



Ninety-Eighth Legislature - First Session - 2003  
**Introducer's Statement of Intent**  
**LB 70**

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**Chairperson:** Mark Quandahl  
**Committee:** Banking, Commerce and Insurance  
**Date of Hearing:** January 21, 2003

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

The intent of LB 70 is to rectify contradictory provisions found in section 52-1603 relating to when a buyer of farm products is liable to a statutory lien holder.

The general rule is that a statutory lien attaches when it is filed with the office of the Nebraska Secretary of State. Section 52-1603 (1) and (2) however create exceptions to that general rule.

Section 52-1603 (1) provides that a buyer of farm products takes the farm product free of any lien created under Chapter 52, article 2, 5, 9, 11, 12, or 14 if the lien *is not* on the most recent master lien list that the buyer subscribes to and receives from the office of the Secretary of State on a quarterly basis. The master lien list notification system exists by virtue of sections 52-1601 and 52-1602. Subsection (1) further provides that a buyer of farm products takes subject to a lien filed after the publication of the last quarterly master lien list and therefore not on the most recent master lien list, *only* if the buyer has received written notice of the lien from the lien holder. Consequently a buyer of farm products may purchase farm products and be protected from claims of lien holders by relying on the most recently published master lien list or whether the buyer has received written notice of the existence of the lien. Under these provisions it is possible that a statutory lien holder could file a lien, but if it is filed after the last quarterly publication of the master lien list, buyers of the farm product otherwise subject to the lien would not have to honor the lien holder's interests unless the lien holder has also given the buyer written notice of the statutory lien.

In its current form, however, section 52-1603 (3) provides that nothing in subsection (1) shall be interpreted to alter the liability of buyers of farm products subject to the liens created pursuant to the provisions set forth in the statutory lien statutes. Subsection (3) is thus inconsistent with subsection (1) and creates the potential risk that buyers of farm products may be liable to lien holders even when the lien is not on the most recent master list and the buyer *has not* received written notice of the lien. Subsection (3) currently refers to only the lien waiver provisions of subsection (2) of section 52-1603 as altering the liability of buyers of farm products. Subsection (1) of section 52-1603 does also, however, alter the general liability of buyers of farm products subject to the statutory liens.

The intent of LB 70 is to amend subsection (3) of section 52-1603 to clarify that the provisions of both subsections (1) and (2) of section 52-1603 alter the general liability of buyers of farm products subject to the statutory liens.

The ability of buyers of farm products to rely on the central filing system and master lien list reporting system is defeated if subsection (3) renders the provisions of subsection (1) ineffective. Adoption of LB 70 which amends the language of subsection (3) to harmonize the provisions of section 52-1603 (3) with subsection (1) resolves this contradiction and supports the purpose of the central filing system and usefulness of the master lien list reporting system.

**Principal Introducer:**

\_\_\_\_\_ **Senator Robert Kremer**