains-or-crops-were-raised, which~~

1 ~~statements-of-fact-shall-be-verified--by--affidavit--of--the~~
 2 ~~person, firm, corporation, or partnership claiming such lien~~
 3 ~~or--his,--their,--or--its--duiy-authorized-agent or-attorney~~
 4 ~~having-knowledge-of-the-facts~~ secretary of state a statement
 5 of agricultural lien as provided in 71-3-125.

6 ~~{2}--Notice-of-the-lien--also--must--be--filed--in--the~~
 7 ~~office--of--the-secretary-of-state-as-required-by-71-3-125--"~~

8 NEW SECTION. **Section 8.** Repealer. Sections 71-3-403,
 9 71-3-803, and 71-3-903, MCA, are repealed.

10 NEW SECTION. **Section 9.** Extension of authority. Any
 11 existing authority to make rules on the subject of the
 12 provisions of [this act] is extended to the provisions of
 13 [this act].

14 NEW SECTION. **Section 10.** Applicability. [This act]
 15 applies to agricultural liens filed after September 30,
 16 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB701, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide for central filing in the Office of the Secretary of State of certain statutory agricultural liens; amending Sections 71-3-125, 71-3-402, 71-3-404, 71-3-703, 71-3-712, 71-3-802, and 71-3-902, MCA; repealing Sections 71-3-403, 71-3-803, and 71-3-903, MCA; and providing an applicability date.

ASSUMPTIONS:

1. Fees are already collected by the Office of the Secretary of State for "notices " of Title 71 filings.
2. Current Title 71 notices accurately represent the number of filings on the local level.
3. Lien is seasonal/short term and therefore, no massive centralization will occur.
4. Current economic conditions will continue to negatively impact the agricultural community.
5. Current office staff and organization can handle the Title 71 filings without added staff.

FISCAL IMPACT: None.

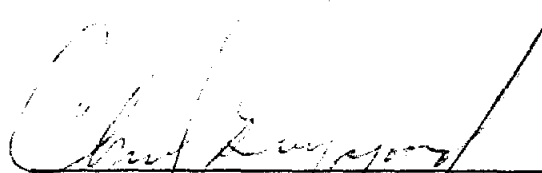
EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The elimination of these Title 71 filings on the county level will decrease their income. The extent of this reduction is unclear.



RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE 2/20/89



CHUCK SWYSGOOD, PRIMARY SPONSOR

DATE 2-21-89

Fiscal Note for HB701, as introduced

HB 701

APPROVED BY COMMITTEE
ON AGRICULTURE LIVESTOCK
& IRRIGATION

1 House BILL NO. 701
2 INTRODUCED BY Swingwood
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR CENTRAL
5 FILING IN THE OFFICE OF THE SECRETARY OF STATE OF CERTAIN
6 STATUTORY AGRICULTURAL LIENS; AMENDING SECTIONS 71-3-125,
7 71-3-402, 71-3-404, 71-3-703, 71-3-712, 71-3-802, AND
8 71-3-902, MCA; REPEALING SECTIONS 71-3-403, 71-3-803, AND
9 71-3-903, MCA; AND PROVIDING AN APPLICABILITY DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 71-3-125, MCA, is amended to read:

13 "71-3-125. Notice Filing of agricultural lien
14 statements. (1) Unless a notice statement of an agricultural
15 lien has been filed in the office of the secretary of state
16 as provided in this chapter, a buyer who, in ordinary course
17 of business as defined in 30-1-201(9), buys a farm product
18 takes it free of any lien created by this chapter even
19 though the lien is otherwise perfected.

20 (2) A notice statement of an agricultural lien is
21 sufficient if it:

22 (a) gives the names and addresses of the debtor and
23 lienor and the county of residence of the debtor;

24 (b) describes the type of lien and its statutory
25 authority;

1 (c) describes the collateral;
2 (d) contains the notation by the county clerk and
3 recorder secretary of state of the date of filing and filing
4 number; and
5 (e) is signed by the lienor;
6 (f) describes the service or product furnished. If the
7 collateral is farm products, the statement must state the
8 county in which the farm products are located, designated by
9 type of farm product.
10 (g) states the price or wage agreed upon or, if the
11 price or wage was not agreed upon, the reasonable value of
12 the service or product furnished;
13 (h) states the amount remaining unpaid;
14 (i) state the terms and period of employment if it is
15 a farm laborer's lien filed pursuant to part 4 of this
16 chapter;
17 (j) describes the land upon which seed or grain was or
18 will be sown, planted, or used if it is a lien for seed or
19 grain filed pursuant to part 7 of this chapter;
20 (k) describes the land upon which the grain or crops
21 were grown and the place the grain or crops are presently
22 stored if it is a thresher's lien filed pursuant to part 8
23 of this chapter;
24 (l) describes the land upon which the service was
25 performed if it is a lien for spraying or dusting filed

1 pursuant to part 9 of this chapter; and

2 (m) states the starting date of insurance coverage, if
3 it is a lien for hail insurance filed pursuant to Title 80,
4 chapter 2, part 2, or pursuant to part 7 of this chapter.

5 (3) Such notice The agricultural lien statement must
6 be in the form prescribed by the secretary of state.

7 (4) The secretary of state shall:

8 (a) record such notice the agricultural lien statement
9 on the centralized computer system as set forth in 30-9-403;
10 and

11 (b) establish fees for such recordings as set forth in
12 30-9-403.

13 (5) For the purposes of this section, an agricultural
14 lien means a lien under parts Title 80, chapter 2, part 2,
15 or under part 4, 7, 8, or 9 of this chapter.

16 (6) A statement of an agricultural lien or
17 continuation statement that has been filed at the office of
18 the county clerk and recorder lapses on March 31, 1990,
19 unless prior to that date there is filed in the office of
20 the secretary of state a certified copy of the statement and
21 all related documents on file with the county clerk and
22 recorder."

