

## CHAPTER 336A

## FARM PRODUCT LIENS AND FINANCING STATEMENTS

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**336A.01 DEFINITIONS.**

**Subdivision 1. Applicability.** The definitions in this section apply to this chapter.

**Subd. 2. Buyer in the ordinary course of business.** "Buyer in the ordinary course of business" means a person who, in the ordinary course of business, buys farm products from a person engaged in farming operations who is in the business of selling farm products.

**Subd. 3. Commission merchant.** "Commission merchant" means a person engaged in the business of receiving a farm product for sale on commission or for or on behalf of another person.

**Subd. 4. Computerized filing system.** "Computerized filing system" means the system created under section 336.9-411 with separate programs for filing and giving notice of effective financing statements and farm products statutory liens.

**Subd. 5. Effective financing statement.** "Effective financing statement" means an original or reproduced copy of an original statement that meets the requirements of section 336A.03.

**Subd. 6. Farm product.** "Farm product" means an agricultural commodity, a species of livestock used or produced in farming operations, or a product of a crop or the livestock in its unmanufactured state, that is in the possession of a person engaged in farming operations.

**Subd. 7. Farm product dealer.** "Farm product dealer" means a buyer in the ordinary course of business, a commission merchant, or a selling agent.

**Subd. 8. Farm products statutory lien.** "Farm products statutory lien" means a lien on farm products which is given by statute or other rule of law for services or materials.

**Subd. 9. Filing office.** "Filing office" means the office of the county recorder or the office of the secretary of state.

**Subd. 10. Filing officer.** "Filing officer" means a county recorder, the secretary of state, or an agent of a county recorder or the secretary of state authorized to accept filings.

**Subd. 11. Lien notice.** "Lien notice" means an original or reproduced copy of an original statement that meets the requirements of section 336A.03.

**Subd. 12. Person.** "Person" means an individual, partnership, corporation, trust, or other business entity.

**Subd. 13. Security interest.** "Security interest" means an interest in farm products that secures payment or performance of an obligation.

**Subd. 14. Selling agent.** "Selling agent" means a person, other than a commission merchant, who is engaged in the business of negotiating the sale and purchase of a farm product on behalf of a person engaged in farming operations.

**History:** 1992 c 525 s 2

**336A.02 SPECIFICATION OF FARM PRODUCTS.**

The secretary of state shall, by rule, determine which specific farm products will be included in the computerized filing and notification system. Consideration shall be given to the value of the product sold within the state and its marketing system.

**History:** 1992 c 525 s 3

**336A.03 CONTENTS OF FINANCING STATEMENT OR LIEN NOTICE.**

Subdivision 1. **Substantial compliance.** An effective financing statement or lien notice must substantially comply with this section but may contain minor errors that are not seriously misleading.

Subd. 2. **Contents.** (a) An effective financing statement or lien notice must contain:

(1) a description of the farm products subject to the security interest or farm products statutory lien, including the amount of the farm products, if applicable, and a reasonable description of the location of the property, including the county, where the farm products are located;

(2) the name and address of the secured party or the person entitled to the farm products statutory lien;

(3) the name and address of the debtor;

(4) in the case of an effective financing statement, the social security number of the debtor, or, if the debtor is doing business other than as an individual, the United States Internal Revenue Service taxpayer identification number of the debtor;

(5) in the case of an effective financing statement, the following statement with the appropriate blank checked:

"THIS EFFECTIVE FINANCING STATEMENT .... WILL ..... WILL NOT BE TERMINATED WITHIN 30 DAYS OF THE DATE ON WHICH THE OBLIGATION(S) IT SECURES NO LONGER EXIST.;" and

(6) in the case of a lien notice, any payment obligations imposed on the buyer, commission merchant, or selling agent as a condition for waiver or release of the farm products statutory lien.

(b) An effective financing statement or lien notice for one or more debtors may cover more than one farm product located in more than one county.

(c) The effective financing statement form and lien notice may not be combined with a Uniform Commercial Code financing statement form.

(d) An effective financing statement must contain the following statement, all in capital letters:

"THE INFORMATION CONTAINED IN THIS EFFECTIVE FINANCING STATEMENT WILL BE SENT TO FARM PRODUCT BUYERS REGISTERED IN MINNESOTA. SALE OF FARM PRODUCTS TO THOSE BUYERS MAY RESULT IN A CHECK BEING ISSUED PAYABLE JOINTLY TO BOTH THE SELLER AND THE SECURED PARTY."

