

NEW DEVELOPMENTS IN AGRICULTURAL LAW:
Landlords Lien, Elevator Failures, Biotechnology and Other New Developments

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Executive Summary

Topic 1: Landlord's Lien and Securing the Payment of Rent

- The Illinois Landlord's Lien Statute was amended effective July 1, 2001; there are two steps a landowner must take to fully utilize the protections of the statute.
- One step is to send actual notice of the Landlord's Lien to prospective purchasers of the crops; this requirement is not new and was first established in 1983; instructions and a form are included in the materials.
- The second step is new; it involves properly filing a UCC1 with the Ill. Secretary of State; there are many technical requirements for the UCC1 to be properly filed; the materials include detailed instructions and examples of completed forms; nevertheless, it is generally wise to consult with legal counsel on this matter.
- Creating and perfecting an Article 9 Security Interest under the Uniform Commercial Code is another way to help assure that a farmland owner will collect the rent; detailed instructions and forms are included, but it would be wise to consult with legal counsel.

Topic 2: Elevator Failures - Lessons From Ty-Walk

- Ty-Walk Liquid Sales, Inc. operated elevator facilities in Minooka, Elwood, Joliet, and Seneca; Ty-Walk failed on August 23, 2001 and the IL Department of Agriculture has begun to liquidate the grain and other assets of the corporation.
- The Illinois Grain Code and the Illinois Grain Insurance Fund will help protect some farmers from losses they otherwise would have incurred because of the failure; some unpaid farmers will be assured of collecting 100% of their valid warehouse and grain dealer claims up to a maximum of \$1,000,000; others will be assured of collecting 85% of their valid grain dealer claims, up to a maximum of \$100,000.
- But the losses of many farmers will not be protected by the Grain Code and Grain Insurance Fund; farmers have no protection when they deliver grain for sale and don't seek payment within 160 days of pricing the grain, or when they delivered grain under a "priced later" contract more than 270 days before the elevator failure; also, farmers are not protected for hedging losses or losses from trading options or futures contracts.
- Ty-Walk also raises various policy issues that should be addressed in the coming year.

Topic 3: Biotechnology and Other New Developments in Agricultural Law

- Farmers may be entitled to compensation from Aventis for StarLink-related damages, either under Aventis claims procedures for the 2001 crop or because of pending litigation.
- Although StarLink remains unapproved for direct food use, other Bt corn varieties which had previously been approved for both food and feed use were recently re-approved by the EPA for another seven years.
- Farmers have important stewardship responsibilities when growing genetically engineered crops fully approved in the U.S. but not in export markets; farmers should do all that is possible to assure these transgenic crops are not inadvertently mixed with export products.

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New Developments in Agricultural Law

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Topics

1. Landlord's Lien and Securing the Payment of Rent (*Thanks to Del Banner, Adjunct Professor of Agricultural Finance, for his assistance in the preparation of these materials regarding the Landlord's Lien and UCC Article 9 Security Interest*)
2. Elevator Failures - Lessons From Ty-Walk
3. Biotechnology and Other New Developments in Agricultural Law



Topic 1: Landlord's Lien and Securing the Payment of Rent

- What tools are available to help assure that farmland rents will be collected?
- What must a farmland owner do to make use of the statutory landlord's lien?
- What about using the UCC Article 9 Security Interest?

Tools to Assure Rent Gets Paid

1. Selecting a trustworthy tenant who has a good reputation as a farmer
2. Collecting some portion of the rent in advance of planting (cash rent situations)
3. *Using the Landlord's Lien on Crops**
4. *Using a UCC Article 9 Security Interest**
5. Other tools

** Affected by legislative changes effective 7/1/01 and focus of Topic #1*

What Does the Landlord's Lien Statute Say? Here's ¶ 1

“Every landlord shall have a lien upon the crops grown or growing upon the demised premises for the rent thereof, whether the same is payable wholly or in part in money or specific articles of property or products of the premises, or labor, and also for the faithful performance of the terms of the lease. Such lien shall continue for the period of 6 months after the expiration of the term for which the premises are demised”

– ¶ 1 (no change) of 735 Ill. Comp. Stat. 5/9-316, Lien Upon Crops, as amended by P.A. 91-893, eff. July 1, 2001

- **Note:** The landlord's lien arises automatically because of the statute; no agreement is needed to create the lien.

Landlord's Lien Statute, ¶ 2

“A good faith purchaser shall, however, take such crops free of any landlord's lien unless, within 6 months prior to the purchase, the landlord provides written notice of his lien to the purchaser by registered or certified mail. Such notice shall contain the names and addresses of the landlord and tenant, and clearly identify the leased property.”

- ¶ 2 (no change) of 735 Ill. Comp. Stat. 5/9-316, Lien Upon Crops, as amended by P.A. 91-893, eff. July 1, 2001
- Note: This requirement to give notice to purchasers arose in 1983 and remains unchanged.

Landlord's Lien Statute, ¶ 3

“A landlord may require that, prior to his tenant's selling any crops grown on the demised premises, the tenant disclose the name of the person to whom the tenant intends to sell those crops. Where such a requirement has been imposed, the tenant shall not sell the crops to any person other than a person who has been disclosed to the landlord as a potential buyer of the crops.”

- ¶ 3 (no change) of 735 Ill. Comp. Stat. 5/9-316, Lien Upon Crops, as amended by P.A. 91-893, effective July 1, 2001
- Note: Under 735 Ill. Comp. Stat. 5/9-316.1, tenant commits a Class A misdemeanor for knowingly violating the tenant's duty to disclose those who will purchase the crop.

Landlord's Lien Statute, ¶ 4

“A lien arising under this Section and duly perfected [emphasis added] under Article 9 of the Uniform Commercial Code shall have priority over any other agricultural lien as defined in, and over any security interest arising under, provisions of Article 9 of the Uniform Commercial Code.”

- ¶ 4 (new) of 735 Ill. Comp. Stat. 5/9-316, Lien Upon Crops, as amended by P.A. 91-893, eff. July 1, 2001.
- Note: Prior to 7/1/01, the Landlord's lien was a priority lien under Illinois case law without the need to be “duly perfected,” I.e., without the need to file a financing statement (a form UCC1).

Issues for Landowner

- What are the advantages/disadvantages of GIVING NOTICE to Elevators as required by ¶ 2 of Statute?
- What are the advantages/disadvantages of PERFECTING as required by new ¶ 4 of Statute?
- Should I give notice? Perfect?
(These are separate questions)

Parties in Three Examples That Will Explore Advantages/Disadvantages

(Note: Examples could be Cash or Crop-Share Leases)

Landowner, who rents 160 acres to Tenant

Tenant, who operates the 160 and borrows money

Elevator, which buys crops from farmers

Bank, which lends money to Tenant and has a
“perfected security interest” in Tenant’s crops

Other Ag Lien Holder, who is Tenant’s neighbor and
who custom-combines Tenant’s crop

Example 1: Rent Unpaid – Tenant Has Sold The Crop

- Hiring a neighbor, Tenant harvests 150 bu./A. corn from the rented 160; delivers all 24,000 bu. to Elevator for sale.
- Elevator pays Tenant \$48,000 for the sold crop
 - If the lease were a crop-share lease, further assume Tenant did not divide Landowner's and Tenant's share and did not instruct Elevator to issue a separate check to Landowner.
- Tenant is insolvent, can't pay off Bank's operating loan, Landowner's rent, custom combining costs, other debts.
- As against the Elevator, is Landlord assured of collecting the unpaid rent?

