



Financing the Farm

A law bulletin series on common financial documents for farmers

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Statutory Liens and Agriculture

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Today, it is common for farmers to purchase goods and services on credit from providers like veterinarians, seed dealers, animal feed dealers, and custom operators. Likewise, farmers often provide their own goods and services prior to receiving payment, as when delivering grain or in a production contract arrangement. For these situations, there are a variety of risk management tools to ensure payment for the goods and services provided. One such tool is a lien. State statutes across the U.S. authorize various types of liens to protect the interests of providers of agricultural goods, services, and land. In this bulletin, we explain statutory liens used in agriculture and how they work.

What is a lien?

“**Lien**” is a broad term that refers to “a legal right or interest that a creditor has in another’s property, lasting usually until a debt or duty that it

secures is satisfied.”¹ Essentially, a lien is a legal interest in property that secures a financial obligation. The party holding a lien in another’s property is often called a **lienholder**, **claimant**, or **creditor**. The person or entity against whom a party holds a lien is often called a **debtor**.

A lien is created in one of three ways: by statute, by judicial verdict, or by agreement between the creditor and debtor.² These three major types of liens—statutory liens, consensual liens, and judicial liens—operate in unique ways. The focus of this bulletin is on statutory liens created for agricultural situations. We discuss consensual liens in two other bulletins in the *Financing the Farm* law bulletin series: *Secured Transactions* explains voluntary liens granted for personal property and *Mortgages* addresses consensual lien rights in real property. The final type of liens, judicial liens, are less common in agriculture than other types of liens and arise from a court verdict that entitles a lienholder to seize certain property belonging to a debtor as payment for a debt.³

How statutory liens work

Statutory liens arise solely by force of statute; they do not require an agreement between the parties, permission from a debtor, or a court ruling for their creation. Statutory liens automatically attach to



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property because of a creditor's relationship to a debtor; they give the lienholder rights in specific property that can ensure the lienholder receives payment for goods, services, land, labor, or other obligations of the debtor. Many are familiar with tax liens and mechanic's liens, common types of statutory liens.⁴ Statutory liens such as these aim to minimize the risks of nonpayment for goods or service providers serving agriculture, especially those who are not credit professionals. Managing such risks can help ensure that crop and livestock production goods and services remain available and affordable to farmers.⁵ Where a statutory lien is available, a party who has provided land, goods, services, or labor to an agricultural producer or processor can acquire a claim against the crops, livestock, or equipment for which the land, goods, services, or labor were provided by satisfying the requirements of the statute.⁶

Unique requirements. Each statutory lien in a state has unique purposes and technical requirements for establishing the lien. For example, the Iowa Code provides a landlord's lien "for the rent upon all crops grown upon the leased premises," and upon personal property of the tenant that is used or kept on the leased land during the lease term. The lien automatically attaches, or becomes effective, on account of a landlord leasing property to a farmer. The landlord does not have to take any additional action to establish the lien.⁷ However, certain agricultural liens do require additional steps by the lienholder in order for the lien to have priority over other creditors, which is discussed later in this bulletin.

Possession versus non-possession. Some statutes require that the lienholder retain possession of the property that is subject to a lien in order for the lien to be considered valid—these are called *possessory statutory liens*. Other statutory liens do not require the claimant to retain possession of the property and are called *non-possessory liens*.

Enforcement. Once a statutory lien is appropriately established, the enforcement of that

lien will also be governed by the statute that created it. However, as one scholar explained, "frequently state statutes are vague about collection rights," so it is important to consult a knowledgeable attorney prior to trying to enforce lien rights. In some instances, enforcing a lien requires some type of judicial action or filing with the appropriate court.⁸ In other instances, a lienholder may be able to exercise self-help repossession in property they have properly taken a lien in, so long as they are entitled to enforce the lien under the statute that created it.⁹ Because a lienholder can expose themselves to liability if they try to exercise lien rights improperly, it is important to consult an attorney about the proper method for exercising statutory lien rights.

