



Ninety-Seventh Legislature - Second Session - 2002
Committee Statement
LB 962

Hearing Date: January 22, 2002

Committee On: Banking, Commerce and Insurance

Introducer(s): (Kremer, Aguilar, Burling, Bromm)

Title: Change liability provisions of buyers of farm products subject to liens

Roll Call Vote – Final Committee Action:

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

Vote Results:

7	Yes	Senators Landis, Tyson, Aguilar, Bruning, Jensen, Kremer, Smith
	No	
	Present, not voting	
1	Absent	Senator Quandahl

Proponents:

Senator Bob Kremer
Rocky Weber
Rodney Schroeder
Mark Fahleson

Representing:

Introducer
NE Cooperative Council
Aurora Cooperative Elevator Co.
NE Agri-Business Association

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 962 (Kremer, Aguilar, Burling) would amend section 52-1603 of the master lien list statutes by repealing subsection (3) which provides: “(3) Except for waiver or release as provided in subsection (2) of this section, this section 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.” Those liens are: artisan’s liens (article 2); thresher’s liens (article 5); petroleum products liens (article 9); fertilizer and agricultural chemical liens (article 11); seed or electrical power and energy liens (article 12); and agricultural production liens (article 14).

Subsection (1) of section 52-1603, not amended by their bill, provides that a buyer of farm products who is registered with the Secretary of State to receive the master lien list as

compiled by the Secretary of State 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 Chapter 52, article 2, 5, 9, 11, 12, or 14, if such lien is not on the most recent master lien list, 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.

Subsection (2) of section 52-1603, not amended by this bill, provides that if a buyer buying property subject to a lien created under Chapter 52, article 2, 5, 9, 11, 12, or 14, tenders to the seller the total purchase price by means of a check payable to such seller and the lienholder and if such lienholder authorizes negotiations of such check, such authorization and payment thereof shall constitute a waiver or release of the lien.

This bill addresses a concern that subsections (1) and (3) of section 52-1603 may clash with each other. The concern is that subsection (3) may negate the exception at the end of the first sentence in subsection (1) which causes a buyer to be subject to a lien filed after the last date for inclusion in the most recent quarterly master lien list and if the buyer has received notice of the lien.

Explanation of amendments, if any:

The committee amendments would reinstate the stricken subsection (3) of section 52-1603 and amend its provisions so that it does not clash with subsection (1) of section 52-1603. The committee amendments would amend subsection (3) so that it would provide: Except as provided in “subsections (1) and” (2) of this section (rather than Except “for waiver or release” as provided in “subsection” (2) of this section), this section 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.

The committee amendments would also include the provisions of LB 900 (Landis). This part of the committee amendments would insert and amend section 52-1601 of the master lien list statutes in order to correct an erroneous internal reference it makes to the provisions of subsection (a) rather than subsection (b) of Revised Section 9-530 of the Uniform Commercial Code. Section 52-1601, as part of the master lien list statutes first enacted in 1988, has called for the Secretary of State to compile lien information regarding agriculturally related statutory liens as identified in UCC Section 9-414(2) of former UCC Article 9 (repealed as of July 1, 2001) and subsequently in UCC Section 9-530(b) of Revised UCC Article 9 (as enacted in 1999 and operative July 1, 2001). In 2001, Revised UCC Section 9-530 was amended, as part of LB 54, by combining the provisions of subsection (b) into subsection (a) and by causing the provisions of subsection (c) regarding federal liens and state tax liens to become subsection (b). This created the problem addressed by the committee amendments, which is that section 52-1601 refers to the wrong provisions of Revised UCC Section 9-530.

Senator David M. Landis, Chairperson