Subd. 3. **Signatures.** A lien notice must be signed by the lienholder. An effective financing statement must be signed by:

(1) the secured party; and

(2) the debtor.

Subd. 4. **Required amendments.** An effective financing statement or lien notice must be amended in writing within three months after material changes occur to reflect the material changes. The amendment to an effective financing statement or a lien statement must be signed and filed in the same manner required for the original document.

Subd. 5. **Effective period.** (a) An effective financing statement is effective for five years from the date of filing. The effective period may be extended for additional periods of five years as provided in section 336A.06.

(b) An effective financing statement is not effective after:

(1) the effective financing statement lapses on the expiration of the effective period; or

(2) a notice that the effective financing statement is terminated is signed by the secured party and filed in the filing office where the original effective financing statement is filed.

(c) A lien notice is not effective after:

(1) five years from the date of filing;

(2) expiration of the period for commencing an action to enforce the lien under applicable Minnesota law; or

(3) the obligation secured by the statutory lien no longer exists.

**History:** 1992 c 525 s 4

### 336A.04 FILING EFFECTIVE FINANCING STATEMENT OR LIEN NOTICE.

**Subdivision 1. Filing location.** An effective financing statement or lien notice must be filed in the office of the secretary of state or the county recorder in the county of the debtor's residence if the debtor is an individual or organization with residence in this state. If the debtor is not a resident of this state, the effective financing statement or lien notice must be filed in the office of the secretary of state.

**Subd. 2. Effective filing.** Presentation of an effective financing statement or lien notice with the appropriate filing fee to a filing officer or acceptance of the statement by a filing officer constitutes filing under this chapter.

**Subd. 3. Fees.** (a) The fee for filing and indexing a standard form for a lien notice, effective financing statement, or continuation statement, and stamping the date and place of filing on a copy of the filed document furnished by the filing party is \$15 for up to two debtor names and \$15 for each additional name thereafter.

(b) A fee may not be charged for filing a termination statement if the termination is filed within 30 days after satisfaction of the lien or security interest. Otherwise, the fee is \$10.

(c) A county recorder shall forward \$5 of each filing fee collected under this subdivision to the secretary of state. Surcharge amounts shall be collected quarterly by the secretary of state from each county recorder. The secretary of state shall send each county recorder an invoice at the end of each fiscal quarter and each county recorder shall forward payment to the secretary of state within 30 days of the date of the invoice. The surcharge amounts received from county recorders and the surcharge amounts collected by the secretary of state's office must be deposited in the state treasury and credited to the general fund. The balance of the filing fees collected by a county recorder must be deposited in the general fund of the county.

**Subd. 4. Filing procedure.** (a) The filing officer shall mark the effective financing statement or lien notice with a consecutive file number and the date and hour of filing.

(b) The filing office shall maintain the original filed document or a microfilm or other photographic copy of the filed document for public inspection as provided in rule by the secretary of state.

(c) The filing office shall index filed documents according to the file number of the document.

**Subd. 5. Entering filing information into computerized filing system.** Each filing office shall enter the information from the filed documents into the computerized filing system as prescribed by the secretary of state.

The secretary of state shall record lien notices in the computerized filing system in a manner that separately identifies all farm products statutory liens, and shall ensure that the computerized filing and notification system distinguishes security interests covered by effective financing statements from liens covered by lien notices to the extent required by United States Code, title 7, section 1631, et seq., and regulations adopted under those sections.

**Subd. 6. Verification of information.** A person who has filed an effective financing statement or lien notice may verify the accuracy of the information entered into the computerized filing system and compiled into the master list by making an inquiry under section 336A.09. The secretary of state shall establish a procedure for requesting an inquiry to verify the accuracy of the information at the time of filing.

**History:** 1992 c 525 s 5; 1993 c 369 s 124; 1994 c 438 s 14

**336A.05 EFFECT OF FILING ON PERFECTION AND PRIORITY.**

Filing under this chapter does not affect the perfection or priority of security interests filed under the Uniform Commercial Code or a farm products statutory lien filed in accordance with the provisions of law under which it was created.

**History:** 1992 c 525 s 6

**336A.06 CONTINUATION STATEMENT.**

**Subdivision 1. Filing period.** A secured party may file a continuation statement for an effective financing statement within six months before a five-year effective period expires.

