

**SENATE BILL NO. 2218
with House Amendments**

Fifty-fifth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2218

Introduced by

Senator Urlacher

1 A BILL for an Act to amend and reenact sections 35-05-01 and 35-05-01.1 of the North Dakota
2 Century Code, relating to crop mortgages; and to repeal section 35-05-04 of the North Dakota
3 Century Code, relating to security agreements covering specific crops.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 35-05-01 of the 1995 Supplement to the North
6 Dakota Century Code is amended and reenacted as follows:

7 **35-05-01. Security agreement on crops prohibited - Exceptions.** Security interests
8 in growing and unharvested crops are prohibited, and any security agreement purporting to
9 create a security interest therein is void. The provisions of this section do not apply to any
10 security interest or lien in favor of the United States, this state, any county, or any department
11 or agency of any of them, including the Bank of North Dakota, nor to any financial institution as
12 defined by section 6-01-02 or 21-04-01, nor to any ~~other~~ agricultural cooperative or agricultural
13 lending agency, nor to any security interest created by contract to secure money advanced or
14 loaned for the purpose of paying government crop insurance premiums or to secure the
15 purchase price or the rental or improvement of the land upon which the crops covered by the
16 contract are to be grown.

17 **SECTION 2. AMENDMENT.** Section 35-05-01.1 of the 1995 Supplement to the North
18 Dakota Century Code is amended and reenacted as follows:

19 **35-05-01.1. Crop liens - Limitations - Exceptions - Remedies - Penalty.** A security
20 interest upon crops attaches only to the crop next maturing after the delivery of the security
21 agreement. The financing statement covering a crop cannot be used to enforce a security
22 interest on any crop other than the crop listed in the security agreement. If the court finds a
23 willful violation of this section, the court shall award a producer the reasonable expenses of
24 maintaining an action, including reasonable attorney's fees. The provisions of this section do

1 not apply to liens by contract given to secure the purchase price or the rental of land upon
2 which the crops covered by the lien are to be grown or to a security interest upon crops created
3 by a security agreement that contains an after-acquired property clause and the following
4 wording or its equivalent, in boldface print or set forth in some other conspicuous manner, is in
5 the agreement: "This security agreement covers crops now growing. This security agreement
6 also covers future crops to be grown in the current year or any year hereafter.". The lien on
7 future crops maintains its priority as to crops grown in future years only so long as the
8 lienholder continues to provide operating funds to the borrower. If, in any subsequent year,
9 another entity entitled to a crop security interest under section 35-05-01 advances operating
10 funds to a borrower, the entity has a first priority purchase money security interest in the crops
11 grown by the borrower during the year in which the funds are advanced.

12 **SECTION 3. REPEAL.** Section 35-05-04 of the 1995 Supplement to the North Dakota
13 Century Code is repealed.