23 **Section 2.** Section 71-3-402, MCA, is amended to read:

24 "71-3-402. How lien obtained. (1) In order to acquire
25 a lien, as specified in 71-3-401, the person performing such

1 services shall, within 30 days after the services are fully
2 performed, file in the office of the clerk-and-recorder-in
3 the-county-in-which-any-of-the-real-estate-is-situated-on
4 which-any-crop-is-grown, upon which a lien is claimed, a
5 statement verified by affidavit of the person claiming such
6 lien, his duly authorized agent, or attorney having
7 knowledge of the facts, setting forth the terms of
8 employment, the name of the employer, the time when the
9 services were commenced and when ended, the wages agreed
10 upon, if any, and if not agreed upon then the reasonable
11 value of the same, the terms of payment, if any, and a
12 description of the real estate on which any crop is grown or
13 has been grown or harvested on which a lien is claimed, the
14 amount paid him, if any, and the amount remaining unpaid and
15 that said laborer claims a lien for the same secretary of
16 state a statement of agricultural lien, as provided in
17 71-3-125, and the address to which notice shall must be
18 directed as required by 71-3-404.

19 (2) Notice of the lien also must be filed in the
20 office of the secretary of state as required by 71-3-125."

21 **Section 3.** Section 71-3-404, MCA, is amended to read:

22 "71-3-404. Notice to other lienholders. (1) Every A
23 person intending to foreclose a lien secured under the
24 provisions of this part must shall give a written notice to
25 the owner or the person against whom the lien is claimed and

all chattel mortgagees, encumbrancers, and all other lienholders who appear on record in the office of the county clerk-and-recorder-or secretary of state that in not less than 10 days from the date of said-lien notice he will institute proceedings for the foreclosure of his lien,--and all Any other labor lienholders lienholder to whom notice is given shall--have--the--right--to may join in said the foreclosure proceedings and be is entitled to a pro rata share of the proceeds of the foreclosure sale, as hereinafter provided in this part. However, if the notified labor lienholders--do--not--join--in--said--proceedings,--they shall--not--be lienholder does not join in the proceedings, he is not entitled to share pro rata in the proceeds of the sale.

(2) The lien notice required herein must be given by registered-or certified mail and directed to the last-known address of the owner or the person against whom the lien is claimed and to the addresses of the chattel mortgagees, encumbrancers, and all other lienholders as their addresses appear of record. The return of the foreclosure sale must be accompanied by due proof of the giving of such notice as required to be given herein in this section."

Section 4. Section 71-3-703, MCA, is amended to read:

"71-3-703. How to obtain lien. {1} Any person, company, association, or corporation who is entitled to a

lien under 71-3-701 shall, within 90 days after the seed or grain is furnished or the funds, means, or moneys money advanced therefor for the seed or grain, file in the office of the county-clerk-and-recorder-of-the-county-in-which-such seed--or--grain--is--to--be--planted--or-used-a statement-in writing-verified-under-oath-showing-the-kind-and-quantity-of the-seed-or-grain-furnished,--its-value,--or-the-amount-of-the funds-or-money-advanced-to-pay-therefor,--the--name--of--the person--or--persons--to-whom-furnished,--and-a-description-of the-land-and-of-each-tract-of-land-upon-which-the-same-is-to be-or-has-been-planted-or-sown-or-used-in-the-production--of a-crop secretary of state a statement of agricultural lien as provided in 71-3-125. Unless the person entitled to such a lien shall-file-such files the lien statement within the time aforesaid required, he shall-be-deemed is considered to have waived the right thereto to a lien.

{2}--Notice-of-the-lien--also--must--be--filed--in--the office--of--the--secretary-of-state-as-required-by-71-3-125."

Section 5. Section 71-3-712, MCA, is amended to read:

"71-3-712. How lien obtained. {1} Any person, company, association, or corporation who is entitled to a lien under 71-3-711 shall, within 30 days after the insurance is issued, file in the office of the county-clerk-and-recorder-of-the-county-in-which-the-crop--so--insured--is--located--a statement--in--writing--verified--under--oath--giving--the

1 ~~description of the land upon which the crop is planted,~~
 2 ~~together with the kind of crop insured; secretary of state a~~
 3 ~~statement of agricultural lien as provided in 71-3-125.~~
 4 ~~provided that with a A~~ mutual company it may file a lien for
 5 the largest amount that may become due under its assessment
 6 power, and in the event that the amount assessed ~~shall is~~
 7 not be as large as the amount of the lien claimed, then the
 8 amount assessed and due ~~shall be is~~ the amount the mutual
 9 insurance company ~~shall be is~~ entitled to under this lien.
 10 Unless the person, company, association, or corporation
 11 entitled to such a lien ~~shall file such files the~~
 12 ~~agricultural lien~~ statement within the time aforesaid
 13 ~~required, he or it shall be deemed is considered~~ to have
 14 waived the right thereto ~~to a lien.~~

15 (2) ~~Notice of the lien also must be filed in the~~
 16 ~~office of the secretary of state as required by 71-3-125."~~

17 **Section 6.** Section 71-3-802, MCA, is amended to read:

18 "71-3-802. How lien obtained. (1) Every A person
 19 intending to avail himself of the benefits of this part ~~must~~
 20 ~~shall~~ file with the county clerk of the county in which said
 21 grain or other crops were grown office of the secretary of
 22 state a statement of agricultural lien as provided in
 23 71-3-125, within 10 days after the last service was rendered
 24 or labor performed in the threshing of said grain or other
 25 crops or the cutting and harvesting and threshing by said

1 the combined harvester and thresher, a notice that within 20
 2 days a lien, as specified in 71-3-801, will be claimed. and
 3 ~~within 20 days thereafter shall file with the county clerk~~
 4 ~~and recorder of the county in which said grain or other~~
 5 ~~crops were grown a just and true account of the amount due~~
 6 ~~him or them for such services or labor after allowing all~~
 7 ~~just credits and offsets and containing a correct~~
 8 ~~description of the grain or other crops to be charged with~~
 9 ~~such lien, the price agreed upon for such threshing or~~
 10 ~~cutting and harvesting, the name of the person, firm, or~~
 11 ~~corporation for whom such labor and services were performed,~~
 12 ~~and a description of the lands as nearly as possible upon~~
 13 ~~which said grain or other crops were raised, and a~~
 14 ~~description of the legal subdivision of land upon which said~~
 15 ~~grain is stored and, if said grain is stored in an elevator,~~
 16 ~~the locality of the elevator, which statements of facts~~
 17 ~~shall be verified by affidavit of the person claiming such~~
 18 ~~lien or his duly authorized agent or attorney having~~
 19 ~~knowledge of the facts. Any error or mistake in the account~~
 20 ~~or description of the grain or other crops or of the~~
 21 ~~property upon which it was raised shall not invalidate such~~
 22 ~~lien.~~

23 (2) If the grain or other crops so cut, harvested, and
 24 threshed are being hauled from the machine or combine direct
 25 to the elevator or to any other purchaser, then the

threshermen, swather, or owner of the combine desiring to claim a lien shall also serve written notices upon the elevatorman or other private purchaser that he will claim and file a lien upon said the grain or other crops for his services or labor performed in threshing or combining and threshing the same grain or crops.