Priority rules. When multiple creditors, including lienholders, claim an interest in the same piece of property, the rights to that property are determined based on each creditor's "priority" status. Priority status is determined by a process called "perfection" in which a creditor files a notice of its interest in property. The statutes that establish statutory liens generally contain their own priority rules.¹⁰ In addition, the **Uniform Commercial Code (UCC)** applies to certain statutory agricultural liens, creating requirements for perfection, rules of priority, and more, as discussed later in this bulletin.¹¹

Types of statutory liens used in agriculture

Statutory liens created by state laws vary widely, reflecting the history and legislative priorities of individual states.¹² As one group of scholars put it, there is a "phenomenal variety" of statutory agricultural liens in the U.S.¹³ The National Agricultural Law Center's [Statutory Agricultural Lien Rapid Finder Charts](#) compiles the various statutory agricultural liens enacted by state legislatures across the United States.¹⁴ The following examples of liens illustrate the wide variety of these types of state statutory agricultural

liens. Note that not all of these types of liens are available in all states.

Landlord's lien. In Iowa, a landlord's lien is available to the landlord of property leased to farmers and attaches to the farm products grown or personal property stored on the property.¹⁵

Agricultural supply lien. In Oklahoma, any person selling, furnishing, applying, or providing seed, chemicals, pesticides, herbicides, or fertilizer for the growing of crops may take a lien in the crops for which the materials are supplied.¹⁶

Agricultural crop lien. In Washington, an agricultural landlord or agricultural input supplier, including labor and service input providers, may take a lien in crops.¹⁷

Harvester or thresher lien. In Kansas, a person who harvests or threshes grain or grain crops may take a lien in the grain or grain crops harvested or threshed.¹⁸

Equipment lien. In North Dakota, a blacksmith, machinist, farm equipment dealer, welder, mechanic, or other specified repair person may take a lien in vehicles, including combines, tractors, and other farm equipment.¹⁹

Grain handler lien. In Ohio, claimants such as lenders and producers who've delivered grain to a handler who are owed a financial obligation by the handler holds a lien in the grain possessed by the handler.²⁰

Commodity production lien. In Iowa, a contract producer who feeds livestock or produces crops owned by another under a production contract holds a lien in the products produced or raised under the contract.²¹

Livestock liens. In California, a person or entity who provides services for another's livestock may take a lien in the livestock serviced. Another California statute allows providers of livestock breeding services to take a lien in the female

animal bred or offspring resulting from the breeding.²²

Disease control lien. In Georgia, the Georgia Commissioner of Agriculture may take a lien in cotton subject to an assessment for boll weevil eradication. Other states may have similar provisions that apply more generally or for other specific pests or diseases.²³

Veterinarian's lien. In Alabama, a state licensed veterinarian may take a lien in an animal kept, fed, or surgically treated.²⁴

Carrier's lien. In Vermont, a carrier, or a shipper that publicly operates a business for the transportation of goods, may take a lien in goods covered by a bill of lading.²⁵

Laborer's lien. In Texas, certain workers, including farm hands, mill operators, and loggers employed under contract, may take a lien in things of value created by the worker's labor that are owned, controlled, or possessed by the employer.²⁶

Timber or log lien. In Wisconsin, a person who performs services or provides supplies for obtaining logs and timber products may take a lien in the logs or timber and products manufactured from them.²⁷

Warehouse lien. In North Carolina, a warehouse can claim a lien in goods covered by a warehouse receipt or storage agreement, or the proceeds thereof.²⁸

"Agricultural liens" under the UCC

Certain types of statutory liens used in agriculture can be subject to the **Uniform Commercial Code (UCC)** and its unique laws that govern security interests and other types of commercial transactions. Specifically, under Article 9 of the UCC, certain statutory liens that deal with agriculture (which we will call "UCC agricultural liens") must be "perfected" according to the requirements of the UCC in order for the lienholder to have "priority" over other creditors claiming

interests in the same property. Generally, to “perfect” a UCC agricultural lien, the lien must have become effective under state law and the lienholder must file a sufficient financing statement in the appropriate office.