Answer 1: It Depends

First possibility: *Yes, if Landowner sent Elevator the notice required by statute.*

Landowner can probably collect the unpaid rent from the Elevator since a purchaser with notice takes the crop subject to the Landlord's Lien.

Second possibility: *No, if Landowner did not send the required notice to Elevator.*

If Elevator purchased in good faith, Landowner's only recourse may be against Tenant. Since crop is gone, Landowner's claim for rent is now unsecured and probably will not be fully paid since Tenant insolvent.

Example of Form for Giving Notice (Sent by Registered or Certified Mail)

NOTICE OF LANDLORD'S LIEN

Prospective Purchaser's Name: Local Elevator, Inc.

Prospective Purchaser's Address: 226 Grain Lane,
Anytown, IL 65432

Notice is hereby provided of the landlord's lien upon crops created by 735 Ill. Comp. Stat. 5/9-316. The name and address of the landlord, tenant, and a description of the leased premises are provided below:

Form Continued

Landlord's Name: Ima Careful Landowner

Landlord's Address: 208 S. Vine St., Anytown, IL 65432

Tenant's Name: Good Steward Tenant

Tenant's Address: 1234 Country Rd. 1600 N
Anytown, IL 65432

Description of Leased Premises: Landowner's 160 acres in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 12, T. 10 N, R. 5 W. of 3rd Principal Meridian, located in Rural County, Illinois

Tips Regarding Sending Notice

- When sent, the notices must be sent by registered or certified mail to each prospective purchaser of the crops
- The notices only provide protection during the six month window following the date sent, so a second notice, sent six months after the first, may be of value.

Tips Regarding Sending Notice

- To assure that the list of prospective purchasers of the crop is current, Landowner may wish to include a provision in the lease requiring tenant to disclose names and addresses of those to whom the tenant intends to sell the crops.

Observations Regarding Notice

Notice requirement has existed since 1983

Some landlords send notices to provide
greater assurance that the rent will be paid

Others don't send the notices, perhaps
preferring to rely on the reputation of the
tenant

Questions for Audience

Based on your observations, do most Illinois farm landlords send these notices?

Why or why not?

Is sending the notice something you want to do to help manage risk?

Separate Question:

What about PERFECTING as required by ¶ 4 of Statute?

Landlord's Lien: New Importance of "Perfecting" by Filing w/ Sec. of State

In Illinois, new ¶ 4 of the statute creating the landlord's lien now provides that the landlord's lien has priority over any other agricultural lien, and security interest arising under the Uniform Commercial Code, *but only if the landlord's lien is perfected.*

*Landlord's Lien: New Importance of
"Perfecting" by Filing w/ Sec. of State, Cont'd*

- This is an important change from the pre-July case law where the Landlord's Lien was a priority lien automatically, without the need to perfect by filing.
 - *Dwyer v. Cooksville Grain Co*, 73 Ill. Dec. 497, 117 Ill. App.3d 1001, 454 N.E.2d 357 (Fourth Dist., 1983).
- As of July 1, perfecting the lien is necessary for the landlord to have priority over anyone else beyond the buyer who was given proper notice of the lien.

Example 2: Rent Unpaid – Crop Remains Unsold

(Note: Example could be a Cash or Crop-Share Lease)

Tenant harvests 150 bu./A. corn from the 160 rented acres. Instead of selling the grain, Tenant stores the 24,000 bushels, worth \$48,000, in tenant's own bins.

Bank has a perfected security interest in crops grown by tenant as security for tenant's \$50,000 operating loan.

Tenant is insolvent and can't pay off Bank's operating loan, Landowner's rent, the custom combining costs, and other debts, but the Tenant has not filed bankruptcy.

Is Landlord assured of collecting the unpaid rent?

Answer 2: It Depends!!

First possibility: *Yes, if Landowner properly files a UCC1 with the Secretary of State.*

- A perfected Landlord’s Lien has priority over both the Bank’s perfected security interest, even if Bank filed first, and over the holder of the agricultural lien for custom harvesting.

Second possibility: *No, if Landowner does **not** properly file a UCC1 with the Secretary of State.*

- If Landlord doesn’t file or files improperly, Bank’s perfected security interest in the crop “trumps” both the unperfected Landowner’s Lien and the agricultural lien for custom harvesting (result as to bank is new because of amendments effective 7/1/01)

Example 3: Rent Collected, But Bank Remains Unpaid

(Note: Example Involves Crop-Share Lease)

Tenant harvests 150 bu./A. corn from the 160 rented acres.

Tenant delivers Landlord's share of the crop to elevator in Landowner's name.

Bank has a perfected security interest in crops grown by tenant as security for tenant's \$50,000 operating loan.

Tenant is insolvent and can't pay off Bank's operating loan, the custom combining costs, and other debts, but the Tenant has not filed bankruptcy.

Is Landlord assured of keeping the rent already collected?

Answer 3: It Depends

First possibility: *Yes, if Landowner perfects by properly filing a UCC1 with the Secretary of State.*

- A perfected Landlord’s Lien has priority over both the Bank’s perfected security interest, even if Bank filed first, and over the holder of the agricultural lien for custom harvesting.
- Landowner should be able to keep rent already collected.

Second possibility: *No, if Landowner does **not** properly file a UCC1 with the Secretary of State.*

- Bank’s perfected security interest “trumps” unperfected Landlord’s Lien and the agricultural lien for custom harvesting. It appears Bank could collect from Landlord for converting Bank’s collateral. (New result because of 7/1/01 amendments -- assumes the security agreement between Bank and Tenant described ALL Tenant’s crops and that Tenant owned these crops under Illinois property law)
- *Arguably (but a bad planning strategy), Landlord might cure this problem by filing a UCC1 after the fact since priority of a perfected Landlord’s Lien does not appear to be based on the time of filing*

Perfecting by Filing the UCC1

Where the crops are grown in Illinois, the landlord's lien is perfected by filing a financing statement (the UCC1) with the IL Sec. of State.

The UCC1 form & instructions are available at
<http://www.sos.state.il.us/departments/business_services/ucc1.pdf> and
<<http://www.iaca.org/sts/UCC1.pdf>>

Perfecting by Filing the UCC1

See also the Sec. of State filing rules at

<http://www.sos.state.il.us/departments/business_services/uccfiling_office_rules.pdf>

See other information at

<http://www.sos.state.il.us/departments/business_services/ucc.html>

Filing – 12 Key Points

1. Sooner is better than later if one is going to file.
The statute grants a super-priority to landlord upon perfection – seemingly without regard to the time of filing. But, to delay filing until after a problem arises is surely to invite a challenge.
2. The UCC1 and any Addendum (Form UCC1Ad) should be submitted in duplicate (the “Filing Office Copy” and the “Acknowledgment Copy”)
3. A stamped, self addressed envelope should be enclosed to facilitate return of the Acknowledgment Copy.