**Subd. 2. Contents.** A continuation statement must:

- (1) be signed by the secured party and the debtor;
- (2) identify the original effective financing statement by file number; and
- (3) state that the original effective financing statement is still effective.

**Subd. 3. Effective period.** If a continuation statement is filed within six months before a five-year effective period expires, the effectiveness of the original effective financing statement continues for an additional five years after the original five-year effective period. Additional continuation statements filed within six months before an effective period expires continue the effectiveness of the original effective financing statement for additional five-year periods.

**Subd. 4. Filing.** The continuation statement must be filed in the filing office where the original effective financing statement is filed.

**History:** 1992 c 525 s 7

**336A.07 TERMINATION STATEMENTS.**

**Subdivision 1. Requirement.** (a) If required in an effective financing statement, a secured party shall within 30 days file a lien termination statement and termination statement for the effective financing statement when:

- (1) an outstanding secured obligation does not exist; and
  - (2) a written commitment to make advances, incur obligations, or otherwise give value does not exist.
- (b) A lienholder shall file a termination statement with respect to a lien notice within 30 days after an outstanding lien notice obligation no longer exists.

**Subd. 2. Contents.** A lien termination statement and termination statement for the effective financing statement must:

- (1) state the file number of the effective financing statement or lien notice;
- (2) state the date on which the lien or security interest was satisfied;
- (3) state that the secured party does not claim a security interest under the effective financing statement or that the lienholder does not claim a lien under the lien notice; and
- (4) be signed by the secured party or lienholder.

**Subd. 3. Filing.** A termination statement for an effective financing statement must be filed by the secured party in the filing office where the original effective financing statement is filed. A termination statement for the lien notice must be filed by the lienholder in the same manner required for filing the lien notice.

**Subd. 4. Failure to file.** If the secured party or lienholder fails to file a termination statement as required by subdivision 1, or within ten days after a debtor serves a written demand for the termination statement if the conditions in subdivision 1 exist, the secured party or lienholder is liable to the debtor for \$100 plus any loss caused to the debtor by failing to file the termination statement. For the second and each subsequent time a secured party or lienholder is found liable to a debtor under this subdivision in any one calendar year, the secured party or lienholder is liable to the debtor for \$250 plus any loss caused to the debtor.

**Subd. 5. Filing procedures.** (a) When a termination statement is filed, each filing office must delete the information from the active files as prescribed by the secretary of state.

(b) If the termination statement is filed in duplicate, the filing office shall return one copy of the termination statement, stamped to show the time of receipt, to the secured party or lienholder.

**History:** 1992 c 525 s 8

### 336A.08 MASTER LIST.

**Subdivision 1. Compilation.** (a) The secretary of state shall compile the information on effective financing statements in the computerized filing system into a master list:

(1) organized according to farm product;

(2) arranged within each product:

(i) in alphabetical order according to the last name of the individual debtor or, in the case of debtors doing business other than as individuals, the first word in the name of the debtors;

(ii) in numerical order according to the social security number of the individual debtor or, in the case of debtors doing business other than as individuals, the Internal Revenue Service taxpayer identification number of the debtors;

(iii) geographically by county; and

(iv) by crop year; and

(3) containing the information provided on an effective financing statement.

(b) The secretary of state shall compile information from lien notices recorded in the computerized filing system into a statutory lien master list in alphabetical order according to the last name of the individual debtor or, in the case of debtors doing business other than as individuals, the first word in the name of the debtors. The secretary of state may also organize the statutory lien master list according to one or more of the categories of information established in paragraph (a).

**Subd. 2. Removal of effective financing statements and lien notices.** The secretary of state shall remove lapsed and terminated effective financing statements and lien notices from the computerized filing system before preparing master lists.

**Subd. 3. Request for partial master list.** If requested by a buyer registered under section 336A.11, the secretary of state shall distribute partial master lists to the buyer that are limited to one or more of the categories in subdivision 1, paragraph (a).

**Subd. 4. Distribution of master and partial lists.** (a) The secretary of state shall maintain the information on the effective financing statement master list:

(1) by farm product arranged alphabetically by debtor; and

(2) by farm product arranged numerically by the debtor's social security number for an individual debtor or, in the case of debtors doing business other than as individuals, the Internal Revenue Service taxpayer identification number of the debtors.