~~{3}--Notice--of--the--lien--also--must--be--filed--in--the--office--of--the--secretary--of--state--as--required--by--71-3-125."~~

Section 7. Section 71-3-902, MCA, is amended to read:

"71-3-902. How lien obtained. {1} Any person, firm, corporation, or partnership who is entitled to a lien under this part shall, within 60 days after the last labor or service was performed or material furnished in crop dusting or spraying grains or crops, file in the office of the ~~county clerk and recorder of the county in which said grains or crops were grown a just and true account of the amount due for such services, labor, or material after allowing all proper credits and offsets and containing a description of the grain or crops to be charged with such lien, the price agreed upon for such labor or service or material or, if no price was agreed upon, the reasonable value of the same, together with the name of the person, firm, or corporation for whom such labor or services were performed or material furnished and a description of the lands as nearly as possible upon which said grains or crops were raised, which~~

~~statements of fact shall be verified by affidavit of the person, firm, corporation, or partnership claiming such lien or his, their, or its duly authorized agent or attorney having knowledge of the facts~~ secretary of state a statement of agricultural lien as provided in 71-3-125.

~~{2}--Notice--of--the--lien--also--must--be--filed--in--the--office--of--the--secretary--of--state--as--required--by--71-3-125."~~

NEW SECTION. **Section 8.** Repealer. Sections 71-3-403, 71-3-803, and 71-3-903, MCA, are repealed.

NEW SECTION. **Section 9.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 10.** Applicability. [This act] applies to agricultural liens filed after September 30, 1989.

-End-

1 *HOUSE* BILL NO. *701*
2 INTRODUCED BY *Swinggood*
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR CENTRAL
5 FILING IN THE OFFICE OF THE SECRETARY OF STATE OF CERTAIN
6 STATUTORY AGRICULTURAL LIENS; AMENDING SECTIONS 71-3-125,
7 71-3-402, 71-3-404, 71-3-703, 71-3-712, 71-3-802, AND
8 71-3-902, MCA; REPEALING SECTIONS 71-3-403, 71-3-803, AND
9 71-3-903, MCA; AND PROVIDING AN APPLICABILITY DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 71-3-125, MCA, is amended to read:

13 "71-3-125. Notice Filing of agricultural lien
14 statements. (1) Unless a notice statement of an agricultural
15 lien has been filed in the office of the secretary of state
16 as provided in this chapter, a buyer who, in ordinary course
17 of business as defined in 30-1-201(9), buys a farm product
18 takes it free of any lien created by this chapter even
19 though the lien is otherwise perfected.

20 (2) A notice statement of an agricultural lien is
21 sufficient if it:

22 (a) gives the names and addresses of the debtor and
23 lienor and the county of residence of the debtor;

24 (b) describes the type of lien and its statutory
25 authority;

1 (c) describes the collateral;

2 (d) contains the notation by the county-clerk-and
3 recorder secretary of state of the date of filing and filing
4 number; and

5 (e) is signed by the lienor;

6 (f) describes the service or product furnished. If the
7 collateral is farm products, the statement must state the
8 county in which the farm products are located, designated by
9 type of farm product.

10 (g) states the price or wage agreed upon or, if the
11 price or wage was not agreed upon, the reasonable value of
12 the service or product furnished;

13 (h) states the amount remaining unpaid;

14 (i) state the terms and period of employment if it is
15 a farm laborer's lien filed pursuant to part 4 of this
16 chapter;

17 (j) describes the land upon which seed or grain was or
18 will be sown, planted, or used if it is a lien for seed or
19 grain filed pursuant to part 7 of this chapter;

20 (k) describes the land upon which the grain or crops
21 were grown and the place the grain or crops are presently
22 stored if it is a thresher's lien filed pursuant to part 8
23 of this chapter;

24 (l) describes the land upon which the service was
25 performed if it is a lien for spraying or dusting filed

pursuant to part 9 of this chapter; and

(m) states the starting date of insurance coverage, if it is a lien for hail insurance filed pursuant to Title 80, chapter 2, part 2, or pursuant to part 7 of this chapter.

(3) Such notice The agricultural lien statement must be in the form prescribed by the secretary of state.

(4) The secretary of state shall:

(a) record such notice the agricultural lien statement on the centralized computer system as set forth in 30-9-403; and

(b) establish fees for such recordings as set forth in 30-9-403.

(5) For the purposes of this section, an agricultural lien means a lien under parts Title 80, chapter 2, part 2, or under part 4, 7, 8, or 9 of this chapter.

(6) A statement of an agricultural lien or continuation statement that has been filed at the office of the county clerk and recorder lapses on March 31, 1990, unless prior to that date there is filed in the office of the secretary of state a certified copy of the statement and all related documents on file with the county clerk and recorder."

Section 2. Section 71-3-402, MCA, is amended to read:

"71-3-402. **How lien obtained.** (1) In order to acquire a lien, as specified in 71-3-401, the person performing such

services shall, within 30 days after the services are fully performed, file in the office of the clerk-and-recorder-in the-county-in-which-any-of-the-real-estate--is--situated--on which--any--crop--is--grown, upon which a lien is claimed, a statement-verified-by-affidavit-of-the-person-claiming--such lien,---his---duly---authorized---agent,---or---attorney---having knowledge--of--the--facts,---setting--forth--the---terms---of employment,---the--name--of--the--employer, the time when the services were commenced and when ended, the wages agreed upon,--if--any,--and--if not agreed upon then the reasonable value of the same, the terms--of--payment,--if--any,--and--a description of the real estate on which any crop is grown or has--been--grown--or--harvested--on--which--a--lien--is--claimed, the amount paid him, if any, and the amount remaining unpaid and that said laborer claims a lien for the--same secretary of state a statement of agricultural lien, as provided in 71-3-125, and the address to which notice shall must be directed as required by 71-3-404.