In general, perfected UCC agricultural liens, like perfected security interests, rank in priority according to the time they were filed. This is known as the first in time, first in right principle. However, the state statute that creates the UCC agricultural lien might provide different rules for priority than this first in time, first in right principle.²⁹

For example, if a state statute specifies that an agricultural lien will have priority over previously perfected security interests, and the UCC agricultural lien is properly perfected, that lien will have priority over security interests that were perfected *before* the UCC agricultural lien.³⁰ Because of this, lenders may hesitate to allow farm products or property that can be subject to a UCC agricultural lien to be used as collateral at full value, since a statutory lien could arise in the products later under state law that gives the lienholder priority over the lender’s security interest. In some instances, lenders taking assets as collateral may request that a debtor obtain lien waiver agreements with other parties like landlords to ensure the value of the collateral.

Note that a perfected UCC agricultural lien or security interest will always have priority over an unperfected UCC agricultural lien in the same property.³¹

The rules for perfecting and maintaining perfection of a UCC agricultural lien are complex and the consequences of failing to perfect a UCC agricultural lien can be severe, so readers who are interested in utilizing these types of liens or who have had a lien filed against their property should consult a knowledgeable attorney.

Definition of “agricultural lien.” Due to the UCC laws, it’s important to know what types of statutory agricultural liens are subject to the perfection and

priority rules of the UCC. In other words, what is a UCC “agricultural lien”?

Specifically, UCC requirements for agricultural liens apply to those interests in “*farm products*” that secure payment or performance of an obligation for, (1) goods or services furnished in connection with a debtor’s farming operation, or (2) rent on real property leased by a debtor in connection with its farming operation, and which is created by statute in favor of a person that, (1) in the ordinary course of its business, furnished goods or services to a debtor in connection with a debtor’s farming operation, or (2) leased real property to a debtor in connection with the debtor’s farming operation, and whose effectiveness does not depend on the person’s possession of the personal property.³² Essentially, this definition refers to a non-possessory, statutorily created lien in “farm products” that secures a farmer-debtor’s obligation to either a person or business that regularly furnishes goods or services to a farmer or a person who leases real property to a farmer.

Farm products, as defined by the UCC, are goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

- Crops grown, growing, or to be grown, including crops produced on trees, vines, and bushes and aquatic goods produced in aquacultural operations,
- Livestock, born or unborn, including aquatic goods produced in aquacultural operations,
- Supplies used or produced in a farming operation, or
- Products of crops or livestock in their unmanufactured states.³³

Other laws can affect statutory liens

In addition to the UCC, there are other laws that may impact the status of a statutory agricultural lien. Examples include the Packers and Stockyards Act,³⁴ Food Security Act,³⁵ Perishable Agricultural Commodities Act,³⁶ and the Bankruptcy Code.³⁷

For example, where a debtor files bankruptcy, the bankruptcy trustee may void liens against their property in certain instances, meaning that the lienholder's rights in the property are removed and the property is available to the bankruptcy estate.³⁸

Know the lien laws in your state

Liens are tools that give a party a legal right or interest in another's property. They can arise in agriculture in a variety of ways to secure the performance of obligations like the payment of cash rent for farmland, the repayment of operating loans or equipment loans, payments due to suppliers and vendors like veterinarians or laborers, and many other business contexts. Farmers should understand both the potential for their creditors to use and enforce liens as well as the ways they might use liens to secure obligations owed to them. Knowing the applicable statutory lien laws in the state is an important risk management practice for farmers.

¹ *Lien*, *Black's Law Dictionary* (11th ed. 2019).