12 Key Points – Cont'd

4. All information submitted on the UCC1 should be typewritten
5. Detailed instructions for completion of the UCC1 are set forth on the reverse side of the form and should be followed meticulously.
6. **Great care should be taken to enter the exact names and addresses of the parties!!!!!!!**

12 Key Points – Cont'd

7. The names and addresses of the Tenant (“Debtor” on UCC1) and the Landlord (“Secured Party” on UCC1)
 - Should be typed in capital letters with size 12 Times Roman font
8. Names must be full and exact:
 - Individual: should match name on Social Security Card and Driver’ License for Individual
 - Corporation: match name on Art. of Incorporation
 - LLC, etc.: match name on Art. of Organization
 - General partnership: match name on written agreement

12 Key Points – Cont'd

9. Regarding entering the Social Security Number or the Employer Identification Number on the UCC1
 - the IL Secretary of State does not require the SSN of an individual tenant (the “Debtor” on the UCC1), but
 - does require the FEIN and Organizational ID number (if any) of a tenant that is a registered entity, i.e., corporation, limited liability company or limited partnership

12 Key Points – Cont'd

10. The organizational ID number (File number) is found
 - on the Art. of Incorporation/Organization of the entity,
 - or on an annual report filed with the office of the entity's chartering authority.
11. A box near the lower right hand corner of the form must be "x"ed if the UCC1 is filed to perfect a Landlord's Lien or other agricultural lien.

12 Key Points – Cont'd

12. Form UCC1, typed and prepared in duplicate, and the \$20 filing fee (typically, a check payable to the “Illinois Secretary of State”) is mailed to:

Secretary of State - UCC Division

Howlett Building, Room 030

Springfield, IL 62756

Completing Form UCC1: Instructions & Examples

- UCC1 Instructions*
- Example of UCC1 - Individual Tenant
 - Filing Office Copy *
 - Acknowledgement Copy *
- Mailing to Secretary of State *
- Example of UCC1 - Corporate Tenant
 - Filing Office Copy Only *

* *See Appendices*

Duration of Filing, Effect of Continuation

(These general rules probably apply to LL Lien filings)

- A UCC1 filing remains effective for five years from the date of filing [810 ILCS §5/9-515(a)]
- It may be *continued* by filing a ***UCC3 Continuation Statement within the six-months prior to lapse of the original filing.*** [§5/9-515(d)]

Duration of Filing and Effect of Continuation

- If UCC3 properly filed, the UCC1 filing continues in effect for another five years from the original lapse date. [§5/9-515(e)]
- Neither the Financing Statement nor Continuation Statement need be signed by Tenant [§5/9-502]

Consulting With Legal Counsel

Landowners should consult with their legal counsel:

- About **using** the Landlord's Lien,
- **sending notice** to elevators,
- **filing the UCC1** with the Secretary of State,
- whether it would be wise to also create and perfect a **UCC Article 9 Security Interest** to secure the payment of rent (see next slides), and
- whether **subordination agreements** should be negotiated with Tenant's lenders already holding perfected security interests in crops

Using UCC Art. 9 Security Interest

A landlord can create and perfect a consensual lien (the UCC Article 9 Security Interest) in addition to having the statutory landlord's lien.

There are at least **two potential reasons** for doing so:

First, the scope of tenant's property interests pledged as security for the rent can be expanded beyond the crop (remember, the statutory landlord's lien is only upon the crops grown on the leased premises).

Second, the UCC Article 9 security interest cannot be defeated by a trustee in bankruptcy under Section 545 of the Bankruptcy Code.

Bankruptcy Issue: Section 545 of the Bankruptcy Code

Some commentators believe the Illinois landlord's lien upon crops remains a statutory lien that can be avoided by a trustee in bankruptcy.

See Section 545 of the Bankruptcy Code, which reads in relevant part:

“[t]he trustee may avoid the fixing of a statutory lien on property of the debtor to the extent that such lien . . . (3) is for rent; or (4) is a lien of distress for rent.”

Example: Creating a Security Agreement in the Lease

“As additional security for the payment of rent and the performance of all obligations described in this lease, Good Steward Tenant grants to Ima Careful Landowner a security interest in:

All the crops grown on Landowner’s 160 acres, more or less, in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 12, Township 10 North, Range 5 West of the 3rd Principal Meridian, Rural County, IL.

Furthermore, Good Steward Tenant authorizes Ima Careful Landowner to take such action as may be required to perfect this security interest and agrees to provide any information needed by Landowner to perfect”

(Since A UCC security agreement is consensual, it needs to be signed; here, all parties signed a lease which contained this security agreement)

Giving Notice of the Security Interest to Prospective Purchasers of the Crop

Under 810 ILCS §5/9-320, a buyer of farm products (e.g., an elevator buying crops from a tenant) takes free of any security interest unless the buyer has . . .

- Received written notice of the security interest,
- Sent within the year preceding sale,
- Sent by registered or certified mail, and
- Which meets other specified requirements

(Note similarity to direct notice requirement for statutory landlord's lien)

Perfecting the UCC Art. 9 Security Interest by Filing

- File UCC1 with IL Sec. of State if debtor-tenant is located in Illinois
 - Keying on location of debtor is new since July 1
- A perfected security interest in collateral has priority over an unperfected Security Interest in the same collateral
- If there are several perfected Security Interests in the same collateral, the first to file has priority (unless the holder of the prior-perfected security interest has entered into a subordination agreement)

Security Agreements: Examples of Direct Notice and UCC1

- Giving Direct Notice to Elevator*
- Filing a UCC1 with IL Secretary of State*
- Comparing the Statutory Landlord's Lien with the UCC Art. 9 Security Interest *

**See Appendices*

Review of Topic 1

1. Is the Landlord's Lien created automatically or by agreement?
2. Why might a Landowner want to send direct notices of the landlord's lien to an elevator?
3. Must such notices be sent by registered or certified mail?
4. What is the required content of the notice?
5. If proper notice is sent, how long is the window of protection?

Notes

Topic 1 Review, Continued

6. When would it be best to send the notice?
7. Could a second notice be sent to extend the window of protection?
8. Why might a Landowner want to perfect the Landlord's Lien by Filing a UCC1?
9. Must the names/addresses of the Tenant-Debtor and the Landowner-Secured Party be typed
 - in all caps, and
 - in size 12 Times New Roman type?
10. If yes, why?

Notes

Review of Topic 1, Continued

11. Is the SSN of an individual Tenant-Debtor required? What about a Corporate Debtor, etc.?
12. If info about the Tenant-Debtor is not correct (e.g., misspelled/incomplete name, incorrect organizational ID), what might happen?
13. What needs to be sent to the Secretary of State?
14. Why might a Landowner also want to create and perfect a UCC Article 9 Security Interest?
15. To have an Art. 9 Security Interest, is it necessary to have a Security Agreement? How might it be created?

