

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office

March 29, 1999 LB 550

Because the legal identity can be used to get the "gotcha" mentality of both ways, either the banker or the lender. They can both use that if there's a mistake, and you can construct a hypothetical for both of them, defeating a system that's designed really just to be fair notice to the world. I think it's fair notice without the legal description.

SENATOR JENSEN: Then on top of that, the banker is not going to participate in any arrangement without him being...without him being first, unless there is some mistake along the way, but he will not participate unless he is first, and whoever comes after that, he may or may not have a stipulation in there as to whether that's possible.

SENATOR LANDIS: She's unlikely...she's unlikely to participate in some other status. However, there is a variation. Let's say you are an ag input merchant, and you're about to lend credit, \$25,000, to a farmer and you know they are already doing business with the bank. Our existing law allows you to send a letter to the bank with an ag input lien notification statement...

SENATOR SCHIMEK: One minute.

SENATOR LANDIS: ...that says I'm about to lend this guy 25,000 bucks, how much of that will you promise to pay? How much of that will you stand behind? And if the bank acknowledges it, then they're on the hook. If they choose not to honor it, then the person who is asking for the notice gets valuable piece of notice, and if the banker doesn't say anything in 15 days, then the lien on that \$25,000 jumps up above.

SENATOR JENSEN: Above the bank?

SENATOR LANDIS: Above the bank so, believe me, there are existing opportunities out there, I think. We protect our ag input people pretty darn well in this state. They are not without means of protecting themselves, but I've got to tell you, banks hold first position. They don't release it easily. They fight tooth and nail to keep it, and I don't mean to downplay that, and they want to sit first chair. Why? Because they're the ones who are probably underwriting the whole farm.