

CHAPTER 191—S.F.No. 2437

An act relating to farm products; regulating liens and financing statements; establishing filing requirements; setting fees; appropriating money; amending Minnesota Statutes 2002, sections 336A.01; 336A.02; 336A.03; 336A.04; 336A.05; 336A.06; 336A.07; 336A.08; 336A.09; 336A.10; 336A.11, subdivisions 1, 2; 336A.12; 336A.13; proposing coding for new law in Minnesota Statutes, chapter 336A; repealing Minnesota Rules, parts 8265.0100; 8265.0200; 8265.0300; 8265.0400; 8265.0500; 8265.0600.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2002, section 336A.01, is amended to read:

336A.01 DEFINITIONS.

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

Subd. 2. **BUSINESS DAY.** "Business day" means a weekday on which government offices are open for business. Business day does not include state or federal holidays, Saturdays, or Sundays.

Subd. 2. **3. 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. **4. 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. **5. COMPUTERIZED FILING SYSTEM.** "Computerized filing system" means the system created by the secretary of state with separate programs for filing and giving notice of effective financing statements and farm products statutory liens.

Subd. 6. **CROP YEAR.** "Crop year" means:

- (1) for a crop, the calendar year in which it is harvested or to be harvested;
- (2) for animals, the calendar year in which they are born or acquired; and
- (3) for poultry or eggs, the calendar year in which they are sold or to be sold.

Subd. 7. **DEBTOR.** "Debtor" means an individual or other legal entity that has borrowed money from or is otherwise indebted to a lienholder or secured party and whose farm products are subject to a farm products statutory lien created by operation of law or a security interest, to secure payment of the obligation.

Subd. 5. **8. EFFECTIVE FINANCING STATEMENT.** "Effective financing statement" means an original or reproduced copy of an original a statement that meets the requirements of section 336A.03.

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Subd. 6- 9. **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- 10. **FARM PRODUCT DEALER.** "Farm product dealer" means a buyer in the ordinary course of business, a commission merchant, or a selling agent.

Subd. 8- 11. **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 and includes an agricultural lien as defined in sections 336.9-102(a)(5); 514.963, subdivision 3; and 514.965, subdivision 2; and an agricultural producer's lien as provided in section 514.945.

Subd. 9- 12. **FILING OFFICE.** "Filing office" means the office of the county recorder or the Office of the Secretary of State.

Subd. 10- 13. **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. 14. **LIENHOLDER.** "Lienholder" means an individual or other legal entity who has the right to collect money from a debtor and who has a farm products statutory lien.

Subd. 11- 15. **LIEN NOTICE.** "Lien notice" means an original or reproduced copy of an original statement that meets the requirements of section 336A.03.

Subd. 16. **MONTHLY LIST.** "Monthly list" means information about debtors, secured parties, lienholders, and farm products that is produced by the secretary of state and distributed once a month in the form of master or partial master lists.

Subd. 12- 17. **PERSON.** "Person" means an individual, partnership, corporation, trust, or other business entity.

Subd. 18. **SECURED PARTY.** "Secured party" means an individual or other legal entity that has received a security interest in farm products to secure repayment of the obligation owed to it.

Subd. 13- 19. **SECURITY INTEREST.** "Security interest" means an interest in farm products that secures payment or performance of an obligation.

Subd. 14- 20. **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.

Sec. 2. Minnesota Statutes 2002, section 336A.02, is amended to read:

336A.02 SPECIFICATION OF FARM PRODUCTS.

Subdivision 1. **LIST OF 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

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the state and its marketing system. The computerized filing system must provide information about the following farm products:

- (1) wheat/durum;
- (2) alfalfa;
- (3) barley;
- (4) oats;
- (5) rye;
- (6) sorghum;
- (7) hay;
- (8) flax;
- (9) sunflowers;
- (10) field corn;
- (11) silage;
- (12) canola;
- (13) soybeans;
- (14) dry edible beans;
- (15) green beans;
- (16) snap beans;
- (17) green lima beans;
- (18) sweet corn;
- (19) green peas;
- (20) potatoes;
- (21) carrots;
- (22) onions;
- (23) cucumbers;
- (24) sugar beets;
- (25) wool;
- (26) milk;
- (27) eggs;
- (28) cheese;
- (29) apples;
- (30) honey/bees wax;

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(31) cattle/calves;

(32) hogs/pigs;

(33) sheep/lambs;

(34) horses;

(35) goats;

(36) chickens;

(37) broilers;

(38) turkeys;

(39) mink;

(40) fish;

(41) wild rice; and

(42) bison.

