

# Agricultural Liens in Minnesota

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Minnesota law has long provided a supplier of goods or services to farmers a lien on the agricultural commodities produced by the farmer. These liens are generally limited to the value of the goods and services provided by the supplier.

Prior to 2001, these liens operated outside the rules applicable to security interests in personal property. Another publication in this series, *Security Interests in Personal Property*, discusses the rules set forth in the Uniform Commercial Code (UCC) governing these security interests. The laws creating these liens established various priority and enforcement rules. However, they were not always consistent with the rules established for security interests in personal property. Under rules effective on July 1, 2001, "agricultural liens" are subject to some of the UCC rules. This publication discusses the UCC rules applicable to agricultural liens as well as changes made to the laws governing agricultural liens during the 2001 legislative session.

## **Agricultural Liens Under the UCC**

As of July 1, 2001, agricultural liens are generally subject to the UCC rules relating to (1) perfection; (2) priority and (3) enforcement. For these purposes, the holder of an agricultural lien is treated substantially the same as the holder of a security interest. This represents a significant change since, under the prior laws, agricultural liens were not affected by the UCC. Even under the new law, however, laws other than the UCC will control the creation of agricultural liens, the scope of agricultural liens and, to a large extent in Minnesota, the priority of agricultural liens.

Under the UCC, an "agricultural lien" is an interest in farm products (i.e., crops or livestock) that secures payment or performance of an obligation for goods or services furnished in connection with a debtor's farming operation or rent on real property leased by a debtor in connection with the debtor's farming operation.

The interest must be created by statute in favor of a person who in the ordinary course of business furnishes goods or services to a debtor in connection with a debtor's farming operation or who leases real property to a debtor used in the debtor's farming operation. Finally, the lien must not be dependent upon the person's possession of the personal property.

It is important to observe that not all liens provided by Minnesota law on crops or livestock are "agricultural liens." For example, Minnesota law may give a lien to a farmer who sells crops to a purchaser. Such a lien is not an agricultural lien since the purchaser is not engaged in farming operations. In addition, any lien provided by law which requires the lienholder to be in possession of the crops or livestock is not an "agricultural lien."

## **Creation of Agricultural Liens**

Under the 2001 legislative changes, Minnesota law now creates three agricultural liens on crops: a landlord's lien, a harvester's lien and a crop production input lien. It also creates four agricultural liens on livestock: a veterinarian's lien, a breeder's lien, a feeder's lien and a livestock production input lien. There may be other liens on farm products provided by other laws. However only the liens discussed in this publication will be entitled to be treated as agricultural liens under the UCC.

Minnesota's agricultural lien laws set forth in detail the property which is subject to the lien. The extent of Minnesota's agricultural liens is as follows:

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## Agricultural Lien

### Landlord's Lien

## Extent of Lien

Landlord has lien on crops grown on leased real property for unpaid rent. A landlord's lien is effective when the crops become growing crops.

### Harvester's Lien

Harvester has lien on crops combined, picked, harvested, hauled, baled, dried, or stored for the reasonable amount of services provided. A harvester's lien is effective when services are provided.

### Crop Production Input Lien

Crop production input supplier has lien on crops produced for the unpaid retail cost of the crop production inputs. A crop production input lien becomes effective when the crop production inputs are provided.

### Veterinarian's Lien

Veterinarian has lien on the animals for the value of services provided. A veterinarian's lien is effective upon the services being provided.

### Breeder's Lien

Breeder, including supplier of artificial insemination services or products, has lien upon the livestock bred as well as any offspring for the price or value of the service provided. A breeder's lien is effective when the services are provided.

### Feeder's Lien

Feeder has lien upon livestock stored, cared for, kept, fed, or pastured for the price or value of the services. A feeder's lien is effective when the services are provided.

### Livestock Production Input Lien

Livestock production input supplier has lien on livestock produced for the unpaid retail cost of the livestock production inputs. A livestock production input lien becomes effective when the livestock production inputs are provided.

In order to obtain a crop production input lien or a livestock production input lien, it is necessary for a supplier to first provide the holder of a perfected security interest in the farmer's farm products with a lien notification statement setting forth detailed information concerning the nature of the inputs to be provided, the dates when such inputs are to be provided, and the anticipated cost of such inputs. Within ten days of its receipt of the lien notification statement, the holder of a competing security interest must respond with either a letter of commitment for all or a portion of the production inputs or a written refusal to issue a letter of commitment. If a lender responds with a letter of commitment for all or a portion of the production inputs, the supplier may not obtain a lien for the amount stated in the letter of commitment. If the lender responds with a refusal to provide a letter of commitment, the rights of the lender and the supplier are not affected. In such a case, the supplier will not be able to obtain a lien. If a lender does not respond, a production input lien will have priority over the competing security interest.

## **Scope of Agricultural Liens**

All agricultural liens in Minnesota cover the proceeds and products of the crops or livestock which are enhanced by the goods or services provided the farm operator. They are not limited to merely the crops or livestock themselves. For example, should a farm operator sell crops grown on leased land, a perfected landlord's lien would cover the amount owed the farm operator under a contract.

## **Perfection of Agricultural Liens**

As with security interests, perfection of agricultural liens is necessary in order to give third parties notice of the claimed interest in the farm operator's property. Generally, in order to perfect an agricultural lien, it is necessary for the lien claimant to file a financing statement in the central filing system operated by the Secretary of State. Unlike security interests in farm products, it is not possible to perfect an agricultural lien by the lienholder taking possession of the farm products. Only the filing of a financing statement in the central filing system will result in the perfection of an agricultural lien.

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There is a significant difference in the treatment of agricultural liens and security interests in farm products, which must be carefully considered.