(2) Notice--of--the--lien--also--must--be--filed--in--the office--of--the--secretary--of--state--as--required--by--71-3-125."

Section 3. Section 71-3-404, MCA, is amended to read:

"71-3-404. **Notice to other lienholders.** (1) Every A person intending to foreclose a lien secured under the provisions of this part must shall give a written notice to the owner or the person against whom the lien is claimed and

1 all chattel mortgagees, encumbrancers, and all other
 2 lienholders who appear on record in the office of the county
 3 ~~clerk-and-recorder-or~~ secretary of state that in not less
 4 than 10 days from the date of ~~said-lien~~ notice he will
 5 institute proceedings for the foreclosure of his lien, ~~and~~
 6 ~~all~~ Any other labor ~~lienholders~~ lienholder to whom notice is
 7 given ~~shall-have-the-right-to~~ may join in ~~said~~ the
 8 foreclosure proceedings and be is entitled to a pro rata
 9 share of the proceeds of the foreclosure sale, as
 10 hereinafter provided in this part. However, if the notified
 11 labor ~~lienholders--do--not--join--in--said--proceedings,--they~~
 12 ~~shall-not-be~~ lienholder does not join in the proceedings, he
 13 is not entitled to share pro rata in the proceeds of the
 14 sale.

15 (2) The lien notice required herein must be given by
 16 registered-or certified mail and directed to the last-known
 17 address of the owner or the person against whom the lien is
 18 claimed and to the addresses of the chattel mortgagees,
 19 encumbrancers, and all other lienholders as their addresses
 20 appear of record. The return of the foreclosure sale must be
 21 accompanied by due proof of the giving of such notice as
 22 required to be given herein in this section."

23 **Section 4.** Section 71-3-703, MCA, is amended to read:

24 "71-3-703. How to obtain lien. ~~{}~~ Any person,
 25 company, association, or corporation who is entitled to a

1 lien under 71-3-701 shall, within 90 days after the seed or
 2 grain is furnished or the funds, means, or moneys money
 3 advanced therefor for the seed or grain, file in the office
 4 of the ~~county-clerk-and-recorder-of-the-county-in-which-such~~
 5 ~~seed--or--grain--is--to--be--planted--or-used-a-statement-in~~
 6 ~~writing-verified-under-oath-showing-the-kind-and-quantity-of~~
 7 ~~the-seed-or-grain-furnished,--its-value,--or-the-amount-of-the~~
 8 ~~funds-or-money-advanced-to-pay-therefor,--the--name--of--the~~
 9 ~~person--or--persons--to-whom-furnished,--and-a-description-of~~
 10 ~~the-land-and-of-each-tract-of-land-upon-which-the-same-is-to~~
 11 ~~be-or-has-been-planted-or-sown-or-used-in-the-production--of~~
 12 ~~a--crop~~ secretary of state a statement of agricultural lien
 13 as provided in 71-3-125. Unless the person entitled to such
 14 a lien ~~shall-file-such~~ files the lien statement within the
 15 time aforesaid required, he ~~shall-be-deemed~~ is considered to
 16 have waived the right thereto to a lien.

17 ~~{2}--Notice-of-the-lien--also--must--be--filed--in--the~~
 18 ~~office--of--the-secretary-of-state-as-required-by-71-3-125."~~

19 **Section 5.** Section 71-3-712, MCA, is amended to read:

20 "71-3-712. How lien obtained. ~~{}~~ Any person, company,
 21 association, or corporation who is entitled to a lien under
 22 71-3-711 shall, within 30 days after the insurance is
 23 issued, file in the office of the ~~county-clerk-and-recorder~~
 24 ~~of-the-county-in-which-the-crop--so--insured--is--located--a~~
 25 ~~statement---in---writing---verified---under---oath---giving---the~~

description-of-the-land-upon-which-the-crop-is-planted,
together-with-the-kind-of-crop-insured; secretary of state a
statement of agricultural lien as provided in 71-3-125.
provided-that-with-a A mutual company it may file a lien for
the largest amount that may become due under its assessment
power, and in the event that the amount assessed ~~shall~~ is
not be as large as the amount of the lien claimed, then the
amount assessed and due ~~shall-be~~ is the amount the mutual
insurance company ~~shall-be~~ is entitled to under this lien.
Unless the person, company, association, or corporation
entitled to such a lien ~~shall--file--such~~ files the
agricultural lien statement within the time aforesaid
required, he or it ~~shall-be-deemed~~ is considered to have
waived the right thereto to a lien.

(2)--Notice-of-the-lien--also--must--be-filed-in-the
office-of-the-secretary-of-state-as-required--by--71-3-125."

Section 6. Section 71-3-802, MCA, is amended to read:

"71-3-802. **How lien obtained.** (1) Every A person
intending to avail himself of the benefits of this part must
shall file with the county-clerk-of-the-county-in-which-said
grain--or--other-crops-were-grown office of the secretary of
state a statement of agricultural lien as provided in
71-3-125, within 10 days after the last service was rendered
or labor performed in the threshing of said grain or other
crops or the cutting and harvesting and threshing by said

the combined harvester and thresher, a notice that within 20
days a lien, as specified in 71-3-801, will be claimed, and
~~within-20-days-thereafter-shall-file-with-the--county--clerk~~
~~and--recorder--of--the--county--in-which-said-grain-or-other~~
~~crops-were-grown-a-just-and-true-account-of-the--amount--due~~
~~him--or--them--for-such-services-or-labor-after-allowing-all~~
~~just--credits--and--offsets---and---containing---a---correct~~
~~description--of--the-grain-or-other-crops-to-be-charged-with~~
~~such-lien, the-price--agreed--upon--for--such--threshing--or~~
~~cutting--and--harvesting,--the--name-of-the-person, firm, or~~
~~corporation-for-whom-such-labor-and-services-were-performed,~~
~~and-a-description-of-the-lands-as-nearly--as--possible--upon~~
~~which---said--grain--or--other--crops--were--raised,--and--a~~
~~description-of-the-legal-subdivision-of-land-upon-which-said~~
~~grain-is-stored-and, if said-grain-is-stored-in-an-elevator,~~
~~the-locality-of-the--elevator,--which--statements--of--facts~~
~~shall--be--verified-by-affidavit-of-the-person-claiming-such~~
~~lien--or--his--duly--authorized--agent--or--attorney--having~~
~~knowledge-of-the-facts.---Any-error-or-mistake-in-the-account~~
~~or--description--of--the--grain--or--other--crops--or-of-the~~
~~property-upon-which-it-was-raised-shall-not-invalidate--such~~
~~lien.~~

(2) If the grain or other crops so cut, harvested, and
threshed are being hauled from the machine or combine direct
to the elevator or to any other purchaser, then the

threshermen, swather, or owner of the combine desiring to claim such a lien shall also serve written notices upon the elevatorman or other private purchaser that he will claim and file a lien upon said the grain or other crops for his services or labor performed in threshing or combining and threshing the same grain or crops.

