

## **CHAPTER 35-30 AGRICULTURAL PROCESSOR'S LIEN**

### **35-30-01. Agricultural processor's lien authorized.**

Any person who processes any crop or agricultural product is entitled to a lien upon the crop or product processed for the reasonable value of the services performed. A lien taken pursuant to this section upon anything other than the crop or product processed is void. As used in this chapter, the term "processor" includes persons threshing, combining, drying, or harvesting any crop or agricultural product. Except as otherwise provided in this section, the agricultural processor's lien is effective from the date the processing is completed. An agricultural processor's lien filed as a security interest created by contract to secure money advanced or loaned for any purpose is not effective to secure a priority over liens filed under section 35-05-01. This chapter does not limit the sale, assignment, or transfer of an agricultural processor's lien. However, the priority of an effective agricultural processor's lien is not transferable. After sale, assignment, or transfer, the priority of an effective agricultural processor's lien is to be determined as of the date the lien was filed and in accordance with section 41-09-33.

### **35-30-02. (Effective through July 31, 2015, or see note) Procedure to obtain lien.**

1. To obtain an agricultural processor's lien, the person entitled to the lien, within ninety days after the processing is completed, shall file a statement signed by the filer in the office of the recorder in any county in this state or in the office of the secretary of state. The statement must contain the following information:
  - a. The name and address of the person for whom the processing was done.
  - b. The name and address of the processor.
  - c. A description of the crops or agricultural products and their amount, if known, subject to the lien together with a reasonable description, including the county as to the location where the crops or agricultural products were grown and the year the crop is to be harvested or was harvested.
  - d. The price agreed upon for processing, or if no price was agreed upon, the reasonable value of the processing.
  - e. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the processing was done.
  - f. A description of the processing services and the first date the services were furnished.
2. The secretary of state and the office of the recorder in any county in this state with which a statement signed by the filer under subsection 1 is submitted for filing shall reject the statement unless proof of mailing of notification of the lien to the debtor's last-known address by registered or certified mail with return receipt requested is filed with the statement.
3. The secretary of state shall prescribe one form that can be used to obtain a lien under this section or gain protection under the central notice system, or both. Before a processor's lien is filed, a billing statement for the services performed must include notice to the agricultural producer that if the amount due to the agricultural processor is not satisfied a lien may be filed.

### **(Effective after July 31, 2015, or see note) Procedure to obtain lien.**

1. To obtain an agricultural processor's lien, the person entitled to the lien, within ninety days after the processing is completed, shall file electronically a statement in the central indexing system. The statement must contain the following information:
  - a. The name and address of the person for whom the processing was done.
  - b. The name and address of the processor.
  - c. A description of the crops or agricultural products and their amount, if known, subject to the lien together with a reasonable description, including the county as to the location where the crops or agricultural products were grown and the year the crop is to be harvested or was harvested.

- d. The price agreed upon for processing, or if no price was agreed upon, the reasonable value of the processing.
  - e. The social security number or, in the case of a debtor doing business other than as an individual, the internal revenue service taxpayer identification number of the person for whom the processing was done.
  - f. A description of the processing services and the first date the services were furnished.
2. The secretary of state shall provide an electronic means to obtain a lien under this section or gain protection under the central notice system, or both. Before a processor's lien is filed, a billing statement for the services performed must include notice to the agricultural producer that if the amount due to the agricultural processor is not satisfied a lien may be filed.

**35-30-03. Priority.**

An agricultural processor's lien obtained under this chapter has priority, as to the crops or agricultural products covered thereby, over all other liens or encumbrances.

**35-30-04. Secretary of state to remove and destroy certain documents.**

The secretary of state shall remove and destroy liens filed in the secretary of state's office pursuant to this chapter in the manner provided for in section 11-18-14 for the recorder.

**35-30-05. (Effective through July 31, 2015, or see note) Amendment of lien.**

A lienholder may file an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall prescribe a form that may be used to amend or assign the agricultural processor's lien that has been filed pursuant to section 35-30-02. The amendment or assignment of a lien does not affect the priority of the lien.

**(Effective after July 31, 2015, or see note) Amendment of lien.** A lienholder may file electronically an amendment to correct the social security or internal revenue service taxpayer identification number of the debtor, to correct the spelling of the debtor's or lienholder's name, or to correct or change the address of the debtor or lienholder. The secretary of state shall provide an electronic means to amend or assign the agricultural processor's lien that has been filed pursuant to section 35-30-02. The amendment or assignment of a lien does not affect the priority of the lien.

**35-30-06. (Effective through July 31, 2015, or see note) Fees - Penalty.**

The fee for filing an agricultural processor's lien and related documents with the secretary of state or the county recorder is the same as that provided for in section 41-09-96. If a lienholder fails to file a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.

**(Effective after July 31, 2015, or see note) Fees - Penalty.** The fee for filing electronically an agricultural processor's lien and related documents in the central indexing system is the same as that provided for in section 41-09-96. If a lienholder fails to file a termination statement within sixty days after the lien has been satisfied, the lienholder is liable to the debtor for one hundred dollars.