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HOUSE BILL 1307

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

BRETT D. JOHNSON

AN ACT

RELATING TO SUPPLIERS OF LIVESTOCK FEED; PROVIDING FOR A LIEN.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. -- This act may be cited as the
"Livestock Feed Supplier Lien Act".

Section 2. DEFINITIONS. -- As used in the Livestock Feed
Supplier Lien Act:

A. "animal feed" includes commercial feeds, customer
formula feeds and labor required in the preparation and delivery
of the feed for livestock;

B. "customer" means any person, business,
association or corporation buying animal feed for livestock;

C. "livestock" means beef cattle, dairy cattle,
sheep, goats, hogs, horses and poultry; and

D. "supplier" means a person, business, corporation

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1 or other entity engaged in the business of selling animal feed.

2 Section 3. EXTENT OF LIEN--PROPERTY SUBJECT TO LIEN--
3 ATTACHMENT AND COMPLETION. --

4 A. In addition to all other rights and remedies that
5 are provided by law, every supplier who sells animal feed to a
6 customer for livestock under contract, express or implied, has a
7 lien upon the livestock to which the feed was provided and the
8 meat, milk, skins or wool derived from the livestock and the
9 issue or increase from the livestock.

10 B. The lien shall be to the extent of the agreed
11 price for the animal feed sold and shall attach to the amount
12 due and owing at the date of filing the lien. Any portion of
13 the livestock or livestock product in excess of the amount
14 necessary to satisfy the total amount owed under contract to a
15 customer shall be free and clear of the lien.

16 C. Unless the lien is released by payment or
17 security as provided in Section 8 of the Livestock Feed Supplier
18 Lien Act, the lien is complete when payment of reasonable or
19 agreed charges are more than thirty days overdue from the date
20 of delivery of the animal feed or from the date of the last
21 delivery if there is a series of deliveries.

22 Section 4. NOTICE AND INFORMATION REQUIREMENT. --

23 A. Before a lien can be applied, notice shall be
24 provided to the customer at the time of any sale on credit in
25 substantially the following form:

. 117035. 1

1 "The sale of animal feed on credit is subject
2 to the Livestock Feed Supplier Lien Act.
3 Failure to pay the agreed or reasonable
4 charges for the animal feed may result
5 in the attachment of a lien to the proceeds
6 of the livestock for which the feed is
7 used or the proceeds of the animal products
8 produced from the livestock. "

9 B. Notice may be provided by stamping or printing
10 the language in Subsection A of this section on the credit
11 application or by stamping or printing that language onto
12 invoices.

13 C. In addition to notices given by application or
14 invoices, a supplier shall provide additional notice information
15 to the customer by certified mail before the lien may be
16 imposed. The notice information shall include the following:

17 (1) the fact that a lien will be imposed if the
18 payment of reasonable or agreed charges are more than thirty
19 days overdue and that the debtor has three alternatives:

- 20 (a) to allow the lien to be filed;
21 (b) to enter into an agreement granting a
22 security interest; and
23 (c) to pay the reasonable or agreed
24 charges; and

25 (2) the notice shall also state that the debtor

1 has until the tenth day after the date on which the notice is
2 received to select one of the three alternatives and that a lien
3 may be filed at any time after the tenth day that the debtor
4 actually receives the notice.

5 D. Notice of the lien shall also be given by
6 certified mail to all previous creditors filed of record holding
7 a security interest on the livestock or the proceeds thereof.

8 Section 5. FILING OF LIEN. --

9 A. The lien provided for in the Livestock Feed
10 Supplier Lien Act shall be filed in the office of the secretary
11 of state and in the office of the county clerk of the county in
12 which the livestock or livestock product is situate.

13 B. The filed lien shall contain the following:

- 14 (1) the name and address of the supplier;
- 15 (2) the name and address of the customer;
- 16 (3) the location of the livestock;
- 17 (4) a statement that the charges are more than
18 thirty days overdue;
- 19 (5) the amount that is overdue;
- 20 (6) a form statement that the supplier gave
21 notice to the customer, that more than ten days have passed
22 since the notice was given, that the debtor has not paid, given
23 a security interest, made arrangement for payment satisfactory
24 to the supplier or consented to the filing of the lien and a
25 declaration that a copy of the lien is being forwarded to the

1 customer within ten days; and

2 (7) the only signature required on the lien is
3 that of the claimant, supplier or his agent within ten days of
4 its filing.

5 Section 6. EFFECT OF SUIT TO ENFORCE LIEN. --If a suit is
6 brought by the supplier to enforce a lien, the lien shall remain
7 in effect, except as provided in Section 7 of the Livestock Feed
8 Supplier Lien Act, until:

9 A. the supplier receives payment of the agreed price
10 or the value of the livestock and livestock product;

11 B. the clerk of the court in which any action is
12 pending receives a deposit in the amount of the lien or claims;
13 or

14 C. a court issues a judgment.

15 Section 7. LIMITATION OF ACTION TO ENFORCE. --No lien
16 provided for in the Livestock Feed Supplier Lien Act remains
17 valid for a longer period than one year after the claim of lien
18 has been filed unless proceedings have been commenced in a court
19 of competent jurisdiction within that time to enforce the lien.

20 Section 8. METHOD FOR RELEASE. --A lien under the Livestock
21 Feed Supplier Lien Act may be released by:

22 A. payment made to the supplier for the agreed or
23 reasonable charges;

24 B. a corporate surety bond, cash deposit or other
25 security, if the value of the claim on the livestock or

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livestock product is secured; or

C. arrangements being made for payment that are
satisfactory to the supplier.

State of New Mexico
House of Representatives

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 8, 1997

Mr. Speaker:

Your AGRICULTURE AND WATER RESOURCES COMMITTEE,
to whom has been referred

HOUSE BILL 1307

has had it under consideration and reports same with
recommendation that it DO PASS, amended as follows:

1. On page 1, line 23, after "C.", strike the remainder of
the line, strike all of line 24, and insert in lieu thereof:

"“animals” or “livestock” means all domestic or domesticated
animals used or raised on a farm or ranch, including the carcasses
thereof, and exotic animals in captivity and includes all horses
and cattle. “Animals” or “livestock” does not include canine or

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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feline animals. For the purpose of the rules and regulations governing meat inspection, wild animals, poultry and birds used for human consumption shall also be included within the meaning of "livestock" or "animal"; and".,

and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

G. X. McSherry, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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The roll call vote was 5 For 0 Against

Yes: 5

Excused: Abeyta, Garnenez, Porter, Townsend

Absent: None

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