~~{3}--Notice-of-the-lien--also--must--be--filed--in--the--office-of-the-secretary-of-state-as-required--by--71-3-125--"~~

Section 7. Section 71-3-902, MCA, is amended to read:

"71-3-902. How lien obtained. ~~{1}~~ Any person, firm, corporation, or partnership who is entitled to a lien under this part shall, within 60 days after the last labor or service was performed or material furnished in crop dusting or spraying grains or crops, file in the office of the county clerk and recorder of the county in which said grains or crops were grown a just and true account of the amount due for such services, labor, or material after allowing all proper credits and offsets and containing a description of the grain or crops to be charged with such lien, the price agreed upon for such labor or service or material or, if no price was agreed upon, the reasonable value of the same, together with the name of the person, firm, or corporation for whom such labor or services were performed or material furnished and a description of the lands as nearly as possible upon which said grains or crops were raised, which

statements of fact shall be verified by affidavit of the person, firm, corporation, or partnership claiming such lien or his, their, or its duly authorized agent or attorney having knowledge of the facts secretary of state a statement of agricultural lien as provided in 71-3-125.

~~{2}--Notice-of-the-lien--also--must--be--filed--in--the--office--of--the-secretary-of-state-as-required-by-71-3-125--"~~

NEW SECTION. **Section 8.** Repealer. Sections 71-3-403, 71-3-803, and 71-3-903, MCA, are repealed.

NEW SECTION. **Section 9.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 10.** Applicability. [This act] applies to agricultural liens filed after September 30, 1989.

-End-

SENATE STANDING COMMITTEE REPORT

page 1 of 3
March 20, 1989

MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation, having had under consideration HB 701 (third reading copy -- blue), respectfully report that HB 701 be amended and as so amended be concurred in:

Sponsor: Swysgood (Thayer)

1. Title, line 7.
Strike: "AND"
2. Title, line 8.
Following: "71-3-902,"
Insert: "80-2-207, 80-2-226, AND 80-2-230,"
Following: "SECTIONS"
Insert: "71-3-131,"
3. Page 3, line 14.
Following: "means a
Insert: "crop"
4. Page 3, line 15.
Following: "or"
Insert: "a lien"
5. Page 3, line 19.
Following: "date"
Strike: "there is filed"
Insert: "the lienor files"
6. Page 10, following line 7.
Insert: "Section 8. Section 80-2-207, MCA, is amended to read:
"80-2-207. Delinquent taxes -- application by delinquent --
crop lien. (1) No owner of land who has more than 1 year's
delinquent taxes on his land ~~shall~~ may be allowed hail insurance
under the provisions of this part, unless his application is
accompanied by a cash payment for the amount that would be due on
~~said the~~ application in the event of a maximum levy for that year.
(2) Any grain grower unable to secure state hail insurance
under the provisions of this part on account of delinquent taxes
or for other reasons may make application to the county assessor
of his respective county and said county assessor is hereby
authorized to receive and accept ~~such the~~ applications ~~where if~~
the applicant furnishes a sufficient crop lien subject only to a
seed lien, ~~provided that such~~ However, the crop lien shall may be
accepted only under such rules and requirements as ~~may be~~
prescribed by the board of hail insurance, ~~and provided that the~~

continued

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SENATE COMMITTEE ON AGRICULTURE, HB 701
page 2 of 3

The board may cancel any hail insurance accepted in violation of said rules and requirements. Upon receipt of ~~said the~~ application, the county assessor shall make record ~~thereof of it~~ and shall file ~~the original~~ a statement of agricultural lien as provided in 71-3-125 in the office of the clerk and recorder of said county ~~secretary of state~~. ~~He~~ The county assessor shall also cause an assessment for the proper amount to be made on the assessment rolls in the same manner provided for in the case of other special levies or assessments.

(3) No tenant who has delinquent hail insurance which was secured by a crop lien only and not secured by real estate shall be allowed another policy in any succeeding year until he pays his delinquent account or accounts or until he pays cash for the current hail insurance.

(4) If any tenant becomes delinquent for his hail insurance after having failed to apply for relief as provided by the board under 80-2-229, he may apply to the board for a reduction. If his reasons for requesting a reduction are approved by the board, the board may reduce his charge to not less than one-half the original amount charged."

Section 9. Section 80-2-226, MCA, is amended to read:
"80-2-226. Crop lien -- when created -- assessment. (1) In addition to the lien created in 80-2-225 on the land of the insured, the levy for such hail insurance ~~shall constitute~~ constitutes a lien on the crops insured with the exception that the crop lien may not apply to owners of unencumbered land or to the land or crops of those who pay cash for hail insurance. The applications of these persons ~~may not~~ must be filed with the county clerk and recorded ~~as provided for in 80-2-207~~. The clerk shall file a statement of agricultural lien in the office of the secretary of state. The crop lien shall be included in all applications for hail insurance, with the above exceptions, and shall be enforced as provided in 80-2-230 and 80-2-231 against all insured except those owning unencumbered land or those who have paid cash for hail insurance.

(2) All applicants securing hail insurance on crop liens as heretofore provided shall be subject to the same charges per acre as provided herein to be made on land."