Notes

Review of Topic 1, Continued

16. Why might a Landowner want to give actual notice of the Security Interest to an elevator?
17. How must such notices be sent and what is the required content of the notice?
18. If proper notice of the Security Interest is sent, how long is the window of protection?
19. Is the Art. 9 Security Interest perfected in the same way the Landlord's Lien is perfected?
20. Why perfect?
21. Should you consult with your legal counsel?

Notes



Topic 2: Elevator Failures - Learning From Ty-Walk

- Overview of Ty-Walk Bankruptcy
- Overview of Illinois Grain Code and Grain Insurance Fund
- Which Farmers Were Not Protected and What Can We Learn From Their Losses?
- What Policy Issues Were Raised And Need to Be Resolved?

Overview of Ty-Walk Failure

Ty-Walk Liquid Sales, Inc. operated elevators in Minooka, Elwood, Joliet, and Seneca

Ty-Walk had a “Farmer Marketing Program” which may have contributed to its financial difficulties

Late July: IL Dept of Ag began review of Ty-Walk records

August 23, 2001 (date of elevator failure)

- Ty-Walk voluntarily surrendered Grain Dealer and Grain Warehouse Licenses
- Ty-Walk went into IL Dept. of Ag Receivership

August 30, 2001: IDOA Info meets for farmers and creditors

Overview of Ty-Walk Failure, Cont'd

Early September: IDOA sold corn and beans from elevators to ADM for more than \$3 million

Oct. 15: *FarmWeek* reports millions of bu. of grain missing

October 24: Ty-Walk in Bankruptcy (Ch. 7 Liquid.)

About Nov. 1: IDOA sold company vehicles for \$1.6 million

Early Nov.: Minooka & Elwood reopened (leased facilities)

Overview of Ty-Walk Failure, Cont'd

Nov. 21: Last day to file claims with IDOA

- About 350 Grain Dealer & Grain Warehouse Claims filed w/ IDOA

Dec. 21: IDOA's deadline to rule on validity of claims

Assets potentially available to claimants:

- Grain Assets (proceeds of liquidation)*
- Other company assets (proceeds of liquidation) not taken by Trustee in Bankruptcy or Secured Creditors*
- \$4.85 million balance in IL Grain Insurance Fund

* *Proceeds deposited in "Grain Indemnity Trust Account"*

Illinois Grain Code

240 Ill. Compiled Statutes §40/1-1 *et seq.*

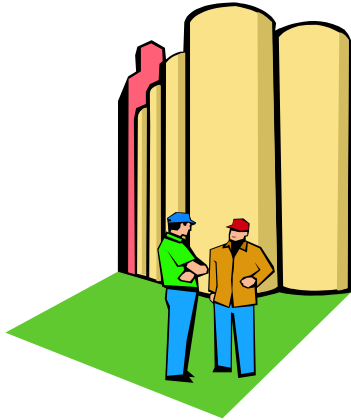
- Provides for Licensing and oversight by IDOA of Grain Dealers and Warehouses
- Creates the Grain Insurance Fund to help protect farmers, etc., in event of elevator failure
- Requires assessments on grain elevators/dealers until Grain Insurance Fund balance is \$3 million
Fund currently at about \$4.85 million
One year of assessments = about \$900,000

Illinois Grain Code, Cont'd

- Provides that Fund is backed up by State Treasury, but State Treasury to be reimbursed in future (§40/25-20(h))
- Sets forth duties of licensed dealers & elevators; identifies criminal offenses for violating duties
- Creates a Statutory Lien on licensee's grain and equity assets in favor of (a) those who stored or sold grain to licensee, and (b) secured creditors

Illinois Grain Code, Cont'd

- Sets forth liquidation procedures for grain and equity assets (subject to protections for secured creditors) of a failed elevator; IDOA to deposit proceeds of liquidation in “Grain Indemnity Trust Account”
- Sets forth Claims procedures and max payments to claimants by category
- Valid claims are first paid out of the Trust Account, and then out of the GIF
- GIF is to farmers what an insured deposit (FDIC) is to a bank depositor



Warehouse Claims: Farmer Stored Grain

Warehouse claims arise when the farmer stored grain at the elevator and farmer's stored grain somehow disappeared or is claimed by other creditors of the elevator and is unavailable to the farmer.

Illinois Grain Code, cont'd

Warehouse Claims: 100%/\$1,000,000

Valid warehouse claims are paid 100%, first out of the Trust Account and then out of the GIF, except that not more than \$1,000,000 can be paid to any one claimant out of the GIF.

The \$1,000,000 is a cap on recovery for any one claimant out of the GIF, regardless of the combination of Warehouse or Grain Dealer Claims by the claimant

Illinois Grain Code, Cont'd



Grain Dealer Claims: Farmer Sold Grain

In some cases, valid grain dealer claims are paid at 100%, but not more than \$1,000,000 per claimant from the GIF

- The grain must have been delivered for sale and priced within 21 days of the elevator failure
- In the Ty-Walk example, the grain would need to be delivered and priced on or after Aug. 2, 2001

Illinois Grain Code, Cont'd

Grain Dealer Claims: 85%/\$100,000

In other cases, valid claims are paid at 85%, but not more than \$100,000 per claimant from the GIF

E.g., Grain was delivered and priced between 160 and 21 days before the failure

- For Ty-Walk, grain was delivered and priced on or after 3/16/2001 and before 8/2/2001

Illinois Grain Code, Cont'd

Grain Dealer Claims: 85%/\$100,000

- E.g., a “priced later” contract where the delivery date is within 270 days of elevator failure (on or after 11/26/2000 for Ty-Walk) and
- Grain is not yet priced at the time of failure, e.g., 8/23/01 for Ty-Walk, or
 - Pricing was within 160 days of the failure, e.g., on or after 3/16/01 for Ty-Walk

What Farmers Are Not Protected?

- Farmers who stored/sold to an unlicensed elevator.
- Farmers selling delivered grain who violated 160 Day Rule.
 - If an unpaid farmer completed pricing delivered grain more than 160 days before the elevator failure but did not receive payment, that claim is not entitled to payment out of the Trust Account or GIF
 - Moral: Get payment for delivered grain within 160 days of pricing your grain!

Unprotected Farmers, Cont'd

- Farmers selling grain who violated 270 Day Rule.
 - If the unpaid producer sold the grain under a “priced later” contract more than 270 days before the elevator failure, that claim is not entitled to payment out of the Trust Account or GIF
 - Moral: Get payment on priced later contracts within 270 days of the contract or delivery date and within 160 days of pricing grain!
- Unpaid Farmers with contracts to deliver grain, but who have not actually delivered the grain
 - Moral: Understand the risks associated with using an elevator’s “Farmer Marketing Program” and the limitations of the Grain Code in providing protection

Lessons for Marketing 2001 Crop

Assumptions:

Farmer delivers grain to elevator on November 31, 2001

Farmer wants to remain protected by the IL Grain Code

Questions:

1. If farmer priced grain on date of delivery, how long can farmer delay payment and still be protected 100% up to \$1,000,000?
2. If farmer priced grain on date of delivery, how long can farmer delay payment and still be protected 85% up to \$100,000?
3. If farmer sold grain on a priced later contract, how long can farmer delay payment and still be protected 85% up to \$100,000?
4. If farmer prices his "priced later" grain 2/28/02, how long can farmer delay payment and still be protected 85% up to \$100,000?

