

HOUSE BILL NO. 635

INTRODUCED BY FAGG, D. BROWN
BY REQUEST OF THE SECRETARY OF STATE

IN THE HOUSE

FEBRUARY 16, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
	FIRST READING.
FEBRUARY 19, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 20, 1993	PRINTING REPORT.
FEBRUARY 22, 1993	SECOND READING, DO PASS AS AMENDED.
FEBRUARY 23, 1993	ENGROSSING REPORT.
FEBRUARY 24, 1993	THIRD READING, PASSED. AYES, 98; NOES, 1.
	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 1, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
MARCH 26, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 27, 1993	SECOND READING, CONCURRED IN.
MARCH 29, 1993	THIRD READING, CONCURRED IN. AYES, 46; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 30, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *635*
2 INTRODUCED BY *220 Dave Brown*
3 BY REQUEST OF THE SECRETARY OF STATE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROCEDURES FOR
6 FILING LIENS WITH THE SECRETARY OF STATE; PROVIDING FOR
7 REMOVAL OF IMPROPER OR FRAUDULENT LIENS; AND AMENDING
8 SECTIONS 30-9-402, 30-9-407, AND 71-3-125, MCA."
9

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

11 **Section 1.** Section 30-9-402, MCA, is amended to read:

12 "30-9-402. Formal requisites of financing statement --
13 amendments -- mortgage as financing statement. (1) A
14 financing statement is sufficient if it gives the names of
15 the debtor and the secured party, is signed by the debtor,
16 gives an address of the secured party from which information
17 concerning the security interest may be obtained, gives a
18 mailing address and the county of residence of the debtor,
19 and contains a statement indicating the types or describing
20 the items of collateral. A financing statement may be filed
21 before a security agreement is made or a security interest
22 otherwise attaches. If the financing statement covers timber
23 to be cut, minerals or the like (including oil and gas) or
24 accounts subject to 30-9-103(5), or farm products or if the
25 financing statement is filed as a fixture filing (30-9-313)

1 and the collateral is goods which are or are to become
2 fixtures, the statement must also comply with subsection
3 (5). A copy of the security agreement is sufficient as a
4 financing statement if it contains the above information and
5 is signed by the debtor.

6 (2) A financing statement which otherwise complies with
7 subsection (1) is sufficient when it is signed by the
8 secured party instead of the debtor if it is filed to
9 perfect a security interest in:

10 (a) collateral already subject to a security interest
11 in another jurisdiction when it is brought into this state,
12 or when the debtor's location is changed to this state. Such
13 a financing statement must state that the collateral was
14 brought into this state or that the debtor's location was
15 changed to this state under such circumstances.

16 (b) proceeds under 30-9-306 if the security interest in
17 the original collateral was perfected. Such a financing
18 statement must describe the original collateral.

19 (c) collateral as to which the filing has lapsed, if
20 within 5 years of the lapse; or

21 (d) collateral acquired after a change of name,
22 identity, or corporate structure of the debtor (subsection
23 (7)).

24 (3) A form substantially as follows is sufficient to
25 comply with subsection (1):

1 Name of debtor (or assignor)
 2 Social security number or tax identification number
 3 Address
 4 ~~County-of-residence-xxxxxxxxxxxxxxxxxxxxxxxxxxxx~~
 5 Name of secured party (or assignee)
 6 Address
 7 1. This financing statement covers the following types
 8 (or items) of property:
 9 (Describe)
 10 2. (If collateral is crops, livestock, or
 11 unmanufactured agricultural products) The above described
 12 crops, livestock, or unmanufactured agricultural products
 13 are growing, being raised, or being produced or are to be
 14 grown, raised, or produced on:
 15 (Describe Real Estate and County Where Located)
 16 3. (If applicable) The above goods are to become
 17 fixtures on:
 18 (Describe Real Estate)
 19 and this financing statement is to be filed in the real
 20 estate record. (If the debtor does not have an interest or
 21 record) The name of a record owner is
 22 4. (If products of collateral are claimed) Products of
 23 the collateral are also covered.
 24 (Use whichever Signature of Debtor (or Assignor)
 25 is applicable) Signature of Secured Party (or Assignee) .

1 (4) A financing statement may be amended by filing a
 2 writing signed by both the debtor and the secured party. An
 3 amendment does not extend the period of effectiveness of a
 4 financing statement. If any amendment adds collateral, it is
 5 effective as to the added collateral only from the filing
 6 date of the amendment. In this chapter, unless the context
 7 otherwise requires, the term "financing statement" means the
 8 original financing statement and any amendments.
 9 (5) (a) A financing statement covering timber to be cut
 10 or covering minerals or the like (including oil and gas) or
 11 accounts subject to 30-9-103(5), or a financing statement
 12 filed as a fixture filing (30-9-313) when the debtor is not
 13 a transmitting utility, must show that it covers this type
 14 of collateral, must recite that it is to be filed in the
 15 real estate records, and the financing statement must
 16 contain a description of the real estate sufficient if it
 17 were contained in a mortgage of the real estate to give
 18 constructive notice of the mortgage under the law of this
 19 state. If the debtor does not have an interest of record in
 20 the real estate, the financing statement must show the name
 21 of a record owner.
 22 (b) A financing statement covering farm products must
 23 contain a reasonable description of the real estate upon
 24 which the farm products are produced or located. A legal
 25 description of the real estate is not required; a statement

1 naming the county or counties in which the farm products are
2 produced or located is sufficient to satisfy this subsection
3 (b).