² Steven C. Turner, Richard Barnes, Brooke Schumm III, Drew L. Kershen & Marsha L. Noble, *Agricultural Liens and the UCC: A Report on Present Status and Proposal for Change*, 44 OKLA. L.R. 9, 10 (1991), http://www.nationalaglawcenter.org/wp-content/uploads/assets/bibarticles/turneretal_leins.pdf

³ *Id.*

⁴ *Statutory lien*, *Black's Law Dictionary* (11th ed. 2019).

⁵ Kristine A. Tidgren, *Iowa Agricultural Liens: A Legal Review*, Iowa State University Center for Agricultural Law and Taxation (Sept. 30, 2016), <https://www.calt.iastate.edu/article/iowa-agricultural-liens-legal-review>.

⁶ Turner et al, *supra* note 2, at 10.

⁷ Tidgren, *supra* note 5.

⁸ *Mechanic's Liens in Practice*, Practical Law Real Estate, (2020), available at Westlaw; Tidgren, *supra* note 5.

⁹ Susan A. Schneider, *Statutory Agricultural Liens Under Revised Article 9 of the Uniform Commercial Code*, National Agricultural Law Center, (March 2002), https://nationalaglawcenter.org/wp-content/uploads/assets/articles/schneider_agliens.pdf

¹⁰ Robert D'Agostino & Bruce Gordon Luna II, *The U.C.C. and Perfection Issues Relating to Farm Products*, 35 N. ILL. U. L. REV. 169, 170 (2014). <https://commons.lib.niu.edu/bitstream/handle/10843/18443/Luna-DAGostino-pdfA.pdf?sequence=1&isAllowed=y>

¹¹ *Id.*

¹² Turner et al, *supra* note 2, at 12.

¹³ Turner et al, *supra* note 2, at 10.

Remember that statutory lien laws are state specific and vary tremendously from state-to-state. Additionally, the relationship between statutory liens and the UCC can be complicated and other laws might affect a lien situation. The advice of an **agricultural attorney** experienced in federal agricultural laws and the farm finance laws in the state where the farmer operates should prove useful and necessary to further reducing financial risk.

Other titles in the Financing the Farm law bulletin series

To continue to learn more about common legal documents for farm financing arrangements, see our law bulletins on *Promissory Notes*, *Installment Contracts*, *Leasing Arrangements*, and *Secured Transactions*.

¹⁴ *Statutory Agricultural Lien Rapid Finder Chart*, (2008), National Agricultural Law Center, <https://nationalaglawcenter.org/state-compilations/agricultural-liens/>.

¹⁵ IOWA CODE ANN. §570.

¹⁶ OKLA. STAT. ANN. tit. 42, §47.

¹⁷ WASH. REV. CODE ANN. §60.11.

¹⁸ KAN. STAT. ANN. §58-203.

¹⁹ N.D. CENT. CODE ANN. §35-13.

²⁰ OHIO REV. CODE ANN. §926.021.

²¹ IOWA CODE ANN. §579B.

²² CAL. CIV. CODE §3062; CAL. CIV. CODE §3080.

²³ GA. CODE ANN. §2-7-156.

²⁴ ALA. CODE §35-11-390.

²⁵ VT. STAT. ANN. tit. 9A, §7-307.

²⁶ TEX. PROP. CODE ANN. §58.

²⁷ WIS. STAT. ANN. §779.18.

²⁸ N.C. GEN. STAT. ANN. §25-7-209.

²⁹ D'Agostino & Gordon, *supra* note 10, at 171-176; Schneider, *supra* note 9, at 6.

³⁰ Schneider, *supra* note 9, at 6.

³¹ *Id.*

³² U.C.C. §9-102(a)(5).

³³ U.C.C. §9-102(a)(34).

³⁴ 7 U.S.C. §§ 181-229.

³⁵ 7 U.S.C. § 1631.

³⁶ 7 U.S.C. §§ 499a-499t.

³⁷ 11 U.S.C. Title 11.

³⁸ 11 U.S.C. §544(a)(1).