Section 10. Section 80-2-230, MCA, is amended to read:
"80-2-230. Collection of levies -- release of lien. (1) The county treasurer in each county in the state shall collect all levies made under this part in the same manner as other property taxes are collected and shall keep all moneys collected by him or for him for hail insurance in a separate fund to be known as the hail insurance fund and remit the same to the state treasurer in

continued

SENATE
HB 701

SENATE COMMITTEE ON AGRICULTURE, HB 701
page 3 of 3

the same manner as provided by law for the remittance of other moneys due to the state. All county treasurers shall use due diligence in making the collections of the levies provided herein. Also the board may furnish assistance needed at any time in making collections or may take over the collection of any levy at any time, depositing any collections therefrom with the treasurer of the county where the levy therefor was made.

(2) All insurance levies, whether levied against land or in the form of special assessments secured by crop liens, shall be payable in full and not in semiannual payments on or before November 30 of each year in which such levies are made.

(3) Whenever the amount due on any hail insurance secured by a crop lien is paid, the county treasurer shall promptly endorse on the lien on file in the office of the county clerk and recorder file the appropriate notice of lien release with the office of the secretary of state as provided in Title 71, chapter 3. the amount paid thereon with the date of payment and such endorsement shall be a satisfaction and release of such lien."

Renumber: subsequent sections

7. Page 10, line 8.
Following: "Sections"
Insert: "71-3-131,"

AND AS AMENDED BE CONCURRED IN

Signed:


Thomas A. Beck, Chairman

SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 23, 1989 9:09 am

Mr. Chairman: I move to amend HB 701 (third reading copy -- blue) as follows:

1. Strike: The Senate Committee on Agriculture, Livestock, and Irrigation amendments to HB 701 (third reading copy -- blue) dated March 20, 1989, in their entirety

ADOPT

REJECT

Signed: _____

Senator Jorgeson

SENATE
HB 701

SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 23, 1989 9:27 am

Mr. Chairman: I move to amend HB 701 (third reading copy -- blue) as follows:

1. Page 3, line 2.
Strike: "A"

2. Page 3, lines 3 and 4.
Following: "lien" on line 3
Strike: "for bail insurance"
Following: "filed" on line 3
Strike: remainder of line 3 through "or" on line 4

3. Page 3, lines 14 and 15.
Following: "parts"
Strike: remainder of line 14 through "part" on line 15
Insert: "parts"

ADOPT

REJECT

Signed: _____

Senator Weeding

SENATE
HB 701

HOUSE BILL NO. 701

INTRODUCED BY SWYSGOOD

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR CENTRAL FILING IN THE OFFICE OF THE SECRETARY OF STATE OF CERTAIN STATUTORY AGRICULTURAL LIENS; AMENDING SECTIONS 71-3-125, 71-3-402, 71-3-404, 71-3-703, 71-3-712, 71-3-802, AND 71-3-902, ~~88-2-2077-88-2-2267-AND-88-2-2387~~ MCA; REPEALING SECTIONS ~~71-3-1317~~ 71-3-403, 71-3-803, AND 71-3-903, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 71-3-125, MCA, is amended to read:

"71-3-125. Notice Filing of agricultural lien statements. (1) Unless a notice statement of an agricultural lien has been filed in the office of the secretary of state as provided in this chapter, a buyer who, in ordinary course of business as defined in 30-1-201(9), buys a farm product takes it free of any lien created by this chapter even though the lien is otherwise perfected.

(2) A notice statement of an agricultural lien is sufficient if it:

(a) gives the names and addresses of the debtor and lienor and the county of residence of the debtor;

(b) describes the type of lien and its statutory

authority;

(c) describes the collateral;

(d) contains the notation by the ~~county--clerk--and recorder~~ secretary of state of the date of filing and filing number; and

(e) is signed by the lienor;

(f) describes the service or product furnished. If the collateral is farm products, the statement must state the county in which the farm products are located, designated by type of farm product.

(g) states the price or wage agreed upon or, if the price or wage was not agreed upon, the reasonable value of the service or product furnished;

(h) states the amount remaining unpaid;

(i) state the terms and period of employment if it is a farm laborer's lien filed pursuant to part 4 of this chapter;

(j) describes the land upon which seed or grain was or will be sown, planted, or used if it is a lien for seed or grain filed pursuant to part 7 of this chapter;

(k) describes the land upon which the grain or crops were grown and the place the grain or crops are presently stored if it is a thresher's lien filed pursuant to part 8 of this chapter;

(l) describes the land upon which the service was

performed if it is a lien for spraying or dusting filed pursuant to part 9 of this chapter; and

(m) states the starting date of insurance coverage; if it is a lien for hail insurance filed pursuant to Title 80, chapter 2, part 2, or pursuant to part 7 of this chapter.

(3) Such notice The agricultural lien statement must be in the form prescribed by the secretary of state.

(4) The secretary of state shall:

(a) record such notice the agricultural lien statement on the centralized computer system as set forth in 30-9-403; and

(b) establish fees for such recordings as set forth in 30-9-403.

(5) For the purposes of this section, an agricultural lien means a EROP lien under parts Title 80, chapter 2, part 2, or A-B-I-E-N under part 4, 7, 8, or 9 of this chapter.

(6) A statement of an agricultural lien or continuation statement that has been filed at the office of the county clerk and recorder lapses on March 31, 1990, unless prior to that date there is filed THE B-I-E-N-O-R--FILES THERE IS FILED in the office of the secretary of state a certified copy of the statement and all related documents on file with the county clerk and recorder."

Section 2. Section 71-3-402, MCA, is amended to read:

"71-3-402. How lien obtained. (1) In order to acquire

a lien, as specified in 71-3-401, the person performing such services shall, within 30 days after the services are fully performed, file in the office of the clerk-and-recorder-in the-county-in-which-any-of-the-real-estate--is--situated--on which--any--crop--is--grown, upon which a lien is claimed, a statement verified by affidavit of the person claiming such lien, his duly authorized agent, or attorney having knowledge of the facts, setting forth the terms of employment, the name of the employer, the time when the services were commenced and when ended, the wages agreed upon, if any, and if not agreed upon then the reasonable value of the same, the terms of payment, if any, and a description of the real estate on which any crop is grown or has been grown or harvested on which a lien is claimed, the amount paid him, if any, and the amount remaining unpaid and that said laborer claims a lien for the same secretary of state a statement of agricultural lien, as provided in 71-3-125, and the address to which notice shall must be directed as required by 71-3-404.

(2) Notice of the lien also must be filed in the office of the secretary of state as required by 71-3-125."