4 (6) (a) A mortgage is effective as a financing
5 statement filed as a fixture filing from the date of its
6 recording if:

7 (i) the goods are described in the mortgage by item or
8 type;

9 (ii) the goods are or are to become fixtures related to
10 the real estate described in the mortgage;

11 (iii) the mortgage complies with the requirements for a
12 financing statement in this section other than a recital
13 that it is to be filed in the real estate records; and

14 (iv) the mortgage is duly recorded.

15 (b) No fee with reference to the financing statement is
16 required other than the regular recording and satisfaction
17 fees with respect to the mortgage.

18 (7) A financing statement sufficiently shows the name
19 of the debtor if it gives the social security number or tax
20 identification number of the debtor and the individual,
21 partnership, or corporate name of the debtor, whether or not
22 it adds other trade names or the names of partners. If the
23 debtor so changes his the debtor's name or in the case of an
24 organization its name, identity, or corporate structure that
25 a filed financing statement becomes seriously misleading,

1 the filing is not effective to perfect a security interest
2 in collateral acquired by the debtor more than 4 months
3 after the change unless a new appropriate financing
4 statement is filed before the expiration of that time. A
5 filed financing statement remains effective with respect to
6 collateral transferred by the debtor even though the secured
7 party knows of or consents to the transfer.

8 (8) A financing statement substantially complying with
9 the requirements of this section is effective even though it
10 contains minor errors which are not seriously misleading."

11 **Section 2.** Section 30-9-407, MCA, is amended to read:

12 **"30-9-407. Information from filing officer.** (1) If the
13 person filing any financing statement, termination
14 statement, statement of assignment, or statement of release
15 furnishes the filing officer a copy thereof, the filing
16 officer shall upon request note upon the copy the file
17 number and date and hour of the filing of the original and
18 deliver or send the copy to such person.

19 (2) Upon request of any person, the filing officer
20 shall issue his certificate showing whether there is on file
21 on the date and hour stated therein, any presently effective
22 financing statement naming a particular debtor and any
23 statement of assignment thereof and, if there is, giving the
24 date and hour of filing of each such statement and the name
25 and address of each secured party therein. For financing

1 statements recorded on the system described in 30-9-403(9),
 2 the filing officer shall, upon request of any person, also
 3 furnish written information concerning the collateral
 4 described for any presently effective financing statement
 5 covering collateral described in 30-9-403(8). However, such
 6 information is not a part of the filing officer's
 7 certificate and may not constitute a complete description of
 8 the collateral covered by the financing statement. The
 9 uniform fee for such a certificate and description of
 10 collateral shall be set pursuant to 30-9-403. Upon request
 11 the filing officer shall furnish a copy of any filed
 12 financing statement or statement of assignment for a uniform
 13 fee of 50 cents per page.

14 (3) A computer printout from the system described in
 15 30-9-403(9) constitutes the certificate of the secretary of
 16 state as to whether there is on file, on the date and hour
 17 stated thereon, such a financing statement covering the
 18 collateral described in 30-9-403(8). The fee for requesting
 19 a printout from the secretary of state must cover the cost
 20 of the printout. If a certificate is made on a requestor's
 21 own computer using telephone dial-up access, a fee
 22 commensurate with costs must be charged.

23 (4) ~~Within 30 days after July 17, 1987, the secretary of~~
 24 ~~state shall provide a listing of all financing statements~~
 25 ~~recorded on the system described in 30-9-403(9) covering~~

1 ~~collateral described in 30-9-403(8) to each county clerk and~~
 2 ~~recorder. The secretary of state shall compile the listing~~
 3 ~~alphabetically by debtor's name and may distribute the~~
 4 ~~listing on microfilm or microfiche. The secretary of state~~
 5 ~~shall provide the listing without charge to the county.~~

6 (5) The secretary of state shall ensure that the system
 7 described in 30-9-403(9) complies with the requirements for
 8 a central filing system as defined by 7 U.S.C. 1631 as that
 9 statute read on January 1, 1987. The secretary of state
 10 shall distribute portions of the master list to registered
 11 buyers at least once each month. He The secretary of state
 12 may distribute portions of the master list more frequently
 13 if he the secretary of state determines it is necessary to
 14 improve the flow of agricultural credit."

