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Requirements for Grain Dealers:

Wyoming



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Current through the 2020 Budget Session of the Wyoming Legislature and Chapters 1-3 of the 2020 Special Session of the Wyoming Legislature.

§ 29-8-101. Definitions

(a) As used in this article:

(i) “Commodity dealer” means a person who engages in a business involving or, as part of the business, participates in buying, exchanging, negotiating or soliciting the sale, resale, exchange, production or transfer of any farm product in the state of Wyoming. The term does not include:

(A) A person engaged solely in storing, shipping or handling farm products for hire;

(B) A person who buys farm products from a licensed commodity dealer;

(C) A person who does not purchase more than thirty thousand dollars (\$30,000.00) worth of farm products from producers during a licensing year;

(D) A person who is the producer of farm products that the person actually plants, nurtures and harvests;

(E) A person whose trading in farm products is limited to trading in commodity futures on a recognized futures exchange; or

(F) A person who buys farm products used exclusively for the feeding of livestock and not for resale.

(ii) "Contractor" means a person who owns a farm product that is produced by a producer according to a contract;

(iii) "Farm products" means all crops, crop products, plants or portions thereof, whether or not they are cleaned, processed, treated, reconditioned, rolled, mixed or combined in any fashion. Farm products shall not mean livestock;

(iv) "Person" means an individual, trust, partnership, business trust, corporation or unincorporated association or any other legal or commercial entity;

(v) "Processor" means any person engaged in the business of processing or manufacturing any farm product and who takes possession or control of any farm product for the purpose of processing, cleaning, selling or storing it;

(vi) "Producer" means the owner, tenant or operator of land located in the state of Wyoming who has an interest in or receives all or part of the proceeds from the assignment, sale, transfer, exchange or production of farm products grown or produced on that land;

(vii) "Public warehouse" or "warehouse" means an elevator, mill, warehouse, subterminal grain warehouse, public warehouse or other structure or facility in which, for compensation, farm products are received for storage, handling, processing or shipment. The term includes facilities that commingle different lots of farm products;

(viii) "This act" means W.S. 29-8-101 through 29-8-109.

§ 29-8-102. Producer's liens

(a) W.S. 29-1-103 through 29-7-301 shall not apply to liens filed under this act.

(b) A producer has a lien on all farm products grown or produced by it and on all proceeds from the assignment, sale, transfer, exchange or other disposition thereof until the producer is paid in full all amounts due the producer for its assignment, sale, transfer, exchange, other disposition or production of the farm products.

§ 29-8-103. Notice; filing of notice of claim; contents

(a) A lien created under W.S. 29-8-102 attaches when the farm product is delivered from the producer to the processor, contractor, warehouse operator or commodity dealer.

(b) A person claiming a lien created by this act shall file a written notice of claim of lien with the office of the secretary of state not later than one hundred eighty (180) days after the lien attaches.

(c) The notice of claim of lien required under subsection (b) of this section shall be in the form of a financing statement acceptable for filing by the office of the secretary of state. The signature of the processor, contractor, warehouse operator or commodity dealer shall not be required. The written notice of claim filed under subsection (c) of this section shall contain:

(i) A true statement of the lienholder's claim;

(ii) A description of the farm product delivered sufficient for identification;

(iii) The lienholder's name, address and phone number, establishing them as a secured party; and

(iv) The name and address of the processor, contractor, warehouse operator or commodity dealer, establishing them as the debtor.

(d) The secretary of state shall keep a record of notices filed under this section under an index of agricultural liens.

(e) The secretary of state shall charge a fee not exceeding the cost of providing the service for filing of notices and requests for copies of such notices.

(f) When a lienholder files a notice of claim of lien as required by this section, the lienholder shall send a copy of the notice to the processor, contractor, warehouse operator or commodity dealer by registered or certified mail.

(g) When a lienholder files a notice of claim of lien as required by this section the lienholder shall send a copy of the notice to all holders of security interests in the farm product described in the notice of claim who duly perfected such security interests by filing notice thereof with the secretary of state. The notice shall be mailed to holders of perfected security interests within thirty (30) days after the date of filing the notice of claim.