Section 3. Section 71-3-404, MCA, is amended to read:

"71-3-404. Notice to other lienholders. (1) Every A person intending to foreclose a lien secured under the provisions of this part must shall give a written notice to

1 the owner or the person against whom the lien is claimed and
 2 all chattel mortgagees, encumbrancers, and all other
 3 lienholders who appear on record in the office of the county
 4 clerk-and-recorder-or secretary of state that in not less
 5 than 10 days from the date of said-~~lien~~ notice he will
 6 institute proceedings for the foreclosure of his lien,~~7--and~~
 7 ~~all~~ Any other labor ~~lienholders~~ lienholder to whom notice is
 8 given ~~shall--have--the--right--to~~ may join in said ~~the~~
 9 foreclosure proceedings and be is entitled to a pro rata
 10 share of the proceeds of the foreclosure sale, as
 11 hereinafter provided in this part. However, if the notified
 12 labor ~~lienholders--do--not--join--in--said--proceedings--they~~
 13 ~~shall--not--be~~ lienholder does not join in the proceedings, he
 14 is not entitled to share pro rata in the proceeds of the
 15 sale.

16 (2) The lien notice required herein must be given by
 17 registered-or certified mail and directed to the last-known
 18 address of the owner or the person against whom the lien is
 19 claimed and to the addresses of the chattel mortgagees,
 20 encumbrancers, and all other lienholders as their addresses
 21 appear of record. The return of the foreclosure sale must be
 22 accompanied by due proof of the giving of such notice as
 23 required to be given herein in this section."

24 **Section 4.** Section 71-3-703, MCA, is amended to read:

25 "71-3-703. How to obtain lien. ~~{1}~~ Any person,

1 company, association, or corporation who is entitled to a
 2 lien under 71-3-701 shall, within 90 days after the seed or
 3 grain is furnished or the funds, means, or moneys money
 4 advanced therefor for the seed or grain, file in the office
 5 of the county-clerk-and-recorder-of-the-county-in-which-such
 6 seed--or--grain--is--to--be--planted--or-used-a-statement-in
 7 writing-verified-under-oath-showing-the-kind-and-quantity-of
 8 the-seed-or-grain-furnished, its-value, or the amount-of-the
 9 funds-or-money-advanced-to-pay-therefor,--the--name--of--the
 10 person--or--persons--to-whom-furnished, and-a-description-of
 11 the-land-and-of-each-tract-of-land-upon-which-the-same-is-to
 12 be-or-has-been-planted-or-sown-or-used-in-the-production--of
 13 a--crop secretary of state a statement of agricultural lien
 14 as provided in 71-3-125. Unless the person entitled to such
 15 a lien ~~shall--file--such~~ files the lien statement within the
 16 time aforesaid required, he ~~shall--be--deemed~~ is considered to
 17 have waived the right thereto to a lien.

18 ~~{2}~~--Notice-of-the-lien--also--must--be--filed--in--the
 19 office--of--the-secretary-of-state-as-required-by-71-3-125."

20 **Section 5.** Section 71-3-712, MCA, is amended to read:

21 "71-3-712. How lien obtained. ~~{1}~~ Any person, company,
 22 association, or corporation who is entitled to a lien under
 23 71-3-711 shall, within 30 days after the insurance is
 24 issued, file in the office of the county-clerk-and-recorder
 25 of-the-county-in-which-the-crop--so--insured--is--located--a

1 statement---in---writing---verified---under---oath---giving---the
 2 description-of-the-land-upon-which-the-crop-is-planted,
 3 together-with-the-kind-of-crop-insured; secretary of state a
 4 statement of agricultural lien as provided in 71-3-125.
 5 provided-that-with-a A mutual company it may file a lien for
 6 the largest amount that may become due under its assessment
 7 power, and in the event that the amount assessed shall is
 8 not be as large as the amount of the lien claimed, then the
 9 amount assessed and due shall-be is the amount the mutual
 10 insurance company shall-be is entitled to under this lien.
 11 Unless the person, company, association, or corporation
 12 entitled to such a lien shall--file--such files the
 13 agricultural lien statement within the time aforesaid
 14 required, he or it shall-be-deemed is considered to have
 15 waived the right thereto to a lien.

16 {2}--Notice-of-the-lien--also--must--be--filed--in--the
 17 office-of-the-secretary-of-state-as-required--by--71-3-125."

18 **Section 6.** Section 71-3-802, MCA, is amended to read:

19 "71-3-802. How lien obtained. (1) Every A person
 20 intending to avail himself of the benefits of this part must
 21 shall file with the county-clerk-of-the-county-in-which-said
 22 grain--or--other-crops-were-grown office of the secretary of
 23 state a statement of agricultural lien as provided in
 24 71-3-125, within 10 days after the last service was rendered
 25 or labor performed in the threshing of said grain or other

1 crops or the cutting and harvesting and threshing by said
 2 the combined harvester and thresher, a notice that within 20
 3 days a lien, as specified in 71-3-801, will be claimed, and
 4 within-20-days-thereafter-shall-file-with-the--county--clerk
 5 and--recorder--of--the--county--in-which-said-grain-or-other
 6 crops-were-grown-a-just-and-true-account-of-the--amount--due
 7 him--or--them--for-such-services-or-labor-after-allowing-all
 8 just--credits--and--offsets---and---containing---a---correct
 9 description--of--the-grain-or-other-crops-to-be-charged-with
 10 such-lien, the price--agreed--upon--for--such--threshing--or
 11 cutting--and--harvesting,--the--name-of-the-person, firm, or
 12 corporation-for-whom-such-labor-and-services-were-performed,
 13 and-a-description-of-the-lands-as-nearly-as-possible--upon
 14 which---said--grain--or--other--crops-were--raised,--and--a
 15 description-of-the-legal-subdivision-of-land-upon-which-said
 16 grain-is-stored-and, if-said-grain-is-stored-in-an-elevator,
 17 the-locality-of-the--elevator,--which--statements--of--facts
 18 shall--be--verified-by-affidavit-of-the-person-claiming-such
 19 lien--or--his--duty--authorized--agent--or--attorney--having
 20 knowledge-of-the-facts,--Any-error-or-mistake-in-the-account
 21 or--description--of--the--grain--or--other--crops--or-of-the
 22 property-upon-which-it-was-raised-shall-not-invalidate--such
 23 lien.