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

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

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

25 (a) gives the names and addresses of the debtor and

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

1 (1) describes the land upon which the service was
 2 performed if it is a lien for spraying or dusting filed
 3 pursuant to part 9 of this chapter; and
 4 (m) states the starting date of insurance coverage if
 5 it is a lien filed pursuant to part 7 of this chapter.
 6 (3) The agricultural lien statement must be in the form
 7 prescribed by the secretary of state.
 8 (4) The secretary of state shall:
 9 (a) record the agricultural lien statement on the
 10 centralized computer system as set forth in 30-9-403; 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 part 4, 7, 8, or 9 of this chapter.
 15 (6) A statement of an agricultural lien or continuation
 16 statement that has been filed at the office of the county
 17 clerk and recorder lapses on March 31, 1990, unless prior to
 18 that date there is filed in the office of the secretary of
 19 state a certified copy of the statement and all related
 20 documents on file with the county clerk and recorder."
 21 NEW SECTION. Section 4. Removal of improper or
 22 fraudulent liens. (1) If the secretary of state receives a
 23 complaint or has reason to believe that a lien submitted or
 24 filed with the secretary of state's office is improper or
 25 fraudulent, the secretary of state may reject the submission

1 or remove the filing from existing files after giving notice
2 and an opportunity to respond to the secured party.

3 (2) A person adversely affected by a lien that is
4 determined to be improper or fraudulent by the secretary of
5 state may recover treble damages from the person responsible
6 for submitting the lien.

7 NEW SECTION. **Section 5.** Codification instruction.
8 [Section 4] is intended to be codified as an integral part
9 of Title 30, chapter 9, part 4, and the provisions of Title
10 30, chapter 9, part 4, apply to [section 4].

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0635, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising procedures for filing liens with the Secretary of State.

ASSUMPTIONS:

1. The bill will have no fiscal impact on the Secretary of State's Office.

FISCAL IMPACT:

None.

David Lewis 2.20-93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Russell C. Fagg 2/20/93
RUSSELL FAGG, PRIMARY SPONSOR DATE

Fiscal Note for HB0635, as introduced

HB 635

APPROVED BY COMM. ON BUSINESS
AND ECONOMIC DEVELOPMENT

1 *House* BILL NO. 635
2 INTRODUCED BY *Joe Dan Brown*
3 BY REQUEST OF THE SECRETARY OF STATE
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17 concerning the security interest may be obtained, gives a
18 mailing address and the county of residence of the debtor,
19 and contains a statement indicating the types or describing
20 the items of collateral. A financing statement may be filed
21 before a security agreement is made or a security interest
22 otherwise attaches. If the financing statement covers timber
23 to be cut, minerals or the like (including oil and gas) or
24 accounts subject to 30-9-103(5), or farm products or if the
25 financing statement is filed as a fixture filing (30-9-313)

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2 fixtures, the statement must also comply with subsection
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4 financing statement if it contains the above information and
5 is signed by the debtor.

6 (2) A financing statement which otherwise complies with
7 subsection (1) is sufficient when it is signed by the
8 secured party instead of the debtor if it is filed to
9 perfect a security interest in:

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12 or when the debtor's location is changed to this state. Such
13 a financing statement must state that the collateral was
14 brought into this state or that the debtor's location was
15 changed to this state under such circumstances.

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18 statement must describe the original collateral.

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20 within 5 years of the lapse; or

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22 identity, or corporate structure of the debtor (subsection
23 (7)).

24 (3) A form substantially as follows is sufficient to
25 comply with subsection (1):

1 Name of debtor (or assignor)
 2 Social security number or tax identification number
 3 Address
 4 County-of-residence-----
 5 Name of secured party (or assignee)
 6 Address
 7 1. This financing statement covers the following types
 8 (or items) of property:
 9 (Describe)
 10 2. (If collateral is crops, livestock, or
 11 unmanufactured agricultural products) The above described
 12 crops, livestock, or unmanufactured agricultural products
 13 are growing, being raised, or being produced or are to be
 14 grown, raised, or produced on:
 15 (Describe Real Estate and County Where Located)
 16 3. (If applicable) The above goods are to become
 17 fixtures on:
 18 (Describe Real Estate)
 19 and this financing statement is to be filed in the real
 20 estate record. (If the debtor does not have an interest or
 21 record) The name of a record owner is
 22 4. (If products of collateral are claimed) Products of
 23 the collateral are also covered.
 24 (Use whichever Signature of Debtor (or Assignor)
 25 is applicable) Signature of Secured Party (or Assignee) .

1 (4) A financing statement may be amended by filing a
 2 writing signed by both the debtor and the secured party. An
 3 amendment does not extend the period of effectiveness of a
 4 financing statement. If any amendment adds collateral, it is
 5 effective as to the added collateral only from the filing
 6 date of the amendment. In this chapter, unless the context
 7 otherwise requires, the term "financing statement" means the
 8 original financing statement and any amendments.
 9 (5) (a) A financing statement covering timber to be cut
 10 or covering minerals or the like (including oil and gas) or
 11 accounts subject to 30-9-103(5), or a financing statement
 12 filed as a fixture filing (30-9-313) when the debtor is not
 13 a transmitting utility, must show that it covers this type
 14 of collateral, must recite that it is to be filed in the
 15 real estate records, and the financing statement must
 16 contain a description of the real estate sufficient if it
 17 were contained in a mortgage of the real estate to give
 18 constructive notice of the mortgage under the law of this
 19 state. If the debtor does not have an interest of record in
 20 the real estate, the financing statement must show the name
 21 of a record owner.
 22 (b) A financing statement covering farm products must
 23 contain a reasonable description of the real estate upon
 24 which the farm products are produced or located. A legal
 25 description of the real estate is not required; a statement

1 naming the county or counties in which the farm products are
2 produced or located is sufficient to satisfy this subsection
3 (b).