(b) The secretary of state shall maintain the information in the farm products statutory lien master list by county arranged alphabetically by debtor.

(c) The secretary of state shall distribute the requested master and partial master lists on a monthly basis to farm product dealers registered under section 336A.11. The secretary of state may, by rule, establish that lists of certain farm products must be distributed more frequently.

(d) The secretary of state shall, by rule, establish:

(1) dates when the distribution of lists will be made;

(2) dates after which a filing of an effective financing statement or lien notice will not be reflected on the next lists distributed; and

(3) dates by which a registrant must complete a registration to receive the next list distributed.

(e) The secretary of state shall make the master and partial master lists available as written or printed paper documents and may make lists available in other forms or media, including:

(1) microfiche;

(2) magnetic tape;

(3) electronically transmitted medium; or

(4) computer disk.

(f) There shall be no fee for partial or master lists distributed on microfiche, magnetic tape, electronically transmitted medium, computer disk, or comparable media.

(g) At the request of a farm product dealer registered under section 336A.11, the secretary of state shall deliver lists at cost by certified or registered mail, return receipt requested.

**History:** 1992 c 525 s 9

### 336A.09 INQUIRIES.

**Subdivision 1. Procedure.** (a) Oral and written inquiries regarding information provided by the filing of effective financing statements or lien notices may be made at any filing office during regular business hours.

(b) A filing office receiving an oral or written inquiry shall, upon request, provide an oral or facsimile response to the inquiry and must mail a confirmation of the inquiry in writing by the end of the next business day after the inquiry is received.

(c) A filing office shall maintain a record of inquiries made under this section including:

(1) the date of the inquiry;

(2) the name of the debtor inquired about; and

(3) identification of the person making the request for inquiry.

**Subd. 2. Searches; fees.** (a) If a person makes a request, the filing officer shall conduct a search of the computerized filing system for effective financing statements or lien notices and statements of continuation of a particular debtor. The filing officer shall report the date, time, and results of the search by issuing:

(1) a certificate listing the file number, date, and hour of each effective financing statement found in the search and the names and addresses of each secured party on the effective financing statements or of each lien notice found in the search and the names and address of each lienholder on the lien notice;

(2) photocopies of the original effective financing statement or lien notice documents on file; or

(3) upon request, both the certificate and photocopies of the effective financing statements or lien notices.

(b) The uniform fee for conducting a search and for preparing a certificate is \$15 per debtor name if the request is in the standard form prescribed by the secretary of state. This uniform fee shall include ten photocopies of original documents. If the request for information is made on a form other than the standard form prescribed by the secretary of state, the fee is \$20 per debtor name and shall include ten photocopies of original documents. An additional fee of \$1 per page must be charged for each photocopy prepared in excess of the first ten. If an oral or facsimile response is requested, there is an additional fee of \$5 per debtor name requested.

(c) A county recorder shall forward \$5 of each search fee collected under this subdivision to the secretary of state. Surcharge amounts shall be collected quarterly by the secretary of state from each county recorder. The secretary of state shall send each county recorder an invoice at the end of each fiscal quarter and each county recorder shall forward payment to the secretary of state within 30 days of the date of the invoice. The surcharge amounts received from county recorders and the surcharge amounts collected by the secretary of state's office must be deposited in the state treasury and credited to the general fund. The balance of the search fees collected by a county recorder must be deposited in the general fund of the county.

**History:** 1992 c 525 s 10; 1993 c 369 s 125; 1994 c 438 s 15

### 336A.10 LIABILITY FOR INFORMATION ERRORS.

Except as provided in sections 609.87 to 609.891, the state, the secretary of state, counties, county recorders, and their employees and agents are immune from liability as a result of errors or omissions in information supplied under this chapter.

**History:** 1992 c 525 s 11

**336A.11 REGISTRATION OF FARM PRODUCT DEALERS.**

Subdivision 1. **Requirements.** Farm product dealers may register with the secretary of state to receive master lists of notices of security interests in farm products or farm products statutory liens. Registration must be made on an annual calendar year basis. A registration is not complete until the registration form is properly completed and received by the secretary of state and accompanied by the registration fee. Registration entitles a farm product dealer to receive lists for those farm products specified by the registrant at the time of registration.

