

SECOND REGULAR SESSION

HOUSE BILL NO. 2037

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CLAYTON.

Read 1st time February 25, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4704L.011

AN ACT

To amend chapter 430, RSMo, by adding thereto two new sections relating to liens.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 430, RSMo, is amended by adding thereto two new sections, to be known as sections 430.035 and 430.037, to read as follows:

430.035. 1. As used in sections 430.035 and 430.037, the following terms shall mean:

(1) "Commodity", livestock, raw milk, or a crop;

(2) "Contract livestock facility", an animal feeding operation located in this state in which livestock or raw milk is produced according to a production contract by a contract producer who holds a legal interest in the animal feeding operation. Contract livestock facility includes a confinement feeding operation, an open feedlot, or an area which is used for the raising of crops or other vegetation and upon which livestock is fed for slaughter or is allowed to graze or feed;

(3) "Contract operation", a contract livestock facility or a contract crop field;

(4) "Contract producer", a producer who holds a legal interest in a contract operation and who produces a commodity under a production contract;

(5) "Contractor", a person who is an active contractor or a passive contractor;

(6) "Crop", a plant used for food, animal feed, fiber, oil, pharmaceuticals, nutraceuticals, or seed, including but not limited to alfalfa, barley, buckwheat, corn, flax, forage, millet, oats, popcorn, rye, sorghum, soybeans, sunflowers, tobacco, wheat, and grasses used for forage or silage;

(7) "Livestock", beef cattle, dairy cattle, poultry, sheep, or swine;

(8) "Produce", to do any of the following:

20 (a) Provide feed or services relating to the care and feeding of livestock. If the
21 livestock is dairy cattle, then produce includes milking the dairy cattle and storing raw
22 milk;

23 (b) Provide for planting, raising, harvesting, and storing a crop. Produce includes
24 preparing the soil for planting and nurturing the crop by the application of fertilizers as
25 defined in section 266.291, RSMo, or soil conditioners or pesticides as defined in section
26 281.020, RSMo;

27 (9) "Production contract", an oral or written agreement that provides for the
28 production of a commodity or the provision of management services relating to the
29 production of a commodity by a contract producer. A production contract is executed
30 when it is signed or orally agreed to by each party to the contract or by a person
31 authorized to act on the party's behalf.

430.037. 1. A contract producer who is a party to a production contract shall have
2 a lien as provided in this section. The amount of the lien shall be the amount owed to the
3 contract producer pursuant to the terms of the production contract, which may be
4 enforced as provided in subsection 9 of this section.

5 2. If the production contract is for the production of livestock or raw milk, all of
6 the following shall apply:

7 (1) For livestock, the lien shall apply to all of the following:

8 (a) If the livestock is not sold or slaughtered by the contractor, the lien shall be on
9 the livestock;

10 (b) If the livestock is sold by the contractor, the lien shall be on cash proceeds from
11 the sale. For purposes of this paragraph, cash held by the contractor shall be deemed to
12 be cash proceeds from the sale regardless of whether it is identifiable cash proceeds;

13 (c) If the livestock is slaughtered by the contractor, the lien shall be on any property
14 of the contractor that may be subject to a security interest as provided in section 9-102 of
15 the uniform commercial code;

16 (2) For raw milk, the lien shall apply to all of the following:

17 (a) If the raw milk is not sold or processed by the contractor, the lien shall be on
18 the raw milk;

19 (b) If the raw milk is sold by the contractor, the lien shall be on cash proceeds from
20 the sale. For purposes of this paragraph, cash held by the contractor shall be deemed to
21 be cash proceeds from the sale regardless of whether it is identifiable cash proceeds;

22 (c) If the raw milk is processed by the contractor, the lien shall be on any property
23 of the contractor that may be subject to a security interest as provided in section 9-102 of
24 the uniform commercial code.

25 **3. The lien on livestock or raw milk is created at the time the livestock arrives at**
26 **the contract livestock facility and continues for one year after the livestock is no longer**
27 **under the authority of the contract producer. For the purposes of this section, livestock**
28 **is no longer under the authority of the contract producer when the livestock leaves the**
29 **contract livestock facility.**

30 **4. If the production contract is for the production of crops, all of the following shall**
31 **apply:**

32 **(1) If the crop is not sold or processed by the contractor, the lien shall be on the**
33 **crop;**

34 **(2) If the crop is sold by the contractor, the lien shall be on cash proceeds from the**
35 **sale. For purposes of this subdivision, cash held by the contractor shall be deemed to be**
36 **cash proceeds from the sale regardless of whether it is identifiable cash proceeds;**

37 **(3) If the crop is processed by the contractor, the lien shall be on any property of**
38 **the contractor that may be subject to a security interest as provided in section 9-102 of the**
39 **uniform commercial code.**

40 **5. The lien on a crop is created at the time the crop is planted and continues for one**
41 **year after the crop is no longer under the authority of the contract producer when the crop**
42 **or a warehouse receipt issued by a warehouse operator licensed under section 411.255,**
43 **RSMo, for grain from the crop is no longer under the custody or control of the contract**
44 **producer.**

45 **6. In order to preserve a lien created pursuant to this section, a contract producer**
46 **must file in the office of the secretary of state a lien statement on a form prescribed by the**
47 **secretary of state. If the lien arises out of producing livestock or raw milk, the contract**
48 **producer must file the lien within forty-five days after the day that the livestock first**
49 **arrives at the contract livestock facility. If the lien arises out of producing a crop, the**
50 **contract producer must file the lien within forty-five days after the day that the crop is first**
51 **planted. The secretary of state shall charge a fee of not more than ten dollars for filing the**
52 **statement. The secretary of state may adopt rules pursuant to chapter 536, RSMo, for the**
53 **electronic filing of the statements.**

54 **7. The statement must include the following:**

55 **(1) An estimate of the amount owed pursuant to the production contract;**

56 **(2) The date when the livestock arrives at the contract livestock facility or the date**
57 **when the crop was planted;**

58 **(3) The estimated duration of the period when the commodity will be under the**
59 **authority of the contract producer;**

60 **(4) The name of the party to the production contract whose commodity is produced**

61 pursuant to the production contract;

62 (5) The description of the location of the contract operation, by county and
63 township;

64 (6) The printed name and signature of the person filing the form.

65 8. A lien created under this section until preserved and a lien preserved under this
66 section are superior to and shall have priority over a conflicting lien or security interest in
67 the commodity, including a lien or security interest that was perfected prior to the creation
68 of the lien under this section except that it shall not have priority over a lien created
69 pursuant to section 430.030.

70 9. Before a commodity leaves the authority of the contract producer as provided
71 in subsection 1 of this section, the contract producer may foreclose a lien created in
72 subsection 1 of this section, in the manner provided for the foreclosure of secured
73 transactions in sections 9-504, 9-506, and 9-507 of the uniform commercial code. After the
74 commodity is no longer under the authority of the contract producer, the contract
75 producer may enforce the lien in the manner provided in article 9, part 5 of the uniform
76 commercial code.