4 (6) (a) A mortgage is effective as a financing
5 statement filed as a fixture filing from the date of its
6 recording if:

7 (i) the goods are described in the mortgage by item or
8 type;

9 (ii) the goods are or are to become fixtures related to
10 the real estate described in the mortgage;

11 (iii) the mortgage complies with the requirements for a
12 financing statement in this section other than a recital
13 that it is to be filed in the real estate records; and

14 (iv) the mortgage is duly recorded.

15 (b) No fee with reference to the financing statement is
16 required other than the regular recording and satisfaction
17 fees with respect to the mortgage.

18 (7) A financing statement sufficiently shows the name
19 of the debtor if it gives the social security number or tax
20 identification number of the debtor and the individual,
21 partnership, or corporate name of the debtor, whether or not
22 it adds other trade names or the names of partners. If the
23 debtor so changes his the debtor's name or in the case of an
24 organization its name, identity, or corporate structure that
25 a filed financing statement becomes seriously misleading,

1 the filing is not effective to perfect a security interest
2 in collateral acquired by the debtor more than 4 months
3 after the change unless a new appropriate financing
4 statement is filed before the expiration of that time. A
5 filed financing statement remains effective with respect to
6 collateral transferred by the debtor even though the secured
7 party knows of or consents to the transfer.

8 (8) A financing statement substantially complying with
9 the requirements of this section is effective even though it
10 contains minor errors which are not seriously misleading."

11 **Section 2.** Section 30-9-407, MCA, is amended to read:

12 **"30-9-407. Information from filing officer.** (1) If the
13 person filing any financing statement, termination
14 statement, statement of assignment, or statement of release
15 furnishes the filing officer a copy thereof, the filing
16 officer shall upon request note upon the copy the file
17 number and date and hour of the filing of the original and
18 deliver or send the copy to such person.

19 (2) Upon request of any person, the filing officer
20 shall issue his certificate showing whether there is on file
21 on the date and hour stated therein, any presently effective
22 financing statement naming a particular debtor and any
23 statement of assignment thereof and, if there is, giving the
24 date and hour of filing of each such statement and the name
25 and address of each secured party therein. For financing

1 statements recorded on the system described in 30-9-403(9),
 2 the filing officer shall, upon request of any person, also
 3 furnish written information concerning the collateral
 4 described for any presently effective financing statement
 5 covering collateral described in 30-9-403(8). However, such
 6 information is not a part of the filing officer's
 7 certificate and may not constitute a complete description of
 8 the collateral covered by the financing statement. The
 9 uniform fee for such a certificate and description of
 10 collateral shall be set pursuant to 30-9-403. Upon request
 11 the filing officer shall furnish a copy of any filed
 12 financing statement or statement of assignment for a uniform
 13 fee of 50 cents per page.

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 15 30-9-403(9) constitutes the certificate of the secretary of
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 18 collateral described in 30-9-403(8). The fee for requesting
 19 a printout from the secretary of state must cover the cost
 20 of the printout. If a certificate is made on a requestor's
 21 own computer using telephone dial-up access, a fee
 22 commensurate with costs must be charged.

23 (4) ~~Within 30 days after July 1, 1987, the secretary of~~
 24 ~~state shall provide a listing of all financing statements~~
 25 ~~recorded on the system described in 30-9-403(9) covering~~

1 collateral described in 30-9-403(8) to each county clerk and
 2 recorder. The secretary of state shall compile the listing
 3 alphabetically by debtor's name and may distribute the
 4 listing on microfilm or microfiche. ~~The secretary of state~~
 5 ~~shall provide the listing without charge to the county.~~

6 (5) The secretary of state shall ensure that the system
 7 described in 30-9-403(9) complies with the requirements for
 8 a central filing system as defined by 7 U.S.C. 1631 as that
 9 statute read on January 1, 1987. The secretary of state
 10 shall distribute portions of the master list to registered
 11 buyers at least once each month. He The secretary of state
 12 may distribute portions of the master list more frequently
 13 if he the secretary of state determines it is necessary to
 14 improve the flow of agricultural credit."