Does Grain Code protect farmers for losses incurred through hedging, or trading options or futures contracts, etc?

Possible Answers

- 270th day after 11/31 delivery = Aug. 27, 2002
- 160th day after 02/28 pricing = Aug. 7, 2002
- 160th day after 11/31 delivery = May 9, 2002
- 21st day after 11/31 delivery = Dec. 21, 2001
- Grain Code and GIF only protect unpaid farmers as to grain deliver to a licensed facility
 - Hedging losses or losses from trading options or futures contracts, whether done directly or through “marketing services” provided by an elevator, are not covered

Policy Issues Raised by Ty-Walk

Regulating Farmer Marketing Services

Role of Commodity Futures Trading Commission?

IDOA Oversight of Licensees

Should the oversight be increased? If so, how?

270 Day Rule

Should it be unlawful to have Priced Later contracts extend beyond 270 days?

Should the 270 day rule be changed to a 360 day rule, or totally eliminated?

Policy Issues Raised by Ty-Walk

\$100,000/\$1,000,000 Payment Limits

Should they be increased or eliminated?

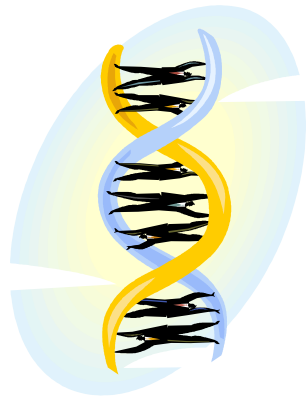
Grain Insurance Fund

Should the \$3 million target be raised?

How should the GIF be funded?

Other Issues?

*Note: Dir. Hampton appointing a Grain Industry
Task Force to explore such issues*



Topic 3: Biotechnology and Other New Developments in Agricultural Law

- StarLink
 - Farmer Claims for StarLink-related Damages
 - StarLink-related Issues For the Regulatory System
 - New StarLink Case Study
- EPA Reauthorizes Bt Corn for seven years
 - What stewardship responsibilities do farmers have when they grow genetically engineered crops (corn or beans) fully approved in U.S. but not approved overseas?
- Other New Developments in Agricultural Law as identified by audience

Claims for StarLink-related Damages

1. Aventis' Enhanced Stewardship Program for 2000 corn crop expired 9/1/01
 - Very Successful in identifying and channeling StarLink to approved uses
 - What was your experience with the claims procedures?
 - Expensive: e.g. > \$10 million paid in Iowa
 - But some Cry9C likely to be in 2001 crop

Claims for StarLink-related Damages

2. Claims Procedures for Farmers who discover Cry9C in 2001 corn crop
 - Call StarLink Logistics, 866-785-8665, if Cry9C reduces value of any 2001 corn
 - See <www.starlinkcorn.com.
 - Note: Aventis Crop Science is being sold to Bayer AG, but the Aventis parent company remains responsible for StarLink-related liabilities according to Iowa Attorney General

Claims for StarLink-related Damages

3. Consolidated Federal Class Action Lawsuits

- Has the StarLink saga depressed the market for all U.S. corn?
- This issue is being litigated in numerous class action lawsuits that were consolidated as multi-district litigation in the Northern District of Illinois
- See *StarLink Corn Products Liability Litigation*, No. MDL 1403, 152 F. Supp. 2d 1378 (June 30, 2001)

Regulatory Issues Identified by Pew Initiative on Food and Biotechnology

1. Allergenicity
2. Split approvals
3. Conditional approvals to increase compliance with use restrictions
4. Enforcement of use restrictions

Regulatory Issues Identified by Pew Initiative on Food and Biotechnology

5. Role of Government on the farm & down the food chain
6. Public confidence and economic issues
7. Institutional issues

See the *StarLink Case: Issues for the Future* available at
<http://www.pewtrusts.com/search/search_results.cfm>

New StarLink Case Study

The StarLink Saga: A Case Study of Agricultural Biotechnology Regulation

By Donald L. Uchtman

Go to the following Web Site:

<http://www.farmdoc.uiuc.edu/legal/index.html>

and search under “Agricultural Biotechnology”

New StarLink Case Study

- This prepublication copy (article to be published in the Drake Journal of Agricultural Law) discusses:
 - The Pre-StarLink evolution of the U.S. Biotech Regulatory System
 - Regulation of StarLink by APHIS, FDA, EPA
 - Efforts to manage the StarLink Problem
 - StarLink-related assessments of, and adjustments in, the Biotech Regulatory System
 - Ten preliminary lessons from the StarLink Saga

EPA Approves BT Corn

- The plant-incorporated protectants produced in Bt corn varieties like YieldGard™ and Herculex™ were undergoing the pesticide re-registration process while the StarLink saga was unfolding
- StarLink, with non-food use approval, was planted on less than 1/2 percent of total U.S. corn acreage in 1999 and 2000, but other Bt corn varieties approved for both feed and food use were being planted on about 25% of U.S. corn acreage

EPA Approves BT Corn

- The reassessment of plant-incorporated protectants in these *Bt* corn varieties was completed on 10/16/01
- The registrations are now set to expire automatically on 10/15/08
- EPA conditioned the registrations on the submission of certain confirmative data
 - for example, data regarding field impacts of the Bt pesticidal proteins on non-target species.

When you grow genetically engineered varieties (corn or beans) fully approved in U.S. but not approved in overseas markets, what special stewardship responsibilities do you have?

Appendices

New Developments in Agri. Law

- A. Notice of Landlord's Lien
- B. Instructions for Filing UCC1
- C. UCC1 for Ag Lien
 - Individual, Filing Office Copy
- D. UCC1 for Ag Lien
 - Individual, Acknowledgement Copy
- E. Mailing UCC1 to IL Sec. of State

Ag Law Appendices , Cont'd

- F. UCC1 for Ag Lien
 - Corporation, Filing Office Copy
- G. Notice of Security Interest in Farm Products
- H. UCC1 for Security Interest
 - Individual, Filing Office Copy
- I. Comparison of Landlord's Lien and UCC Art. 9 Security Interest
- J. Ty-Walk Information from IDOA (2 pages)

Appendix A

NOTICE OF LANDLORD'S LIEN
Sent by Registered or Certified Mail

Prospective Purchaser's Name & Address: Local Elevator, Inc.
226 Grain Lane
Anytown, IL 65432

NOTICE IS HEREBY PROVIDED OF THE LANDLORD'S LIEN UPON CROPS CREATED BY 735 ILL. COMP. STAT. 5/9-316. THE NAME AND ADDRESS OF THE LANDLORD, TENANT, AND A DESCRIPTION OF THE LEASED PREMISES ARE PROVIDED BELOW:

Name and Address of Landlord: Ima Careful Landowner
208 S. Vine St.
Anytown, IL 65432

Name and Address of Tenant: Good Steward Tenant
1234 County Road 1600 N
Anytown, IL 65432

Description of Leased Premises: All land owned by Ima Careful Landowner and further described as follows: SW 1/4 of NE 1/4 of Section 12, Township 10 North, Range 5 East of the 3rd Principal Meridian, Rural County, Illinois and all other land owned by Ima Careful Landowner in Rural County, Illinois

Appendix B

Instructions for National UCC Financing Statement (Form UCC1)

Please type or laser-print this form. Be sure it is completely legible. Read all Instructions, especially Instruction 1; correct Debtor name is crucial. Follow Instructions completely.