Subd. 2. **CROPS GROWN FOR SEED.** Information about the crops listed in subdivision 1 includes information on crops grown for seed.

Sec. 3. Minnesota Statutes 2002, section 336A.03, is amended to read:

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. 1a. **FORM.** (a) An effective financing statement is an original or reproduced copy of the statement or an electronically reproduced copy of the statement.

(b) A lien notice is an original or reproduced copy of the notice or an electronically reproduced copy of the notice.

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 name of the county, where the farm products are produced or located;

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

(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

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States Internal Revenue Service taxpayer identification number of the debtor; and

(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 or format and must be filed on the form or in the format designated by the secretary of state as an effective financing statement/lien notice.

(d) An effective financing statement or the record authorizing the filing of an effective financing statement must contain the following statement, all in capital letters:

"THE INFORMATION CONTAINED IN THIS AN 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."

(e) A description of the farm products must include a product code provided by the secretary of state and if applicable, the amount of the farm product in those situations where this information is needed to distinguish that part of the farm product subject to the security interest or farm products statutory lien from that part which is not. The amount may be described by the number of acres, the number of bushels, the number of head, or any other accepted method of counting the specific farm product. A dollar amount may not be used as this description.

(f) The name of the county where the farm products are produced or located must be designated by using the two-digit county code provided by the secretary of state.

(g) The party completing the effective financing statement or lien notice is responsible for choosing and listing the farm product and county codes on the document from the lists provided by the secretary of state. The filing officer shall reject those documents that do not have farm product and county codes.

(h) The name of the secured party or lienholder must be the full legal name of that person or other legal entity. Business names must be presented as they have been registered and only those abbreviations appearing in the name as registered are

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acceptable. If the secured party or lienholder is an individual, the person's full first name, middle initial, if any, and full last name are the person's full legal name. Nicknames or abbreviations of individual names, except a middle initial, are not acceptable. The single address must be a mailing address and include a city, state, and zip code.

(i) The name of the debtor must be the full legal name of the individual or other legal entity. Business names must be presented as they have been registered and only those abbreviations appearing in the name as registered are acceptable. If the debtor is an individual, the person's full first name, middle initial, if any, and full last name are the person's full legal name. Nicknames or abbreviations of individual names, except a middle initial, are not acceptable. The single address must be a mailing address and include a city, state, and a zip code.

Subd. 3. **SIGNATURES.** A lien notice must be signed, authorized, or otherwise authenticated by the lienholder. An effective financing statement must be signed, authorized, or otherwise authenticated 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. To amend information contained on an effective financing statement or lien notice, the existing effective financing statement or lien notice must be terminated and a new effective financing statement or lien notice filed. The amendment to an effective financing statement or a lien statement must be signed, authorized, or otherwise authenticated, 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, authorized, or otherwise authenticated 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 farm products statutory lien no longer exists.

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Sec. 4. [336A.031] SATELLITE OFFICES.

Subdivision 1. AUTHORITY TO ESTABLISH. The secretary of state may establish satellite offices by written agreements with public officials within the state for the purpose of meeting the filing officer responsibilities described in this chapter. The terms of the agreement must be set by, and may be renewed by, mutual agreement. The agreement may be terminated upon 60 days' notice. The secretary must maintain a list of those public officials authorized to act as satellite offices. The secretary of state must make this list available in an electronic format and the list must be updated at least monthly.