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

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

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

25 (a) gives the names and addresses of the debtor and

1 ~~lienor and the county of residence of the debtor;~~
2 (b) describes the type of lien and its statutory
3 authority;
4 (c) describes the collateral;
5 (d) contains the notation by the secretary of state of
6 the date of filing and filing number;
7 (e) is signed by the lienor;
8 (f) describes the service or product furnished. If the
9 collateral is farm products, the statement must state the
10 county in which the farm products are located, designated by
11 type of farm product.
12 (g) states the price or wage agreed upon or, if the
13 price or wage was not agreed upon, the reasonable value of
14 the service or product furnished;
15 (h) states the amount remaining unpaid;
16 (i) states the terms and period of employment if it is
17 a farm laborer's lien filed pursuant to part 4 of this
18 chapter;
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21 grain filed pursuant to part 7 of this chapter;
22 (k) describes the land upon which the grain or crops
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24 stored if it is a thresher's lien filed pursuant to part 8
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1 (1) describes the land upon which the service was
2 performed if it is a lien for spraying or dusting filed
3 pursuant to part 9 of this chapter; and
4 (m) states the starting date of insurance coverage if
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6 (3) The agricultural lien statement must be in the form
7 prescribed by the secretary of state.
8 (4) The secretary of state shall:
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10 centralized computer system as set forth in 30-9-403; and
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12 30-9-403.
13 (5) For the purposes of this section, an agricultural
14 lien means a lien under part 4, 7, 8, or 9 of this chapter.
15 (6) A statement of an agricultural lien or continuation
16 statement that has been filed at the office of the county
17 clerk and recorder lapses on March 31, 1990, unless prior to
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19 state a certified copy of the statement and all related
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21 NEW SECTION. **Section 4. Removal of improper or**
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7 NEW SECTION. **Section 5.** Codification instruction.
8 [Section 4] is intended to be codified as an integral part
9 of Title 30, chapter 9, part 4, and the provisions of Title
10 30, chapter 9, part 4, apply to [section 4].

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2 INTRODUCED BY FAGG, D. BROWN

3 BY REQUEST OF THE SECRETARY OF STATE

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22 otherwise attaches. If the financing statement covers timber
23 to be cut, minerals or the like (including oil and gas) or
24 accounts subject to 30-9-103(5), or farm products or if the
25 financing statement is filed as a fixture filing (30-9-313)

1 and the collateral is goods which are or are to become
2 fixtures, the statement must also comply with subsection
3 (5). A copy of the security agreement is sufficient as a
4 financing statement if it contains the above information and
5 is signed by the debtor.

6 (2) A financing statement which otherwise complies with
7 subsection (1) is sufficient when it is signed by the
8 secured party instead of the debtor if it is filed to
9 perfect a security interest in:

10 (a) collateral already subject to a security interest
11 in another jurisdiction when it is brought into this state,
12 or when the debtor's location is changed to this state. Such
13 a financing statement must state that the collateral was
14 brought into this state or that the debtor's location was
15 changed to this state under such circumstances.

16 (b) proceeds under 30-9-306 if the security interest in
17 the original collateral was perfected. Such a financing
18 statement must describe the original collateral.

19 (c) collateral as to which the filing has lapsed, if
20 within 5 years of the lapse; or

21 (d) collateral acquired after a change of name,
22 identity, or corporate structure of the debtor (subsection
23 (7)).

24 (3) A form substantially as follows is sufficient to
25 comply with subsection (1):

1 Name of debtor (or assignor)
 2 Social security number or tax identification number
 3 Address
 4 County-of-residence-.....
 5 Name of secured party (or assignee)
 6 Address
 7 1. This financing statement covers the following types
 8 (or items) of property:
 9 (Describe)
 10 2. (If collateral is crops, livestock, or
 11 unmanufactured agricultural products) The above described
 12 crops, livestock, or unmanufactured agricultural products
 13 are growing, being raised, or being produced or are to be
 14 grown, raised, or produced on:
 15 (Describe Real Estate and County Where Located)
 16 3. (If applicable) The above goods are to become
 17 fixtures on:
 18 (Describe Real Estate)
 19 and this financing statement is to be filed in the real
 20 estate record. (If the debtor does not have an interest or
 21 record) The name of a record owner is
 22 4. (If products of collateral are claimed) Products of
 23 the collateral are also covered.
 24 (Use whichever Signature of Debtor (or Assignor)
 25 is applicable) Signature of Secured Party (or Assignee) .

1 (4) A financing statement may be amended by filing a
 2 writing signed by both the debtor and the secured party. An
 3 amendment does not extend the period of effectiveness of a
 4 financing statement. If any amendment adds collateral, it is
 5 effective as to the added collateral only from the filing
 6 date of the amendment. In this chapter, unless the context
 7 otherwise requires, the term "financing statement" means the
 8 original financing statement and any amendments.

9 (5) (a) A financing statement covering timber to be cut
 10 or covering minerals or the like (including oil and gas) or
 11 accounts subject to 30-9-103(5), or a financing statement
 12 filed as a fixture filing (30-9-313) when the debtor is not
 13 a transmitting utility, must show that it covers this type
 14 of collateral, must recite that it is to be filed in the
 15 real estate records, and the financing statement must
 16 contain a description of the real estate sufficient if it
 17 were contained in a mortgage of the real estate to give
 18 constructive notice of the mortgage under the law of this
 19 state. If the debtor does not have an interest of record in
 20 the real estate, the financing statement must show the name
 21 of a record owner.

22 (b) A financing statement covering farm products must
 23 contain a reasonable description of the real estate upon
 24 which the farm products are produced or located. A legal
 25 description of the real estate is not required; a statement

1 naming the county or counties in which the farm products are
2 produced or located is sufficient to satisfy this subsection
3 (b).

4 (6) (a) A mortgage is effective as a financing
5 statement filed as a fixture filing from the date of its
6 recording if:

7 (i) the goods are described in the mortgage by item or
8 type;

9 (ii) the goods are or are to become fixtures related to
10 the real estate described in the mortgage;

11 (iii) the mortgage complies with the requirements for a
12 financing statement in this section other than a recital
13 that it is to be filed in the real estate records; and

14 (iv) the mortgage is duly recorded.

