

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 142

Introduced by Williams, 36.

Read first time January 09, 2017

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to farm product security interests; to amend
- 2 sections 52-1307 and 52-1603, Revised Statutes Cumulative
- 3 Supplement, 2016; to redefine effective financing statement; to
- 4 change provisions relating to the master lien list; to repeal the
- 5 original sections; and to declare an emergency.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 52-1307, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 52-1307 Effective financing statement means a statement that:

4 (1) Is an original or reproduced copy thereof;

5 (2) Is filed by the secured party in the office of the Secretary of
6 State;

7 (3) Is signed, authorized, or otherwise authenticated by the debtor,
8 unless filed electronically, in which case the signature of the debtor
9 shall not be required;

10 (4) Contains (a) the name and address of the secured party, (b) the
11 name and address of the debtor, (c) the approved unique identifier of the
12 debtor, (d) a description of the farm products subject to the security
13 interest, (e) each county in Nebraska where the farm product is produced
14 or located, (f) crop year unless every crop of the farm product in
15 question, for the duration of the effective financing statement, is to be
16 subject to the particular security interest, (g) further details of the
17 farm product subject to the security interest if needed to distinguish it
18 from other quantities of such product owned by the same person or persons
19 but not subject to the particular security interest, and (h) such other
20 information that the Secretary of State may require to comply with
21 section 1324 of the Food Security Act of 1985, Public Law 99-198, or to
22 more efficiently carry out his or her duties under sections 52-1301 to
23 52-1322;

24 (5) Shall be amended in writing, within three months, and signed,
25 authorized, or otherwise authenticated by the debtor and filed, to
26 reflect material changes. A change in the name or address of the secured
27 party shall not constitute a material change. If the statement is filed
28 electronically, the signature of the debtor shall not be required;

29 (6) Remains effective for a period of five years from the date of
30 filing, subject to extensions for additional periods of five years each
31 by refiling or filing a continuation statement within six months before

1 the expiration of the five-year period;

2 (7) Lapses on either the expiration of the effective period of the
3 statement or the filing of a notice signed by the secured party that the
4 statement is terminated, whichever occurs first;

5 (8) Is accompanied by the requisite filing fee set by section
6 52-1313; and

7 (9) Substantially complies with the requirements of this section
8 even though the statement contains minor errors that are not seriously
9 misleading.

10 An effective financing statement properly filed with a social
11 security number or an Internal Revenue Service taxpayer identification
12 number shall maintain its effectiveness regardless that such numbers are
13 not required on such statement.

14 An effective financing statement may, for any given debtor or
15 debtors, cover more than one farm product located in more than one
16 county.

17 Sec. 2. Section 52-1603, Revised Statutes Cumulative Supplement,
18 2016, is amended to read:

19 52-1603 (1) A buyer of farm products who is registered to receive or
20 obtain the master lien list as provided in section 52-1602 and who, in
21 the ordinary course of business, buys farm products from a seller engaged
22 in farming operations shall take free of any lien created under the
23 provisions of Chapter 52, article 2, 5, 9, 11, 12, or 14, if such lien is
24 not on the most recent master lien list received or obtained by the buyer
25 pursuant to sections 52-1601 to 52-1605, except that such buyer shall
26 take subject to any such lien if the lien was filed after the last date
27 for inclusion in the most recent distribution or publication of the
28 master lien list and if the buyer has received from the lienholder or
29 seller written notice of the lien. For purposes of this subsection, the
30 form of such written notice of the lien may be a copy of the lien filing.
31 For purposes of this subsection, received or obtained by the buyer means

1 ~~shall mean~~ the first date upon which delivery ~~or publication~~ of the
2 master lien list is attempted by a carrier or, in the case of electronic
3 publication, the first date upon which the Secretary of State made the
4 most current master lien list available electronically, and in all cases
5 in which delivery of the master lien list is involved a buyer shall be
6 presumed to have received ~~or obtained~~ the master lien list ten days after
7 it was mailed ~~or published~~ by the Secretary of State.

8 (2) If a buyer buying property subject to a lien created under the
9 provisions of Chapter 52, article 2, 5, 9, 11, 12, or 14, tenders to the
10 seller the total purchase price by means of a check or other instrument
11 payable to such seller and the lienholder of any such lien for such
12 property and if such lienholder authorizes the negotiation of such check
13 or other instrument, such authorization or endorsement and payment
14 thereof shall constitute a waiver or release of the lien specified to the
15 extent of the amount of the check or instrument. Such waiver or release
16 of the lien shall not serve to establish or alter in any way security
17 interest or lien priorities under Nebraska law.

18 (3) Except as otherwise provided in the provisions of subsections
19 (1) and (2) of this section, sections 52-1601 to 52-1605 shall not be
20 interpreted or construed to alter liability of buyers of property subject
21 to liens created under the provisions of Chapter 52, article 2, 5, 9, 11,
22 12, or 14.

23 Sec. 3. Original sections 52-1307 and 52-1603, Revised Statutes
24 Cumulative Supplement, 2016, are repealed.

25 Sec. 4. Since an emergency exists, this act takes effect when
26 passed and approved according to law.