

## CHAPTER 35-31 AGRICULTURAL SUPPLIER'S LIEN

### **35-31-01. Agricultural supplier's lien authorized.**

Any person who furnishes supplies used in the production of crops, agricultural products, or livestock is entitled to a lien upon the crops, products produced by the use of the supplies, and livestock and their products including milk. As used in this chapter, the term "supplies" includes seed, petroleum products, fertilizer, farm chemicals, insecticide, feed, hay, pasturage, veterinary services, or the furnishing of services in delivering or applying the supplies. Except as otherwise provided in this section, an agricultural supplier's lien filed in accordance with section 35-31-02 is effective from the date the supplies are furnished or the services performed. An agricultural supplier's lien filed as a security interest created by contract to secure money advanced or loaned for any purposes 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 supplier's lien. However, the priority of an effective agricultural supplier's lien is not transferable from the original lienholder. After sale, assignment, or transfer, the priority of an effective agricultural supplier's lien is to be determined as of the date the lien was filed and in accordance with section 41-09-33.

### **35-31-02. (Effective through July 31, 2016, or see note) Procedure to obtain lien.**

To obtain an agricultural supplier's lien, except an agricultural supplier's lien for furnishing petroleum products, the person entitled to the lien, within one hundred twenty days after the supplies are furnished or the services performed, shall file a statement signed by the filer in the office of the recorder of any county in this state or in the office of the secretary of state. To obtain an agricultural supplier's lien for furnishing and delivering petroleum products, the person entitled to the lien, within one hundred fifty days after the petroleum products are furnished or delivered, shall file a statement signed by the filer in the office of the recorder of any county in the state or in the office of the secretary of state. The statement must contain the following information:

1. The name and address of the person to whom the supplies were furnished.
2. The name and address of the supplier.
3. A description of the crops, agricultural products, or livestock and their amount or number, if known, subject to the lien together with a reasonable description, including the county as to the location of the crops, agricultural products, or livestock and the year the crop is to be harvested or was harvested.
4. A description and value of the supplies and the first date furnished.
5. 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 to whom the supplies were furnished.

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 supplier's lien is filed, a billing statement for the supplies furnished must include notice to the agricultural producer that if the amount due to the agricultural supplier is not satisfied a lien may be filed.

**(Effective after July 31, 2016, or see note) Procedure to obtain lien.** To obtain an agricultural supplier's lien, except an agricultural supplier's lien for furnishing petroleum products, the person entitled to the lien, within one hundred twenty days after the supplies are furnished or the services performed, shall file electronically a statement in the central notice system. To obtain an agricultural supplier's lien for furnishing and delivering petroleum products, the person entitled to the lien, within one hundred fifty days after the petroleum products are furnished or delivered, shall file electronically a statement in the central notice system. The statement must contain the following information:

1. The name and address of the person to whom the supplies were furnished.
2. The name and address of the supplier.
3. A description of the crops, agricultural products, or livestock and their amount or number, if known, subject to the lien together with a reasonable description, including

the county as to the location of the crops, agricultural products, or livestock and the year the crop is to be harvested or was harvested.

4. A description and value of the supplies and the first date furnished.
5. 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 to whom the supplies were furnished.

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 supplier's lien is filed, a billing statement for the supplies furnished must include notice to the agricultural producer that if the amount due to the agricultural supplier is not satisfied a lien may be filed.

**35-31-03. Priority.**

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

**35-31-04. 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.

**35-31-05. (Effective through July 31, 2016, 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 supplier's lien that has been filed pursuant to section 35-31-02. The amendment or assignment of a lien does not affect the priority of the lien.

**(Effective after July 31, 2016, 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 supplier's lien that has been filed pursuant to section 35-31-02. The amendment or assignment of a lien does not affect the priority of the lien.

**35-31-06. (Effective through July 31, 2016, or see note) Fees - Penalty.**

The fee for filing an agricultural supplier'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, 2016, or see note) Fees - Penalty.** The fee for filing an agricultural supplier's lien and related documents in the central notice 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.