15 (b) No fee with reference to the financing statement is
16 required other than the regular recording and satisfaction
17 fees with respect to the mortgage.

18 (7) A financing statement sufficiently shows the name
19 of the debtor if it gives the social security number or tax
20 identification number of the debtor and the individual,
21 partnership, or corporate name of the debtor, whether or not
22 it adds other trade names or the names of partners. If the
23 debtor so changes his the debtor's name or in the case of an
24 organization its name, identity, or corporate structure that
25 a filed financing statement becomes seriously misleading,

1 the filing is not effective to perfect a security interest
2 in collateral acquired by the debtor more than 4 months
3 after the change unless a new appropriate financing
4 statement is filed before the expiration of that time. A
5 filed financing statement remains effective with respect to
6 collateral transferred by the debtor even though the secured
7 party knows of or consents to the transfer.

8 (8) A financing statement substantially complying with
9 the requirements of this section is effective even though it
10 contains minor errors which are not seriously misleading."

11 **Section 2.** Section 30-9-407, MCA, is amended to read:

12 "30-9-407. Information from filing officer. (1) If the
13 person filing any financing statement, termination
14 statement, statement of assignment, or statement of release
15 furnishes the filing officer a copy thereof, the filing
16 officer shall upon request note upon the copy the file
17 number and date and hour of the filing of the original and
18 deliver or send the copy to such person.

19 (2) Upon request of any person, the filing officer
20 shall issue his certificate showing whether there is on file
21 on the date and hour stated therein, any presently effective
22 financing statement naming a particular debtor and any
23 statement of assignment thereof and, if there is, giving the
24 date and hour of filing of each such statement and the name
25 and address of each secured party therein. For financing

statements recorded on the system described in 30-9-403(9), the filing officer shall, upon request of any person, also furnish written information concerning the collateral described for any presently effective financing statement covering collateral described in 30-9-403(8). However, such information is not a part of the filing officer's certificate and may not constitute a complete description of the collateral covered by the financing statement. The uniform fee for such a certificate and description of collateral shall be set pursuant to 30-9-403. Upon request the filing officer shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of 50 cents per page.

(3) A computer printout from the system described in 30-9-403(9) constitutes the certificate of the secretary of state as to whether there is on file, on the date and hour stated thereon, such a financing statement covering the collateral described in 30-9-403(8). The fee for requesting a printout from the secretary of state must cover the cost of the printout. If a certificate is made on a requestor's own computer using telephone dial-up access, a fee commensurate with costs must be charged.

(4) ~~Within 30 days after July 1, 1987, the secretary of state shall provide a listing of all financing statements recorded on the system described in 30-9-403(9) covering~~

~~collateral described in 30-9-403(8) to each county clerk and recorder.~~ The secretary of state shall compile the listing alphabetically by debtor's name and may distribute the listing on microfilm or microfiche. ~~The secretary of state shall provide the listing without charge to the county.~~

(5) The secretary of state shall ensure that the system described in 30-9-403(9) complies with the requirements for a central filing system as defined by 7 U.S.C. 1631 as that statute read on January 1, 1987. The secretary of state shall distribute portions of the master list to registered buyers at least once each month. He The secretary of state may distribute portions of the master list more frequently if he the secretary of state determines it is necessary to improve the flow of agricultural credit."

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

"71-3-125. Filing of agricultural lien statements. (1) Unless a 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 statement of an agricultural lien is sufficient if it:

(a) gives the names and addresses of the debtor and

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

1 (1) describes the land upon which the service was
 2 performed if it is a lien for spraying or dusting filed
 3 pursuant to part 9 of this chapter; and
 4 (m) states the starting date of insurance coverage if
 5 it is a lien filed pursuant to part 7 of this chapter.
 6 (3) The agricultural lien statement must be in the form
 7 prescribed by the secretary of state.
 8 (4) The secretary of state shall:
 9 (a) record the agricultural lien statement on the
 10 centralized computer system as set forth in 30-9-403; 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 part 4, 7, 8, or 9 of this chapter.
 15 (6) A statement of an agricultural lien or continuation
 16 statement that has been filed at the office of the county
 17 clerk and recorder lapses on March 31, 1990, unless prior to
 18 that date there is filed in the office of the secretary of
 19 state a certified copy of the statement and all related
 20 documents on file with the county clerk and recorder."
 21 NEW SECTION. Section 4. Removal of improper or
 22 fraudulent liens. (1) If the ~~secretary of state~~ A FILING
 23 OFFICER receives a complaint or has reason to believe that a
 24 lien submitted or filed with the ~~secretary of state's~~ FILING
 25 OFFICER'S office is improper or fraudulent, the ~~secretary of~~

1 state FILING OFFICER may reject the submission or remove the
2 filing from existing files after giving notice and an
3 opportunity to respond to the secured party.

4 (2) A person adversely affected by a lien that is
5 determined to be improper or fraudulent by the ~~secretary-of~~
6 state FILING OFFICER may recover treble damages from the
7 person responsible for submitting the lien.

