

By: King of Hemphill

H.B. No. 3969

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the development of a central filing system by the
3 secretary of state for the filing of financing statements for
4 agricultural liens; authorizing fees.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 9.302, Business & Commerce Code, is
7 amended to read as follows:

8 Sec. 9.302. LAW GOVERNING PERFECTION AND PRIORITY OF
9 AGRICULTURAL LIENS. (a) Subject to Chapter 606, while ~~[while]~~ farm
10 products are located in a jurisdiction, the local law of that
11 jurisdiction governs perfection, the effect of perfection or
12 nonperfection, and the priority of an agricultural lien on the farm
13 products.

14 (b) Notwithstanding any law to the contrary, to the extent
15 of any conflict between this chapter and Chapter 606, Chapter 606
16 controls.

17 SECTION 2. Section 9.501, Business & Commerce Code, is
18 amended by amending Subsection (a) and adding Subsection (c) to
19 read as follows:

20 (a) Except as otherwise provided in Subsection (b) or (c),
21 if the local law of this state governs perfection of a security
22 interest ~~[or agricultural lien]~~, the office in which to file a
23 financing statement to perfect the security interest ~~[or~~
24 ~~agricultural lien]~~ is:

1 (1) the office designated for the filing or recording
2 of a record of a mortgage on the related real property, if:

3 (A) the collateral is as-extracted collateral or
4 timber to be cut; or

5 (B) the financing statement is filed as a fixture
6 filing and the collateral is goods that are or are to become
7 fixtures; or

8 (2) the office of the Secretary of State, in all other
9 cases, including a case in which the collateral is goods that are or
10 are to become fixtures and the financing statement is not filed as a
11 fixture filing.

12 (c) Notwithstanding any other law to the contrary, the
13 office in which to file a financing statement to perfect an
14 agricultural lien is the office of the Secretary of State as
15 provided by Chapter 606.

16 SECTION 3. Title 12, Business & Commerce Code, is amended by
17 adding Chapter 606 to read as follows:

18 CHAPTER 606. CENTRAL FILING SYSTEM FOR AGRICULTURAL LIENS

19 Sec. 606.001. DEFINITIONS. In this chapter:

20 (1) "Agricultural lien" has the meaning assigned by
21 Section 9.102.

22 (2) "Buyer" means a person who, in the ordinary course
23 of business, buys farm products from another person who is engaged
24 in farming operations and who is in the business of selling farm
25 products.

26 (3) "Central filing system" means a statewide system
27 that is developed by the secretary of state and certified by the

1 secretary of the United States Department of Agriculture to be used
2 for the filing of an effective financing statement.

3 (4) "Commission merchant" means a person engaged in
4 the business of receiving a farm product for the purpose of selling
5 the farm product on commission or on behalf of another person.

6 (5) "Debtor" means a person having an interest, other
7 than a security interest or other lien, in a farm product, whether
8 or not the person is an obligor.

9 (6) "Effective financing statement" means a financing
10 statement, as defined by Section 9.102, that covers a farm product
11 and that is filed in compliance with this chapter.

12 (7) "Farm products" has the meaning assigned by
13 Section 9.102.

14 (8) "Selling agent" means a person, other than a
15 commission merchant, who is engaged in the business of negotiating
16 the sale or purchase of a farm product on behalf of a person engaged
17 in farming operations.

18 Sec. 606.002. RULES. The secretary of state shall adopt
19 rules as necessary to implement this chapter.

20 Sec. 606.003. FORMS. The secretary of state shall develop
21 and maintain standard forms for an effective financing statement, a
22 statement of continuation, a statement of amendment, and a
23 statement of termination that are consistent with this chapter.

24 Sec. 606.004. EFFECTIVE FINANCING STATEMENT. (a) An
25 effective financing statement must:

26 (1) be signed by the secured party and filed by the
27 secured party with the office of the secretary of state in the

1 central filing system under Section 606.007;

2 (2) be signed by the debtor; and

3 (3) provide:

4 (A) the name and address of the secured party;

5 (B) the name and address of the debtor;

6 (C) the social security number of the debtor or,
7 if the debtor is not an individual, the tax identification number of
8 the debtor;

9 (D) the farm product covered by the effective
10 financing statement;

11 (E) each county in this state where the farm
12 product is produced or will be produced;

13 (F) a description of the farm product that is
14 subject to an agricultural lien only if a description is needed to
15 distinguish that farm product from other farm products owned by the
16 same person but not subject to the agricultural lien; and

17 (G) the crop year, unless for the duration of the
18 effective financing statement every crop of the farm product that
19 is subject to an agricultural lien is to be subject to the lien.

20 (b) A secured party may use one effective financing
21 statement to reflect multiple farm products or farm products in
22 multiple counties.

23 (c) An effective financing statement may be modified to
24 reflect material changes. An amendment to an effective financing
25 statement must be:

26 (1) made in writing;

27 (2) signed by the secured party and the debtor; and

1 (3) filed not later than the 90th day after the
2 original filing date.

3 (d) An effective financing statement remains in effect for a
4 period of five years from the date of filing and may be extended for
5 an additional period of five years by filing or refiling a statement
6 of continuation at least 180 days before the expiration date of the
7 current effective period.

8 (e) The secretary of state shall remove an effective
9 financing statement from the central filing system when the
10 statement expires or when a statement of termination is received
11 from a secured party, whichever occurs first.

12 (f) The secretary of state may collect a fee of \$10 for each
13 effective financing statement filed under this chapter. An
14 effective financing statement is not filed until the fee authorized
15 by this section is paid.

16 (g) An effective financing statement is considered
17 satisfactory if it substantially complies with the requirements of
18 this section even though the statement might contain minor errors
19 that are not seriously misleading as determined by the secretary of
20 state.

21 Sec. 606.005. PROTECTION OF BUYERS, COMMISSION MERCHANTS,
22 AND SELLING AGENTS. A buyer, a commission merchant, or a selling
23 agent who, in the ordinary course of business, purchases a farm
24 product from a person engaged in farming operations takes the farm
25 product subject to an agricultural lien on the farm product if:

26 (1) the buyer, commission merchant, or selling agent
27 fails to register with the secretary of state as prescribed by rule

1 before purchasing the farm product and the secured party has filed
2 an effective financing statement in the central filing system under
3 Section 606.007 that covers the farm product being purchased; or

4 (2) the secured party or the seller of the farm product
5 provides written notice of the agricultural lien to the buyer,
6 commission merchant, or selling agent.

7 Sec. 606.006. IMMUNITY FROM LIABILITY. A buyer, commission
8 merchant, or selling agent who, in the ordinary course of business,
9 purchases farm products from or sells farm products for a person
10 engaged in farming operations may not be liable for errors or
11 inaccuracies generated by the central filing system developed under
12 Section 606.007 if the buyer, commission merchant, or selling agent
13 has otherwise complied with this chapter.

14 Sec. 606.007. CENTRAL FILING SYSTEM. (a) The office of the
15 secretary of state shall develop and implement a central filing
16 system for the filing of effective financing statements that comply
17 with Section 606.004 and shall obtain the necessary certification
18 for the system from the United States Department of Agriculture.

19 (b) The secretary of state shall adopt rules to implement
20 and operate the central filing system developed under this section.

21 SECTION 4. As soon as practicable after the effective date
22 of this Act, the office of the secretary of state shall adopt rules
23 and forms necessary to implement Chapter 606, Business & Commerce
24 Code, as added by this Act.

25 SECTION 5. This Act takes effect September 1, 2017.