Subd. 2. **Registration forms.** The secretary of state shall make registration forms available to farm product dealers. The secretary of state must also make registration information available to the commissioner of agriculture for distribution to applicants for licensure under section 17A.04 or 223.17. The registration form must include provisions for the name and address of the farm product dealer, a request for the master or partial master lists, and the medium on which the farm product dealer desires to receive the master list.

Subd. 3. **Registration fee.** The annual registration fee for farm product dealers is \$25.

Subd. 4. **Record of registered farm product dealers.** The secretary of state shall maintain a record of the registered farm product dealers and the lists and contents of the lists received by the registered farm product dealers for a period of five years after the lists are distributed.

*History: 1992 c 525 s 12; 1995 c 128 art 3 s 26*

**336A.12 RULES.**

Subdivision 1. **Authority.** (a) The secretary of state may adopt permanent rules to implement this chapter.

(b) If necessary to obtain federal certification of the computerized filing system, additional or alternative requirements made in conformity with United States Code, title 7, section 1631, may be adopted by the secretary of state by rule.

Subd. 2. **Forms.** The secretary of state shall prescribe forms to be used for effective financing statements, lien notices, combined forms, amendments, continuation statements, termination statements, and notices to debtors.

*History: 1992 c 525 s 13*

**336A.13 RECEIPT OF WRITTEN NOTICE.**

For purposes of United States Code, title 7, section 1631, and this chapter, receipt of written notice means the date the notice is actually received by a farm product dealer or the first date that delivery is attempted by a carrier. A farm product dealer must act in good faith. A farm product dealer is presumed to have received the notice by five business days after it was mailed unless by ten days after it was mailed the farm product dealer notifies the secretary of state in writing that it has not received the notice by that time.

*History: 1992 c 525 s 14*

**336A.14 RESTRICTED USE OF INFORMATION.**

Information obtained from the seller of a farm product relative to the social security number or tax identification number of the true owner of the farm product and all information obtained from the master or limited list may not be used for purposes that are not related to: (1) purchase of a farm product; (2) taking a security interest against a farm product; or (3) perfecting a farm product statutory lien.

*History: 1992 c 525 s 15*

**336A.15 BUYERS TAKING FREE OF AND SUBJECT TO FARM PRODUCTS STATUTORY LIENS.**

Subdivision 1. **Taking free of lien.** Except as provided in subdivision 2, and notwithstanding other law or rule to the contrary, a buyer in the ordinary course of business who buys farm products from a seller engaged in farming operations takes free of a farm products statutory lien applicable to the purchased farm products even though the farm products statutory lien is perfected and the buyer knows the lien exists.

**Subd. 2. Taking subject to lien.** A buyer in the ordinary course of business of farm products takes subject to a farm products statutory lien applicable to the purchased farm products if the lienholder has perfected the farm products statutory lien and:

(1) the buyer has failed to register with the secretary of state as provided in section 336A.11; or

(2) the buyer has registered with the secretary of state as provided in section 336A.11, the buyer receives a notice from the secretary of state specifying that the seller and the farm products being sold are subject to a lien notice, and the buyer fails to secure a waiver or release of the farm products statutory lien specified in the lien notice by making a payment, satisfying an obligation, or otherwise.

**History:** 1992 c 525 s 16

### **336A.16 COMMISSION MERCHANTS AND SELLING AGENTS SUBJECT TO FARM PRODUCTS STATUTORY LIEN.**

**Subdivision 1. Selling not subject to lien.** Except as provided in subdivision 2, and notwithstanding other law or rule to the contrary, a commission merchant or selling agent who sells farm products for others is not subject to a farm products statutory lien even though the farm products statutory lien is perfected and the commission merchant or selling agent knows the lien exists.

**Subd. 2. Selling subject to lien.** A commission merchant or selling agent selling farm products for another person is subject to a farm product statutory lien applicable to the purchased farm products if the lienholder has perfected the farm products statutory lien and:

(1) the commission merchant or selling agent has failed to register with the secretary of state as provided in section 336A.11; or

(2) the commission merchant or selling agent has registered with the secretary of state as provided in section 336A.11, the commission merchant or selling agent receives a notice from the secretary of state specifying that the seller and the farm products being sold are subject to a lien notice, and the commission merchant or selling agent fails to secure a waiver or release of the farm products statutory lien specified in the lien notice by making a payment, satisfying an obligation, or otherwise.

**History:** 1992 c 525 s 17