8 NEW SECTION. Section 5. Codification instruction.
9 [Section 4] is intended to be codified as an integral part
10 of Title 30, chapter 9, part 4, and the provisions of Title
11 30, chapter 9, part 4, apply to [section 4].

-End-

1 HOUSE BILL NO. 635

2 INTRODUCED BY FAGG, D. BROWN

3 BY REQUEST OF THE SECRETARY OF STATE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROCEDURES FOR
6 FILING LIENS WITH THE SECRETARY OF STATE; PROVIDING FOR
7 REMOVAL OF IMPROPER OR FRAUDULENT LIENS; AND AMENDING
8 SECTIONS 30-9-402, 30-9-407, AND 71-3-125, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 30-9-402, MCA, is amended to read:

12 "30-9-402. Formal requisites of financing statement --
13 amendments -- mortgage as financing statement. (1) A
14 financing statement is sufficient if it gives the names of
15 the debtor and the secured party, is signed by the debtor,
16 gives an address of the secured party from which information
17 concerning the security interest may be obtained, gives a
18 mailing address and the county of residence of the debtor,
19 and contains a statement indicating the types or describing
20 the items of collateral. A financing statement may be filed
21 before a security agreement is made or a security interest
22 otherwise attaches. If the financing statement covers timber
23 to be cut, minerals or the like (including oil and gas) or
24 accounts subject to 30-9-103(5), or farm products or if the
25 financing statement is filed as a fixture filing (30-9-313)

1 and the collateral is goods which are or are to become
2 fixtures, the statement must also comply with subsection
3 (5). A copy of the security agreement is sufficient as a
4 financing statement if it contains the above information and
5 is signed by the debtor.

6 (2) A financing statement which otherwise complies with
7 subsection (1) is sufficient when it is signed by the
8 secured party instead of the debtor if it is filed to
9 perfect a security interest in:

10 (a) collateral already subject to a security interest
11 in another jurisdiction when it is brought into this state,
12 or when the debtor's location is changed to this state. Such
13 a financing statement must state that the collateral was
14 brought into this state or that the debtor's location was
15 changed to this state under such circumstances.

16 (b) proceeds under 30-9-306 if the security interest in
17 the original collateral was perfected. Such a financing
18 statement must describe the original collateral.

19 (c) collateral as to which the filing has lapsed, if
20 within 5 years of the lapse; or

21 (d) collateral acquired after a change of name,
22 identity, or corporate structure of the debtor (subsection
23 (7)).

24 (3) A form substantially as follows is sufficient to
25 comply with subsection (1):

1 Name of debtor (or assignor)

2 Social security number or tax identification number

3 Address

4 County-of-residence-.....

5 Name of secured party (or assignee)

6 Address

7 1. This financing statement covers the following types

8 (or items) of property:

9 (Describe)

10 2. (If collateral is crops, livestock, or

11 unmanufactured agricultural products) The above described

12 crops, livestock, or unmanufactured agricultural products

13 are growing, being raised, or being produced or are to be

14 grown, raised, or produced on:

15 (Describe Real Estate and County Where Located)

16 3. (If applicable) The above goods are to become

17 fixtures on:

18 (Describe Real Estate)

19 and this financing statement is to be filed in the real

20 estate record. (If the debtor does not have an interest or

21 record) The name of a record owner is

22 4. (If products of collateral are claimed) Products of

23 the collateral are also covered.

24 (Use whichever Signature of Debtor (or Assignor)

25 is applicable) Signature of Secured Party (or Assignee) .

1 (4) A financing statement may be amended by filing a

2 writing signed by both the debtor and the secured party. An

3 amendment does not extend the period of effectiveness of a

4 financing statement. If any amendment adds collateral, it is

5 effective as to the added collateral only from the filing

6 date of the amendment. In this chapter, unless the context

7 otherwise requires, the term "financing statement" means the

8 original financing statement and any amendments.

9 (5) (a) A financing statement covering timber to be cut

10 or covering minerals or the like (including oil and gas) or

11 accounts subject to 30-9-103(5), or a financing statement

12 filed as a fixture filing (30-9-313) when the debtor is not

13 a transmitting utility, must show that it covers this type

14 of collateral, must recite that it is to be filed in the

15 real estate records, and the financing statement must

16 contain a description of the real estate sufficient if it

17 were contained in a mortgage of the real estate to give

18 constructive notice of the mortgage under the law of this

19 state. If the debtor does not have an interest of record in

20 the real estate, the financing statement must show the name

21 of a record owner.

22 (b) A financing statement covering farm products must

23 contain a reasonable description of the real estate upon

24 which the farm products are produced or located. A legal

25 description of the real estate is not required; a statement

1 naming the county or counties in which the farm products are
2 produced or located is sufficient to satisfy this subsection
3 (b).

4 (6) (a) A mortgage is effective as a financing
5 statement filed as a fixture filing from the date of its
6 recording if:

7 (i) the goods are described in the mortgage by item or
8 type;

9 (ii) the goods are or are to become fixtures related to
10 the real estate described in the mortgage;

11 (iii) the mortgage complies with the requirements for a
12 financing statement in this section other than a recital
13 that it is to be filed in the real estate records; and

14 (iv) the mortgage is duly recorded.