Under the UCC, a financing statement is generally filed in the state in which the debtor resides, or in which an organization is registered, in order to perfect a security interest in farm products. For example, if a Minnesota farmer is the owner of livestock located in Iowa, a lender that claimed a security interest in the farmer's livestock would perfect its security interest by filing a financing statement in Minnesota. Perfection of an agricultural lien, however, requires the party asserting the lien to comply with the law of the state in which the farm products are located.

Thus, a veterinarian who provides services to a Minnesota farmer's livestock which are later transported to Iowa will be required to file a financing statement in Iowa to perfect his veterinarian's lien.

The information necessary to include in a financing statement in order to perfect an agricultural lien is substantially more limited under the UCC and the changes in Minnesota's agricultural lien laws. Under the old rules, substantial information was often required in order to prepare and file a lien statement to perfect an agricultural lien. Under the UCC, the only information required to be included in a financing statement is the name of the debtor, the name of the secured party and an indication of the property subject to the agricultural lien.

It is not necessary to provide a detailed description of the collateral in the financing statement. For example, the financing statement need not describe the land upon which crops are to be

grown, or the number of head of livestock which are subject to the agricultural lien. However, it is important that the holder of an agricultural lien not describe the collateral too broadly in its financing statement. Filing a financing statement that contains a collateral description substantially broader than the lien provided by Minnesota law will not result in a more extensive lien. It will not be effective to perfect a lien in collateral other than that provided by the applicable lien statute. In addition, an agricultural lien holder may be subject to claims for damages by a debtor who is damaged by an overly broad financing statement.

While a financing statement may use a very broad description of the property subject to an agricultural lien, it is very important that the name of the debtor be accurate. The financing statement must generally set forth the debtor's legal name. In the case of a corporation or limited liability entity, the name of the debtor must correspond exactly with the name of the debtor as it appears in its organizational documents. For an individual debtor, it is preferred that the name of the debtor be the individual's legal name. Nicknames are not favored. In addition, trade names are not permitted. Thus, if Robert Jones does business as "Jones Farms," the financing statement should identify the debtor as "Robert Jones," rather than "Jones Farms" or "Bob Jones."

Minnesota law is clear as to when an agricultural lien must be perfected. If an agricultural lien is not perfected within these limitations, it will not be entitled to be treated as a perfected agricultural lien. These time frames are set forth below:

#### Agricultural Lien

#### Perfection Requirements

Landlord's Lien

On or before 30 days after the crops become growing crops.

Harvester's Lien

On or before 15 days after the last date that harvesting services are provided.

Crop Production Input Lien

By six months after the last date that crop production inputs are provided.

Veterinarian's Lien

On or before 180 days after the last item of veterinary service is provided.

Breeder's Lien

By six months after the last date that breeding services are provided.

|                                 |  |
|---------------------------------|--|
| Feeder's Lien                   | On or before 60 days after the last date that feeding services are provided.     |
| Livestock Production Input Lien | By six months after the last date that livestock production inputs are provided. |

### Priority of Agricultural Liens

Under the UCC, detailed rules are provided for determining the priority of competing security interests and agricultural liens. Generally, an unperfected security interest or agricultural lien will be subordinate to a perfected security interest or agricultural lien. If the competing security interests or liens are both unperfected, the first security interest or agricultural lien to attach or become effective will have priority. If both security interests or agricultural liens are perfected, the general rule is that the first security interest or agricultural lien to be filed or perfected will have priority.

However, the UCC establishes a specific rule unique to agricultural liens. That rule provides that if the statute creating an agricultural lien establishes a priority rule, that rule will control. Minnesota law provides such priority rules. As a result, the "first to file or perfect" priority rule of the UCC will not generally apply to agricultural liens in Minnesota. The Minnesota priority rules may be summarized as follows:

| <u>Agricultural Lien</u>        | <u>Priority</u>   |
|---------------------------------|---|
| Landlord's Lien                 | Perfected landlord's lien has priority over all competing security interests and agricultural liens.  |
| Harvester's Lien                | Perfected harvester's lien has priority over all competing security interests and all agricultural liens except a perfected landlord's lien and a perfected crop production input lien for the reasonable cost of seed. Competing perfected harvester's liens rank equally in proportion to the value of services provided. |
| Crop Production Input Lien      | Perfected crop production input lien has priority over competing security interest if effective before holder of competing security interest gives value.   |
| Veterinarian's Lien             | Perfected veterinarian's lien has priority over all competing security interests and agricultural liens. Competing veterinarian's liens have priority in order of effectiveness of the liens.   |
| Breeder's Lien                  | Perfected breeder's lien has priority over all competing security interests and all agricultural liens except perfected veterinarian's and feeder's liens.  |
| Feeder's Lien                   | Perfected feeder's lien has priority over competing security interest and agricultural liens except a perfected veterinarian's lien. Competing feeder's liens have priority in order of effectiveness of the liens.   |
| Livestock Production Input Lien | Perfected livestock production input lien has priority over competing security interest if effective before holder of competing security interest gives value.  |

### **Enforcement of Agricultural Liens**

When a farm operator fails to perform any obligation owed the holder of an agricultural lien, the agricultural lienholder may exercise any remedies provided by the UCC for the holder of a security interest. Another publication in this series, *Termination of Security Interests in Personal Property*, describes the various remedies available to the holder of a security interest. Similar remedies may be used by agricultural lienholders.

### **Conclusion**

Agricultural lienholders in Minnesota are provided significant protections, provided they comply with the requirements of the Minnesota laws establishing such liens. If agricultural liens are properly perfected, they may have priority over competing security interests in a farm operator's farm products, and agricultural lienholders will be entitled to enforce these liens in the same manner as a security interest.