Fill in form very carefully; mistakes may have important legal consequences. If you have questions, consult your attorney. Filing office cannot give legal advice. Do not insert anything in the open space in the upper portion of this form; it is reserved for filing office use.

When properly completed, send Filing Office Copy, with required fee, to filing office. If you want an acknowledgment, complete item B and, if filing in a filing office that returns an acknowledgment copy furnished by filer, you may also send Acknowledgment Copy; otherwise detach. If you want to make a search request, complete item 7 (after reading Instruction 7 below) and send Search Report Copy, otherwise detach. Always detach Debtor and Secured Party Copies.

If you need to use attachments, use 8-1/2 X 11 inch sheets and put at the top of each sheet the name of the first Debtor, formatted exactly as it appears in item 1 of this form; you are encouraged to use Addendum (Form UCC1Ad).

A. To assist filing offices that might wish to communicate with filer, filer may provide information in item A. This item is optional.

B. Complete item B if you want an acknowledgment sent to you. If filing in a filing office that returns an acknowledgment copy furnished by filer, present simultaneously with this form a carbon or other copy of this form for use as an acknowledgment copy.

1. **Debtor name:** Enter only one Debtor name in item 1, an organization's name (1a) or an individual's name (1b). Enter Debtor's exact full legal name. Don't abbreviate.
 - 1a. **Organization Debtor.** "Organization" means an entity having a legal identity separate from its owner. A partnership is an organization; a sole proprietorship is not an organization, even if it does business under a trade name. If Debtor is a partnership, enter exact full legal name of partnership; you need not enter names of partners as additional Debtors. If Debtor is a registered organization (e.g., corporation, limited partnership, limited liability company), it is advisable to examine Debtor's current filed charter documents to determine Debtor's correct name, organization type, and jurisdiction of organization.
 - 1b. **Individual Debtor.** "Individual" means a natural person; this includes a sole proprietorship, whether or not operating under a trade name. Don't use prefixes (Mr., Mrs., Ms.). Use suffix box only for titles of lineage (Jr., Sr., III) and not for other suffixes or titles (e.g., M.D.). Use married woman's personal name (Mary Smith, not Mrs. John Smith). Enter individual Debtor's family name (surname) in Last Name box, first given name in First Name box, and all additional given names in Middle Name box.

For both organization and individual Debtors: Don't use Debtor's trade name, DBA, AKA, FKA, Division name, etc. in place of or combined with Debtor's legal name; you may add such other names as additional Debtors if you wish (but this is neither required nor recommended).
 - 1c. An address is always required for the Debtor named in 1a or 1b.
 - 1d. Debtor's taxpayer identification number (tax ID #) — social security number or employer identification number — may be required in some states.
 - 1e,f,g. "Additional information re organization Debtor" is always required. Type of organization and jurisdiction of organization as well as Debtor's exact legal name can be determined from Debtor's current filed charter document. Organizational ID #, if any, is assigned by the agency where the charter document was filed; this is different from tax ID #; this should be entered preceded by the 2-character U.S. Postal identification of state of organization if one of the United States (e.g., CA12345, for a California corporation whose organizational ID # is 12345); if agency does not assign organizational ID #, check box in item 1g indicating "none."
2. If an additional Debtor is included, complete item 2, determined and formatted per Instruction 1. To include further additional Debtors, or one or more additional Secured Parties, attach either Addendum (Form UCC1Ad) or other additional page(s), using correct name format. Follow Instruction 1 for determining and formatting additional names.
 3. Enter information for Secured Party or Total Assignee, determined and formatted per Instruction 1. If there is more than one Secured Party, see Instruction 2. If there has been a total assignment of the Secured Party's interest prior to filing this form, you may either (1) enter Assignor S/P's name and address in item 3 and file an Amendment (Form UCC3) [see item 5 of that form]; or (2) enter Total Assignee's name and address in item 3 and, if you wish, also attaching Addendum (Form UCC1Ad) giving Assignor S/P's name and address in item 12.
 4. Use item 4 to indicate the collateral covered by this Financing Statement. If space in item 4 is insufficient, put the entire collateral description or continuation of the collateral description on either Addendum (Form UCC1Ad) or other attached additional page(s).
 5. If filer desires (at filer's option) to use titles of lessee and lessor, or consignee and consignor, or seller and buyer (in the case of accounts or chattel paper), or bailee and bailor instead of Debtor and Secured Party, check the appropriate box in item 5. If this is an agricultural lien (as defined in applicable Commercial Code) filing or is otherwise not a UCC security interest filing (e.g., a tax lien, judgment lien, etc.), check the appropriate box in item 5, complete items 1-7 as applicable and attach any other items required under other law.
 6. If this Financing Statement is filed as a fixture filing or if the collateral consists of timber to be cut or as-extracted collateral, complete items 1-5, check the box in item 6, and complete the required information (items 13, 14 and/or 15) on Addendum (Form UCC1Ad).
 7. This item is optional. Check appropriate box in item 7 to request Search Report(s) on all or some of the Debtors named in this Financing Statement. The Report will list all Financing Statements on file against the designated Debtor on the date of the Report, including this Financing Statement. There is an additional fee for each Report. If you have checked a box in item 7, file Search Report Copy together with Filing Officer Copy (and Acknowledgment Copy). Note: Not all states do searches and not all states will honor a search request made via this form; some states require a separate request form.
 8. This item is optional and is for filer's use only. For filer's convenience of reference, filer may enter in item 8 any identifying information (e.g., Secured Party's loan number, law firm file number, Debtor's name or other identification, state in which form is being filed, etc.) that filer may find useful.

Note: If Debtor is a trust or a trustee acting with respect to property held in trust, enter Debtor's name in item 1 and attach Addendum (Form UCC1Ad) and check appropriate box in item 17. If Debtor is a decedent's estate, enter name of deceased individual in item 1b and attach Addendum (Form UCC1Ad) and check appropriate box in item 17. If Debtor is a transmitting utility or this Financing Statement is filed in connection with a Manufactured-Home Transaction or a Public-Finance Transaction as defined in applicable Commercial Code, attach Addendum (Form UCC1Ad) and check appropriate box in item 18.