15 (b) No fee with reference to the financing statement is
16 required other than the regular recording and satisfaction
17 fees with respect to the mortgage.

18 (7) A financing statement sufficiently shows the name
19 of the debtor if it gives the social security number or tax
20 identification number of the debtor and the individual,
21 partnership, or corporate name of the debtor, whether or not
22 it adds other trade names or the names of partners. If the
23 debtor so changes his the debtor's name or in the case of an
24 organization its name, identity, or corporate structure that
25 a filed financing statement becomes seriously misleading,

1 the filing is not effective to perfect a security interest
2 in collateral acquired by the debtor more than 4 months
3 after the change unless a new appropriate financing
4 statement is filed before the expiration of that time. A
5 filed financing statement remains effective with respect to
6 collateral transferred by the debtor even though the secured
7 party knows of or consents to the transfer.

8 (8) A financing statement substantially complying with
9 the requirements of this section is effective even though it
10 contains minor errors which are not seriously misleading."

11 **Section 2.** Section 30-9-407, MCA, is amended to read:

12 "30-9-407. Information from filing officer. (1) If the
13 person filing any financing statement, termination
14 statement, statement of assignment, or statement of release
15 furnishes the filing officer a copy thereof, the filing
16 officer shall upon request note upon the copy the file
17 number and date and hour of the filing of the original and
18 deliver or send the copy to such person.

19 (2) Upon request of any person, the filing officer
20 shall issue his certificate showing whether there is on file
21 on the date and hour stated therein, any presently effective
22 financing statement naming a particular debtor and any
23 statement of assignment thereof and, if there is, giving the
24 date and hour of filing of each such statement and the name
25 and address of each secured party therein. For financing

statements recorded on the system described in 30-9-403(9), the filing officer shall, upon request of any person, also furnish written information concerning the collateral described for any presently effective financing statement covering collateral described in 30-9-403(8). However, such information is not a part of the filing officer's certificate and may not constitute a complete description of the collateral covered by the financing statement. The uniform fee for such a certificate and description of collateral shall be set pursuant to 30-9-403. Upon request the filing officer shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of 50 cents per page.

(3) A computer printout from the system described in 30-9-403(9) constitutes the certificate of the secretary of state as to whether there is on file, on the date and hour stated thereon, such a financing statement covering the collateral described in 30-9-403(8). The fee for requesting a printout from the secretary of state must cover the cost of the printout. If a certificate is made on a requestor's own computer using telephone dial-up access, a fee commensurate with costs must be charged.

(4) ~~Within 30 days after July 1, 1987, the secretary of state shall provide a listing of all financing statements recorded on the system described in 30-9-403(9) covering~~

~~collateral described in 30-9-403(8) to each county clerk and recorder. The secretary of state shall compile the listing alphabetically by debtor's name and may distribute the listing on microfilm or microfiche. The secretary of state shall provide the listing without charge to the county.~~

(5) The secretary of state shall ensure that the system described in 30-9-403(9) complies with the requirements for a central filing system as defined by 7 U.S.C. 1631 as that statute read on January 1, 1987. The secretary of state shall distribute portions of the master list to registered buyers at least once each month. He The secretary of state may distribute portions of the master list more frequently if he the secretary of state determines it is necessary to improve the flow of agricultural credit."

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

"71-3-125. Filing of agricultural lien statements. (1) Unless a 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 statement of an agricultural lien is sufficient if it:

(a) gives the names and addresses of the debtor and

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

1 (l) describes the land upon which the service was
 2 performed if it is a lien for spraying or dusting filed
 3 pursuant to part 9 of this chapter; and
 4 (m) states the starting date of insurance coverage if
 5 it is a lien filed pursuant to part 7 of this chapter.
 6 (3) The agricultural lien statement must be in the form
 7 prescribed by the secretary of state.
 8 (4) The secretary of state shall:
 9 (a) record the agricultural lien statement on the
 10 centralized computer system as set forth in 30-9-403; 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 part 4, 7, 8, or 9 of this chapter.
 15 (6) A statement of an agricultural lien or continuation
 16 statement that has been filed at the office of the county
 17 clerk and recorder lapses on March 31, 1990, unless prior to
 18 that date there is filed in the office of the secretary of
 19 state a certified copy of the statement and all related
 20 documents on file with the county clerk and recorder."
 21 NEW SECTION. Section 4. Removal of improper or
 22 fraudulent liens. (1) If the-secretary--of--state A FILING
 23 OFFICER receives a complaint or has reason to believe that a
 24 lien submitted or filed with the secretary-of-state's FILING
 25 OFFICER'S office is improper or fraudulent, the secretary-of

1 state FILING OFFICER may reject the submission or remove the
2 filing from existing files after giving notice and an
3 opportunity to respond to the secured party.

4 (2) A person adversely affected by a lien that is
5 determined to be improper or fraudulent by the ~~secretary-of~~
6 state FILING OFFICER may recover treble damages from the
7 person responsible for submitting the lien.

8 NEW SECTION. **Section 5.** Codification instruction.
9 [Section 4] is intended to be codified as an integral part
10 of Title 30, chapter 9, part 4, and the provisions of Title
11 30, chapter 9, part 4, apply to [section 4].

-End-