24 (2) If the grain or other crops so cut, harvested, and
 25 threshed are being hauled from the machine or combine direct

to the elevator or to any other purchaser, then the threshermen, swather, or owner of the combine desiring to claim such a lien shall also serve written notices upon the elevatorman or other private purchaser that he will claim and file a lien upon said the grain or other crops for his services or labor performed in threshing or combining and threshing the same grain or crops.

~~{3}--Notice--of--the--lien--also--must--be--filed--in--the office--of--the--secretary--of--state--as--required--by--71-3-125--"~~

Section 7. Section 71-3-902, MCA, is amended to read:

"71-3-902. How lien obtained. {1} Any person, firm, corporation, or partnership who is entitled to a lien under this part shall, within 60 days after the last labor or service was performed or material furnished in crop dusting or spraying grains or crops, file in the office of the county clerk and recorder of the county in which said grains or crops were grown a just and true account of the amount due for such services, labor, or material after allowing all proper credits and offsets and containing a description of the grain or crops to be charged with such lien, the price agreed upon for such labor or service or material or, if no price was agreed upon, the reasonable value of the same, together with the name of the person, firm, or corporation for whom such labor or services were performed or material furnished and a description of the lands as nearly as

possible upon which said grains or crops were raised, which statements of fact shall be verified by affidavit of the person, firm, corporation, or partnership claiming such lien or his, their, or its duly authorized agent or attorney having knowledge of the facts secretary of state a statement of agricultural lien as provided in 71-3-125.

~~{2}--Notice--of--the--lien--also--must--be--filed--in--the office--of--the--secretary--of--state--as--required--by--71-3-125--"~~

Section 8. ~~Section 80-2-207, MCA, is amended to read:~~

~~"80-2-207. Delinquent taxes application by delinquent crop lien. {1} No owner of land who has more than a year's delinquent taxes on his land shall may be allowed hail insurance under the provisions of this part, unless his application is accompanied by a cash payment for the amount that would be due on said the application in the event of a maximum levy for that year.~~

~~{2} Any grain grower unable to secure state hail insurance under the provisions of this part on account of delinquent taxes or for other reasons may make application to the county assessor of his respective county and said county assessor is hereby authorized to receive and accept such the applications where if the applicant furnishes a sufficient crop lien subject only to a seed lien, provided that such However, the crop lien shall may be accepted only under such rules and requirements as may be prescribed by~~

the board of hail insurance, and provided that the The board may cancel any hail insurance accepted in violation of said rules and requirements. Upon receipt of said the application, the county assessor shall make record thereof of it and shall file the original a statement of agricultural lien as provided in 71-3-125 in the office of the clerk and recorder of said county secretary of state. He The county assessor shall also cause an assessment for the proper amount to be made on the assessment rolls in the same manner provided for in the case of other special levies or assessments.

(3) No tenant who has delinquent hail insurance which was secured by a crop lien only and not secured by real estate shall be allowed another policy in any succeeding year until he pays his delinquent account or accounts or until he pays cash for the current hail insurance.

(4) If any tenant becomes delinquent for his hail insurance after having failed to apply for relief as provided by the board under 80-2-229, he may apply to the board for a reduction. If his reasons for requesting a reduction are approved by the board, the board may reduce his charge to not less than one-half the original amount charged.

Section 8. Section 80-2-226, MCA, is amended to read:

"80-2-226. Crop lien when created assessment:

(1) In addition to the lien created in 80-2-225 on the land of the insured, the levy for such hail insurance shall constitute ~~constitutes~~ a lien on the crops insured with the exception that the crop lien may not apply to owners of unencumbered land or to the land or crops of those who pay cash for hail insurance. The applications of these persons may not ~~must~~ be filed with the county clerk and recorded as provided for in 80-2-267. The clerk shall file a statement of agricultural lien in the office of the secretary of state. The crop lien shall be included in all applications for hail insurance, with the above exceptions, and shall be enforced as provided in 80-2-230 and 80-2-231 against all insured except those owning unencumbered land or those who have paid cash for hail insurance.

(2) All applicants securing hail insurance on crop liens as heretofore provided shall be subject to the same charges per acre as provided herein to be made on land."

Section 10. Section 80-2-230, MCA, is amended to read:

"80-2-230. Collection of levies release of lien:

(1) The county treasurer in each county in the state shall collect all levies made under this part in the same manner as other property taxes are collected and shall keep all moneys collected by him or for him for hail insurance in a separate fund to be known as the hail insurance fund and remit the same to the state treasurer in the same manner as

provided--by--law--for--the--remittance--of--other--moneys--due--to
the--state--All--county--treasurers--shall--use--due--diligence--in
making--the--collections--of--the--levies--provided--herein--Also
the--board--may--furnish--assistance--needed--at--any--time--in
making--collections--or--may--take--over--the--collection--of--any
levy--at--any--time--depositing--any--collections--therefrom--with
the--treasurer--of--the--county--where--the--levy--therefor--was
made.

{2}--All--insurance--levies--whether--levied--against--land
or--in--the--form--of--special--assessments--secured--by--crop--liens--
shall--be--payable--in--full--and--not--in--semiannual--payments--on
or--before--November--30--of--each--year--in--which--such--levies--are
made.

{3}--Whenever--the--amount--due--on--any--hail--insurance
secured--by--a--crop--lien--is--paid--the--county--treasurer--shall
promptly--endorse--on--the--lien--on--file--in--the--office--of--the
county--clerk--and--recorder--file--the--appropriate--notice--of
lien--release--with--the--office--of--the--secretary--of--state--as
provided--in--Title--71--chapter--3--the--amount--paid--thereon
with--the--date--of--payment--and--such--endorsement--shall--be--a
satisfaction--and--release--of--such--lien."

NEW SECTION. Section 8. Repealer. Sections ~~71-3-131~~
71-3-403, 71-3-803, and 71-3-903, MCA, are repealed.

NEW SECTION. Section 9. Extension of authority. Any
existing authority to make rules on the subject of the

provisions of [this act] is extended to the provisions of
[this act].

NEW SECTION. Section 10. Applicability. [This act]
applies to agricultural liens filed after September 30,
1989.

-End-