Subd. 2. DUTIES. Satellite offices must accept effective financing statements and lien notices and respond to requests for information pursuant to the provisions of this chapter. A filing made at a satellite office is filed and effective at the same time and under the same rules provided for filing in any other manner in the computerized filing system. The filing date, time, and file number for any effective financing statement or lien notice accepted at a satellite office must be automatically assigned by the computerized filing system operated by the secretary of state, and the file number must be the next available file number in the computerized filing system.

Subd. 3. FILINGS ON OR AFTER JULY 1, 2001. This subdivision applies to all effective financing statements and lien notices filed on or after July 1, 2001. The secretary of state shall maintain all effective financing statements and lien notices and the database used to index them regardless of where or how the statement or notice was filed. The documents and database must be housed in the computerized filing system. These documents and data must be available from the secretary of state or any satellite office. Any filing office authorized to be a part of the computerized filing system may respond to requests for information, and the secretary of state shall establish and administer a system to facilitate those responses.

Subd. 4. FILINGS BEFORE JULY 1, 2001. This subdivision applies to all effective financing statements and lien notices filed before July 1, 2001. The database containing the information from the effective financing statements and lien notices must be housed in the computerized filing system.

Subd. 5. PERFORMANCE OF FILING OFFICERS. (a) All filing officers must perform the responsibilities required under this chapter and rules adopted pursuant to this chapter in a uniform manner, whether services are provided by the secretary of state or at a satellite office location. Reports by citizens describing concerns with performance of filing officer responsibilities must be made to the secretary of state. The secretary of state is responsible for responding to reports about performance in a manner the secretary of state determines is appropriate.

(b) If, upon investigation of citizen reports described in subdivision 1, the secretary of state determines that performance by a satellite office of the filing officer responsibilities has been so unsatisfactory that customer service has been severely impaired, the secretary of state must terminate the satellite office's status and ability to perform filing office responsibilities. If a satellite office's ability to perform filing office responsibilities is terminated by the secretary of state, the change in status must

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be posted in the former satellite office and must also be publicly posted in the county courthouse in the county in which the former satellite office is located and must be made available in an electronic format.

Subd. 6. **RECORD RETENTION.** Once the image of a paper record has been captured by the computerized filing system, the secretary of state may remove or direct the removal from the files and destroy the paper record.

Sec. 5. Minnesota Statutes 2002, section 336A.04, is amended to read:

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 computerized filing system operated by 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. Effective financing statements and lien notices may be filed in writing or by any other means authorized from a filing officer.

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 or format 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 until June 30, 2005. Effective July 1, 2005, the fee for each filing will be as follows:

(1) \$15 for each filing made through the Web interface of the Office of the Secretary of State; and

(2) \$20 for each filing submitted in any other manner.

(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 satellite office must be deposited in the general fund of the county in which the satellite office is located.

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Subd. 3a. **STANDARD FORMS.** The standard form for a lien notice, effective financing statement, continuation statement, or termination statement is available from the filing office.

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. For each effective financing statement, lien notice, continuation statement, or termination statement filed in a filing office, the filing office shall:

- (1) assign a unique number to the filed record;
- (2) create a record that bears the number assigned to the filed record and the date and time of filing;
- (3) maintain the filed record for public inspection; and
- (4) index the filed record in accordance with paragraph (b).

(b) The filing office shall maintain the original filed document or a copy of the filed document in a format that meets archival standards for public inspection as provided in rule by the secretary of state. index an effective financing statement or lien notice according to the name of the debtor and index all filed records relating to the initial filing in a manner that associates the related filings with the initial effective financing statement or lien notice.

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

- (1) to retrieve a record by the name of the debtor and by the file number assigned to the initial effective financing statement or lien notice to which the record relates; and
- (2) to associate and retrieve with one another an initial effective financing statement or lien notice and each filed record relating to the initial effective financing statement or lien notice as the case may be.

(d) The filing office may not remove a debtor's name from the index until one year after the effectiveness of an effective financing statement or lien notice naming the debtor lapses under section 336A.03, subdivision 5, paragraph (b), clause (1), or paragraph (c), clause (1).

