

LEGISLATIVE BILL 70

Approved by the Governor February 3, 2003

Introduced by Kremer, 34; Aguilar, 35; Erdman, 47

AN ACT relating to liens; to amend section 52-1603, Reissue Revised Statutes of Nebraska; to change provisions relating to the master lien list; to repeal the original section; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 52-1603, Reissue Revised Statutes of Nebraska, is amended to read:

52-1603. (1) A buyer of farm products who is registered to receive the master lien list as provided in section 52-1602 and who, in the ordinary course of business, buys farm products from a seller engaged in farming operations shall take free of any lien created under the provisions of Chapter 52, article 2, 5, 9, 11, 12, or 14, if such lien is not on the most recent master lien list received by the buyer pursuant to sections 52-1601 to 52-1605, except that such buyer shall take subject to any such lien if the lien was filed after the last date for inclusion in the most recent quarterly distribution of the master lien list and if the buyer has received from the lienholder or seller written notice of the lien. For purposes of this subsection, the form of such written notice of the lien may be a copy of the lien filing. For purposes of this subsection, received by the buyer shall mean the first date upon which delivery of the master lien list is attempted by a carrier, and in all cases a buyer shall be presumed to have received the master lien list ten days after it was mailed.

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

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

Sec. 2. Original section 52-1603, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 3. Since an emergency exists, this act takes effect when passed and approved according to law.