Appendix C
UCC1 for Ag Lien
Individual Tenant
Filing Office Copy

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME

OR

1b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

1c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

1d. TAX ID #: SSN OR EIN ADD'L INFO RE ORGANIZATION DEBTOR 1e. TYPE OF ORGANIZATION 1f. JURISDICTION OF ORGANIZATION 1g. ORGANIZATIONAL ID #, if any

NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

2c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

2d. TAX ID #: SSN OR EIN ADD'L INFO RE ORGANIZATION DEBTOR 2e. TYPE OF ORGANIZATION 2f. JURISDICTION OF ORGANIZATION 2g. ORGANIZATIONAL ID #, if any

NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME

OR

3b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

3c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

4. This FINANCING STATEMENT covers the following collateral:

5. ALTERNATIVE DESIGNATION [if applicable]: LESSEE/LESSOR CONSIGNEE/CONSIGNOR BAILEE/BAILOR SELLER/BUYER AG. LIEN NON-UCC FILING

6. This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable] 7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [ADDITIONAL FEE] [optional] All Debtors Debtor 1 Debtor 2

8. OPTIONAL FILER REFERENCE DATA

Appendix D
UCC1 for Ag Lien
Individual Tenant
Acknowledgment Copy

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

| |
|---|
| A. NAME & PHONE OF CONTACT AT FILER [optional] |
| B. SEND ACKNOWLEDGMENT TO: (Name and Address) |
| <div style="border: 1px solid black; width: 80%; margin: auto; height: 80%;"></div> |

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

| | | | | | | |
|--------------------------|-----------------------------------|--------------------------|----------------------------------|-------------|---------------------------------|-------------------------------|
| 1a. ORGANIZATION'S NAME | | | | | | |
| OR | 1b. INDIVIDUAL'S LAST NAME | | FIRST NAME | MIDDLE NAME | SUFFIX | |
| 1c. MAILING ADDRESS | | | CITY | STATE | POSTAL CODE | COUNTRY |
| 1d. TAX ID #: SSN OR EIN | ADD'L INFO RE ORGANIZATION DEBTOR | 1e. TYPE OF ORGANIZATION | 1f. JURISDICTION OF ORGANIZATION | | 1g. ORGANIZATIONAL ID #, if any | <input type="checkbox"/> NONE |

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

| | | | | | | |
|--------------------------|-----------------------------------|--------------------------|----------------------------------|-------------|---------------------------------|-------------------------------|
| 2a. ORGANIZATION'S NAME | | | | | | |
| OR | 2b. INDIVIDUAL'S LAST NAME | | FIRST NAME | MIDDLE NAME | SUFFIX | |
| 2c. MAILING ADDRESS | | | CITY | STATE | POSTAL CODE | COUNTRY |
| 2d. TAX ID #: SSN OR EIN | ADD'L INFO RE ORGANIZATION DEBTOR | 2e. TYPE OF ORGANIZATION | 2f. JURISDICTION OF ORGANIZATION | | 2g. ORGANIZATIONAL ID #, if any | <input type="checkbox"/> NONE |

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

| | | | | | | |
|-------------------------|----------------------------|--|------------|-------------|-------------|---------|
| 3a. ORGANIZATION'S NAME | | | | | | |
| OR | 3b. INDIVIDUAL'S LAST NAME | | FIRST NAME | MIDDLE NAME | SUFFIX | |
| 3c. MAILING ADDRESS | | | CITY | STATE | POSTAL CODE | COUNTRY |

4. This FINANCING STATEMENT covers the following collateral:

| | | | | | | |
|--|--|---|--|---------------------------------------|-----------------------------------|---|
| 5. ALTERNATIVE DESIGNATION [if applicable]: | <input type="checkbox"/> LESSEE/LESSOR | <input type="checkbox"/> CONSIGNEE/CONSIGNOR | <input type="checkbox"/> BAILEE/BAILOR | <input type="checkbox"/> SELLER/BUYER | <input type="checkbox"/> AG. LIEN | <input type="checkbox"/> NON-UCC FILING |
| 6. <input type="checkbox"/> This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum | <input type="checkbox"/> if applicable | 7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [ADDITIONAL FEE] (optional) | | <input type="checkbox"/> All Debtors | <input type="checkbox"/> Debtor 1 | <input type="checkbox"/> Debtor 2 |
| 8. OPTIONAL FILER REFERENCE DATA | | | | | | |

Appendix E

MAILING UCC1 TO ILLINOIS SECRETARY OF STATE

Envelope:

| | |
|--|-------------------------|
| Ima Careful Landowner 208 S. Vine St. Anytown, IL 65432 | First Class Post- |
| Secretary of State - UCC Division Howlett Building, Room 030 Springfield, IL 62756 | |

Enclose Check:

| | |
|---|-----|
| Ima Careful Landowner 208 S. Vine St. Anytown, IL 65432 | 334 |
| PAY TO THE ORDER OF <u>Illinois Secretary of State</u> \$ 20.00 <u>Twenty and xx /100</u> ----- DOLLARS | |
| MEMO: <u>UCC1 filing fee for LL Lien</u> <u>Ima Careful Landowner</u> | |

Enclose Additional Items:

- Completed UCC1 (Filing Office Copy)
- Completed UCC1 (Acknowledgment Copy)
- Self Addressed, Stamped Envelope (for return of Acknowledgment Copy)

Appendix F
UCC1 for Ag Lien
Corporate Tenant
Filing Office Copy Only

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME

OR

1b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

1c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

1d. TAX ID #: SSN OR EIN ADD'L INFO RE ORGANIZATION DEBTOR 1e. TYPE OF ORGANIZATION 1f. JURISDICTION OF ORGANIZATION 1g. ORGANIZATIONAL ID #, if any

NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

2c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

2d. TAX ID #: SSN OR EIN ADD'L INFO RE ORGANIZATION DEBTOR 2e. TYPE OF ORGANIZATION 2f. JURISDICTION OF ORGANIZATION 2g. ORGANIZATIONAL ID #, if any

NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME

OR

3b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

3c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

4. This FINANCING STATEMENT covers the following collateral:

5. ALTERNATIVE DESIGNATION [if applicable]: LESSEE/LESSOR CONSIGNEE/CONSIGNOR BAILEE/BAILOR SELLER/BUYER AG. LIEN NON-UCC FILING

6. This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable] 7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [ADDITIONAL FEE] [optional] All Debtors Debtor 1 Debtor 2

8. OPTIONAL FILER REFERENCE DATA

Appendix G

NOTICE OF SECURITY INTEREST IN FARM PRODUCTS

Given in Accordance with 810 Illinois Compiled Statutes §5/9-320

Sent by Registered or Certified Mail

Type of Farm Products subject to this Security Interest:

Crops

Livestock

Supplies Used or Produced in a Farming Operation

Products of Crops or Livestock in Their Un-manufactured States

Prospective Purchaser's Name & Address: Local Elevator, Inc.
226 Grain Lane
Anytown, IL 65432

Name and Address of Secured Party: Ima Careful Landowner
208 S. Vine St.
Anytown, IL 65432

Name and Address of Debtor: Good Steward Tenant
1234 County Road 1600 N
Anytown, IL 65432

Debtor's Social Security No. or TIN: 987-65-4321

Description of Farm Products: All crops grown during the 2001 and later crop years on land owned by Ima Careful Landowner and further described as follows: SW 1/4 of NE 1/4 of Section 12, Township 10 North, Range 5 East of the 3rd Principal Meridian, Rural County, Illinois and all other land owned by Ima Careful Landowner in Rural County, Illinois

Conditions for Waiver of Security Interest: None

This Security Interest is waived as to crops sold to the elevator if the payment is made by a check which (a) is jointly payable to Secured Party-Landowner and Debtor-Tenant and (b) is honored by the bank on which it is drawn.

