



STEVEN D. STREGE, Executive Vice President  
CHERYAL WELLE, Executive Assistant  
SUE BENSON, Office Assistant  
Ph: 701-235-4184, Fax: 701-235-1026  
118 Broadway N Ste 606, Fargo, ND 58102  
Website: www.ndgda.org

STU LETCHER, Safety & Health Director  
Ph: 701-543-3110, Fax: 701-543-4183  
P.O. Box 314, Hatton, ND 58240

HAL GRIEVE, Safety Specialist  
Ph: 701-633-5256, Fax: 701-633-5258  
204 4th Avenue S., Buffalo, ND 58011

February 12, 2009  
One Page Broadcast Fax

To: North Dakota Elevator Managers and all Allied Members

**ACTION ALERT ON HB 1169 – AG SUPPLIER LIENS** Please email or call your State Representatives (not Senators) with a message to vote no on HB 1169. It could be voted on as early as this afternoon.

HB 1169 was introduced to prohibit the names of a tenant's lenders and lienholders being put on a landlord's check. That is a rarity. Nearly all grain elevators use central notice and follow ND Century Code 41-09-40(7), which is printed on page 177 of your 2008 ND grain elevator directory. In summary this section says that to buy free and clear of security interests and liens you put on the seller's grain check the names of the secured parties and lienholders shown on him in the most recent issue (CD) of the central notice system. The most important point here is that if there is no filing on the landlord, his name won't be in central notice and so no lender or lienholder names will typically go on his grain checks.

NDGDA is aware of one grain company in ND that takes the additional step of checking with the tenant's lenders and lienholders to see if they want their names on the landlord's check. Rarely is that request made. But the fact that it might happen produced this bill. Changing a good supplier lien law because something might happen on rare occasion with a few elevators is not necessary.

Another problem is the new wording "as referenced in the central notice system" inserted right into the supplier lien statute. NDGDA legal counsel says if your lien somehow doesn't get in the notice system you won't have a lien at all. If the filer forgets to check Box B on the ASL-2 Supplier Lien filing form the lien would not go into the notice system and therefore be voided.

There's also a federal law dealing with clear title to ag products. Lenders or lienholders can give direct notice to grain buyers. This is normally not used in central notice system states like North Dakota. But it can come into play when a lien won't get on the Central Notice System until some harvesting has been done. HB 1169 creates a conflict between state and federal law of putting on grain checks the lienholder names received through direct notice that are not on central notice.

To read the entire bill go to <http://www.legis.nd.gov/>. Then drop down to and click on Session Quick Links on the right hand side. Click on House Bills and then 1169. Be sure to read the 3<sup>rd</sup> entry shown, the FIRST ENGROSSMENT version.

To contact your Representative, click on House Members on the Quick Links page. Click on your Representatives' names to get the email addresses. Contact those in your district and any others you might know. Phone #s to leave messages are 1-888-635-3447 and 701-328-3373. The fax number is 701-328-1997.