(h) A lien which has attached under subsection (a) of this section is perfected upon the completion of the requirements of subsections (a) through (h) of this section. If a person entitled to a lien under this section does not properly file a notice of claim or properly notify all holders of security interests of the lien within the time required by this section, the person waives the right to the lien.

§ 29-8-104. Extent of lien; priority

(a) The lien shall be to the extent of:

(i) The agreed price, if any, pursuant to the terms of any contract or for the market value at the time of transfer of ownership if not agreed;

(ii) If the farm product has not been sold or processed by the processor, contractor, warehouse operator or commodity dealer the lien shall be on the farm product;

(iii) If the farm product is sold or processed by the processor, contractor, warehouse operator or commodity dealer the lien shall be on the cash proceeds from the sale. For purposes of this paragraph, cash proceeds held by the processor, contractor, warehouse operator or commodity dealer shall be deemed to be cash proceeds from the sale regardless of whether it is identifiable cash proceeds;

(iv) If the farm product is processed by the processor, contractor, warehouse operator or commodity dealer and there is no property of the type described in paragraph (ii) or (iii) of this subsection to which the lien can attach, then the lien shall extend to any property of the

processor, contractor, warehouse operator or commodity dealer that may be subject to a security interest as provided by W.S. 34.1-9-109.

(b) A perfected lien under paragraph (a)(ii) or (iii) of this section shall be preferred to, and have priority over, a lien or security interest in favor of a creditor of the processor, contractor, warehouse operator or commodity dealer regardless of the time when the creditor's lien or security interest attached to the farm products or the proceeds thereof or therefrom. The priority of a perfected lien under paragraph (a)(iv) of this section shall be determined by the date on which the lien is filed as required by this act, and it shall not have priority over other perfected liens on the same property which have been perfected prior to the filing date.

§ 29-8-105. Duration

(a) A perfected lien created by this act remains in effect until either the lienholder receives the full amount due it for the farm products, including reasonable costs and attorneys' fees incurred in enforcing the lien, or for a period of two hundred ten (210) days from the date the lien becomes perfected as provided in this act.

(b) All actions to foreclose or enforce a lien under this chapter shall be commenced within two hundred forty (240) days after the filing of the lien statement. No lien shall continue to exist except by virtue of the provisions of this chapter for more than two hundred forty (240) days after the lien is filed unless an action to foreclose the lien is instituted.

(c) Whenever any debt which is a lien pursuant to this act is paid and satisfied, the lien claimant shall file notice of satisfaction of the claim of lien in the secretary of state's office.

(d) In addition to any actual damages, any creditor refusing or neglecting to enter satisfaction within thirty (30) days after payment as provided by subsection (c) of this section and after having received by certified or registered mail a request in writing for the entering of satisfaction is liable for damages of not less than one-tenth of one percent (.10%) of the original principal amount of the debt per day until such time as the lienholder enters satisfaction. The additional damages authorized by this section shall not exceed one hundred dollars (\$100.00) per day.

§ 29-8-106. Waivers unenforceable

Any provision of a contract which waives a producer's right or an obligation of a party established by this act is void and unenforceable. This section does not affect other provisions of the contract or related document, policy or agreement which can be given effect without the voided provision.

§ 29-8-107. Choice of law

Any condition, stipulation or provision requiring the application of the law of another state in lieu of this act is void and unenforceable.

§ 29-8-108. Damages, fees, costs and injunctive relief

(a) A producer who suffers damages because of a violation of this act may obtain appropriate legal and equitable relief, including damages, as a suit in common law pursuant to the Wyoming Rules of Civil Procedure.

(b) In any action by a producer to enforce a perfected lien created by this act, the court shall award the producer who is the prevailing party reasonable attorneys' fees and other litigation costs and expenses. The payment of any such award shall be secured in the same manner as a lien created and perfected under this act.

(c) In order to obtain injunctive relief, a producer is not required to post a bond, prove the absence of an adequate remedy at law, or show the existence of special circumstances, unless the court for good cause otherwise orders. The court may order any form of prohibitory or mandatory relief that is appropriate under principles of equity, including but not limited to, issuing a temporary or permanent restraining order.

§ 29-8-109. Applicability of act

(a) This act applies to contracts executed, entered into, renewed or substantively amended on or after July 1, 2001.