(e) The filing office shall maintain a record of the information provided in a filed effective financing statement or lien notice for at least one year after the effectiveness of the financing statement or lien notice has lapsed under section 336A.03, subdivision 5, paragraph (b), clause (1), or paragraph (c), clause (1). The record must be retrievable by using the name of the debtor and by using the file number assigned to the initial effective financing statement or lien notice to which the record relates.

(f) Except to the extent that a statute governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing an effective financing statement or lien notice. However, if the filing office destroys a written record, it shall maintain another record of the effective financing statement or lien notice which complies with paragraph (e).

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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.

Sec. 6. Minnesota Statutes 2002, section 336A.05, is amended to read:

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 and does not affect the priority of a security interest in farm products or a farm products statutory lien except as provided in section 336A.15 or 336A.16 and United States Code, title 7, section 1631.

Sec. 7. Minnesota Statutes 2002, section 336A.06, is amended to read:

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, authorized, or otherwise authenticated 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.

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Subd. 4. **FILING.** The continuation statement must be filed in the filing office ~~where the original effective financing statement is filed~~ computerized filing system of the Office of the Secretary of State.

Sec. 8. Minnesota Statutes 2002, section 336A.07, is amended to read:

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) Unless filed pursuant to section 336A.03, subdivision 4, in order to amend an effective financing statement or a lien notice, a lien termination statement and termination statement for the a lien notice or an 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, authorized, or otherwise authenticated by the secured party or lienholder.

(b) If a termination statement is filed pursuant to section 336A.03, subdivision 4, in order to amend an effective financing statement or a lien notice, the termination statement must:

- (1) state the file number of the effective financing statement or lien notice; and
- (2) be signed, authorized, or otherwise authenticated by the secured party or lienholder.

Subd. 3. **FILING.** A termination statement for an effective financing statement or a lien notice must be filed in the computerized filing system operated 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 Office of the Secretary of the State.

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

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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.

Sec. 9. Minnesota Statutes 2002, section 336A.08, is amended to read:

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; and

(4) designating any applicable terminations of the 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). Any terminations of lien notices must be noted.

Subd. 2. **REMOVAL OF EFFECTIVE FINANCING STATEMENTS AND LIEN NOTICES.** The secretary of state shall remove lapsed and ~~terminated~~ effective

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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. 3a. **ALL CROPS OR ALL LIVESTOCK DEFINED.** A registered buyer who requests a monthly list may ask for a list of all crops including wool, milk, eggs, cheese, and honey/bees wax, all livestock including wool, milk, eggs, cheese, and honey/bees wax, or both. The list given to the buyer must then include information about all the crops or all the livestock listed in subdivision 1, or both.

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 or make available 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. Lists will be distributed or made available on or before the tenth day of each month or on the next business day thereafter if the tenth day is not a business day.

(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;

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(3) any electronically transmitted medium; or

(4) computer disk (2) any form of digital media.

(f) (e) There shall be no fee for partial or master lists distributed on microfiche, magnetic tape, via an electronically transmitted medium, computer disk, or comparable media. The annual fee for any other form of digital media is \$200. The annual fee for paper partial lists is \$250 and \$400 for paper master lists.

(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.

(f) A farm products dealer shall register pursuant to section 336A.11 by the last business day of the month to receive the monthly lists requested by the farm products dealer for that month.

(g) If a registered farm products dealer receives a monthly list that cannot be read or is incomplete, the farm products dealer must immediately inform the secretary of state by telephone or e-mail of the problem. The registered farm products dealer shall confirm the existence of the problem by writing to the secretary of state. The secretary of state shall provide the registered farm products dealer with new monthly lists in the medium chosen by the registered farm products dealer no later than five business days after receipt of the oral notice from the registered farm products dealer. A registered farm products dealer is not considered to have received notice of the information on the monthly lists until the duplicate list is received from the secretary of state or until five days have passed since the duplicate lists were deposited in the mail by the secretary of state, whichever comes first.

