

Fifty-seventh
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1330

Introduced by

Representatives Klemin, Hawken, Renner

Senator Traynor

1 A BILL for an Act to create and enact a new section to chapter 35-30 and a new section to
2 chapter 35-31 of the North Dakota Century Code, relating to notices for priority of agricultural
3 processor's liens and agricultural supplier's liens; and to amend and reenact sections 35-30-01
4 and 35-31-01 of the North Dakota Century Code, relating to agricultural processor's liens and
5 agricultural supplier's liens.

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

7 **SECTION 1. AMENDMENT.** Section 35-30-01 of the 1999 Supplement to the North
8 Dakota Century Code is amended and reenacted as follows:

9 **35-30-01. Agricultural processor's lien authorized.** Any person who processes any
10 crop or agricultural product is entitled to a lien upon the crop or product processed for the
11 reasonable value of the services performed. A lien taken pursuant to this section upon
12 anything other than the crop or product processed is void. As used in this chapter, the term
13 "processor" includes persons threshing, combining, drying, or harvesting any crop or
14 agricultural product. The agricultural processor's lien is effective from the date the processing
15 is completed. An agricultural processor's lien filed as a security interest created by contract to
16 secure money advanced or loaned for any purpose is not effective to secure a priority over
17 liens filed under section 35-05-01. In a civil action brought under this section in which it is
18 alleged that an agricultural processor's lien is filed to secure an extension of credit for money
19 advanced or loaned for any purpose, the court shall award to the prevailing party reasonable
20 actual and statutory costs and reasonable attorneys' fees.

21 **SECTION 2.** A new section to chapter 35-30 of the North Dakota Century Code is
22 created and enacted as follows:

23 **Notice of services provided - Requirement to secure priority.**

- 1 1. To be eligible for priority status under section 35-30-03, a processor shall deliver to
2 a lender, which must be a person in the business of lending money and which
3 must have a prior perfected security interest in the collateral at issue, written notice
4 that lists the services provided which are eligible for a processor's lien. Delivery of
5 a notice under this section must be made by certified mail, facsimile transmission,
6 or other verifiable method. The processor shall deliver the notice to the lender
7 within forty-five days after the services are performed.
- 8 2. The notice must include the:
 - 9 a. Name and business address of the lender receiving notification;
 - 10 b. Name and address of the processor claiming the lien;
 - 11 c. Price agreed upon for processing, or if a price is not agreed upon, the
12 reasonable value of the processing; and
 - 13 d. Name and residential address of the person to whom the services were or will
14 be furnished.
- 15 3. The processor shall deliver a copy of the notice to the person to whom the services
16 were or will be furnished.
- 17 4. If a processor fails to give a lender notice as provided under this section, a lien on
18 the services is not eligible for priority under section 35-30-03.

19 **SECTION 3. AMENDMENT.** Section 35-31-01 of the 1999 Supplement to the North
20 Dakota Century Code is amended and reenacted as follows:

21 **35-31-01. Agricultural supplier's lien authorized.** Any person who furnishes
22 supplies used in the production of crops, agricultural products, or livestock is entitled to a lien
23 upon the crops, products produced by the use of the supplies, and livestock and their products
24 including milk. As used in this chapter, the term "supplies" includes seed, petroleum products,
25 fertilizer, farm chemicals, insecticide, feed, hay, pasturage, veterinary services, or the
26 furnishing of services in delivering or applying the supplies. An agricultural supplier's lien filed
27 in accordance with section 35-31-02 is effective from the date the supplies are furnished or the
28 services performed. An agricultural supplier's lien filed as a security interest created by
29 contract to secure money advanced or loaned for any purposes is not effective to secure a
30 priority over liens filed under section 35-05-01. In a civil action brought under this section in
31 which it is alleged that an agricultural supplier's lien is filed to secure an extension of credit for

money advanced or loaned for any purpose, the court shall award to the prevailing party reasonable actual and statutory costs and reasonable attorneys' fees.

SECTION 4. A new section to chapter 35-31 of the North Dakota Century Code is created and enacted as follows:

Notice of services provided - Requirement to secure priority.

1. To be eligible for priority status under section 35-31-03, a supplier shall deliver to a lender, which must be a person in the business of lending money and which must have a prior perfected security interest in the collateral at issue, written notice that lists the supplies furnished and services performed which are eligible for a supplier's lien. Delivery of the notice must be made by certified mail, facsimile transmission, or other verifiable method. The supplier shall deliver the notice within forty-five days after the supplies are furnished or the services are performed.
2. The notice must include the:
 - a. Name and business address of the lender receiving notification;
 - b. Name and address of the supplier claiming the lien;
 - c. Description of the transaction;
 - d. Date or anticipated date of the transaction;
 - e. Retail cost or anticipated cost of the supplies furnished and services performed; and
 - f. Name and residential address of the person to whom the supplies and services were or will be furnished or performed.
3. The processor shall deliver a copy of the notice to the person to whom the supplies and services were or will be furnished or performed.
4. If a supplier fails to give a lender notice as provided under this section, a lien on the supplies or services is not eligible for priority under section 35-31-03.