(h) On receipt of a written notice pursuant to section 336A.13, the secretary of state shall duplicate the monthly lists requested by the registered farm products dealer. The duplicate monthly lists must be sent to the registered farm products dealer no later than five business days after receipt of the written notice from the registered farm products dealer.

(i) A registered farm products dealer may request monthly lists in one medium per registration.

(j) Registered farm products dealers must have renewed their registration before the first day of July each year. Failure to send in the registration before that date will result in the farm products dealer not receiving the requested monthly lists.

(k) Registered farm products dealers choosing to obtain monthly lists via an electronically transmitted medium or in any form of digital media may choose to receive all of the information for the monthly lists requested the first month and then only additions and deletions to the database for the remaining 11 months of the year. Following the first year of registration, the registered farm products dealer may choose to continue to receive one copy of the full monthly list at the beginning of each year or may choose to receive only additions and deletions.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 10. Minnesota Statutes 2002, section 336A.09, is amended to read:

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~~ send 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 produce a report including the date, time, and results of the search by issuing:

(1) a ~~certificate~~ listing of 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; or

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

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

(b) The uniform fee for conducting a search and for preparing a ~~certificate~~ report is ~~\$15~~ \$20 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. A fee of \$1 per page will be charged for photocopies of effective financing statements, lien notices, continuation statements, or termination statements.

(c) A county recorder shall forward \$5 of each search fee collected under this subdivision to the secretary of state. Surchargo 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.

New language is indicated by underline, deletions by ~~strikeout~~.

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 satellite office must be deposited in the general fund of the county where the satellite office is located.

Sec. 11. Minnesota Statutes 2002, section 336A.10, is amended to read:

336A.10 LIABILITY FOR INFORMATION ERRORS IMMUNITY.

(a) 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.

(b) The secretary of state, county recorders, and their employees and agents are not liable for any loss or damages arising from errors in or omissions from information entered into the computerized filing system as a result of the electronic transmission of effective financing statements and lien notices.

Sec. 12. Minnesota Statutes 2002, section 336A.11, subdivision 1, is amended to read:

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 or format 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.

Sec. 13. Minnesota Statutes 2002, section 336A.11, subdivision 2, is amended to read:

Subd. 2. **REGISTRATION FORMS OR FORMAT.** The secretary of state shall make registration forms or format 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 or format 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.

Sec. 14. Minnesota Statutes 2002, section 336A.12, is amended to read:

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.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. **FORMS OR FORMAT.** The secretary of state shall prescribe the forms or format to be used for effective financing statements, lien notices, combined forms, amendments, continuation statements, termination statements, and notices to debtors.

Sec. 15. Minnesota Statutes 2002, section 336A.13, is amended to read:

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. For a mailed notice, 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.

Sec. 16. TEMPORARY SURCHARGE.

A \$10 surcharge on every effective financing statement and lien notice filed on or after July 1, 2004, shall be collected and remitted to the secretary of state for deposit in the general fund.

This section expires June 30, 2005.

Sec. 17. APPROPRIATION.

\$62,000 is appropriated in fiscal year 2005 from the general fund to the secretary of state for purposes of implementing this act. This is a onetime appropriation.

Sec. 18. REPEALER.

Minnesota Rules, parts 8265.0100; 8265.0200; 8265.0300; 8265.0400; 8265.0500; and 8265.0600, are repealed on the application date specified in section 19.

Sec. 19. EFFECTIVE DATE; APPLICATION.

(a) Sections 1 to 15 are effective August 1, 2004, and apply to all effective financing statements and lien notices governed by Minnesota Statutes, chapter 336A, that are made on or after February 1 following the calendar year the United States Department of Agriculture approves the central filing system pursuant to United States Code, title 7, section 1631, and notifies the secretary of state of the approval.

(b) The secretary of state shall promptly notify the revisor of statutes of the notification in paragraph (a) for purposes of determining the application date in section 18.

Presented to the governor May 10, 2004

Signed by the governor May 13, 2004, 11:20 a.m.

CHAPTER 192—S.F.No. 1192

An act relating to drivers' licenses; requiring department of public safety to forward

New language is indicated by underline, deletions by strikeout.