This Security Interest is waived as to a particular crop where (a) the particular crop is divided at time of delivery to the elevator into the Secured Party-Landowner's share (50%) and the Debtor-Tenant's share (50%), (b) each share is either stored or sold in the name of the respective owner of that share, and (c) if sold, the check in payment is for the correct amount and is honored by the bank on which it is drawn.

Appendix H
UCC1 for Security Agreement
Individual Tenant
Filing Office Copy Only

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME

OR

1b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

1c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

1d. TAX ID #: SSN OR EIN ADD'L INFO RE ORGANIZATION DEBTOR 1e. TYPE OF ORGANIZATION 1f. JURISDICTION OF ORGANIZATION 1g. ORGANIZATIONAL ID #, if any

NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME

OR

2b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

2c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

2d. TAX ID #: SSN OR EIN ADD'L INFO RE ORGANIZATION DEBTOR 2e. TYPE OF ORGANIZATION 2f. JURISDICTION OF ORGANIZATION 2g. ORGANIZATIONAL ID #, if any

NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME

OR

3b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

3c. MAILING ADDRESS CITY STATE POSTAL CODE COUNTRY

4. This FINANCING STATEMENT covers the following collateral:

5. ALTERNATIVE DESIGNATION [if applicable]: LESSEE/LESSOR CONSIGNEE/CONSIGNOR BAILEE/BAILOR SELLER/BUYER AG. LIEN NON-UCC FILING

6. This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable] 7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [ADDITIONAL FEE] [optional] All Debtors Debtor 1 Debtor 2

8. OPTIONAL FILER REFERENCE DATA

Appendix I

Illinois Statutory Landlord's Lien Upon Crops

v.

UCC Article 9 Security Interests:

Comparison After Illinois Amendments Effective July 1, 2001

by D. L. Uchtmann

| | <i>Stat. Landlord's Lien Upon Crops [an Agricultural Lien per new Art. 9] (See generally 735 ILCS 5/9-316)</i> | UCC Art. 9 Security Interest <i>(See 810 ILCS 5/9-101 et seq.)</i> |
|--|--|--|
| Creation: | Created automatically by statute | Created by agreement of parties |
| Perfection: | File UCC1 with IL Sec. of State if crops grown in Illinois (new rule) <i>See 810 ILCS 5/9-302</i> <i>See SOS Website for filing mechanics</i> | File UCC1 with IL Sec. of State <u>if debtor-tenant located in IL</u> <i>Keying on location of debtor is new</i> <i>See 810 ILCS 5/9-301(1) & 501(a)</i> |
| Priority Under UCC: | <u>If perfected</u> , priority over other ag liens and Art. 9 Security Interests, regardless of when UCC1 filed (new) | If perfected, filing date determines priority [but perfected LL's Lien still "trumps" per UCC 9-322(g)] |
| Effectiveness against buyers if no Notice: | Good faith purchaser (e.g., elevator) takes crops free of lien unless, <u>within 6 mo.</u> of purchase, Landlord sent notice. <i>See 735 ILCS 5/9-316.</i> | Buyer of farm products takes free of Sec. Int. created by seller unless, <u>within 1 year</u> of sale, Landlord sent notice. <i>See 810 ILCS 5/9-320 (f).</i> |
| Notice Detail: | <i>See generally 735 ILCS 5/9-316 (¶ 2).</i> | <i>See 810 ILCS 5/9-320(f)(1)(A)&(2).</i> |
| <i>Duration:</i> | 6 months | 12 months |
| <i>Organized:</i> | N/A | According to Farm Products |
| <i>Contents:</i> | <ul style="list-style-type: none"> • Silent about original or copy; • Name & Address of Secured Party; • Name & Address of Debtor; • Silent about SSN and EIN (But SOS wants Organization ID No. on UCC1) • Clearly identify leased property • Silent on need to state payment obligations | <ul style="list-style-type: none"> • Notice can be original or copy; • Name & Address of Secured Party; • Name & Address of Debtor; • Social Sec. No. of Debtor (EIN if Debtor not individual) • Description of Farm Products (amount of such products where applicable, crop year, county, reasonable description of property) • Sets forth any payment obligations (e.g., issuing jt checks) as conditions for waiver of Security Interest |
| <i>How sent:</i> | Registered or Certified Mail | Registered or Certified Mail |
| Purchasers Addresses: | Tenant must provide if requested, and shall not sell to others not disclosed | Security agreement can require this. <i>See 810 ILCS 5/9-205.1 & 315.02</i> |
| Agents: | Silent on Agents Duties/Liability | <i>See 810 ILCS 5/9-320.1 & 320.2</i> |
| Bankruptcy: | Trustee can avoid under Sec. 545? | Trustee cannot avoid under § 545 |

Appendix J

**ILLINOIS DEPARTMENT OF AGRICULTURE
TY-WALK LIQUID SALES, INC.
INFORMATIONAL CREDITORS MEETING
7:00 P.M. - August 30, 2001**

The grain dealer and grain warehouse licenses of Ty-Walk Liquid Sales, Inc. were **voluntarily surrendered** to the Department on **August 23, 2001 (date of failure)**. The following information outlines the process and procedures that will be followed by the Department to compensate grain claimants.

CLOSE OUT PRICES USED FOR COMPENSATING CLAIMANTS

Prices were determined by averaging cash bids as of the close of business on August 23, 2001 from area grain dealers operating in the Ty-Walk Liquid Sales, Inc. marketing area as provided for in the Grain Code.

(Unpriced Obligations) Grain delivered to Ty-Walk Liquid Sales, Inc.

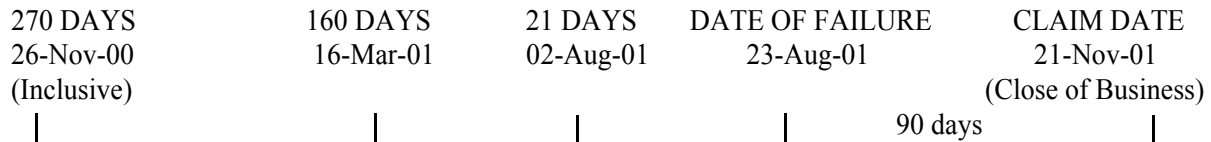
| | | |
|-------------------------|-----------------------------|-------------------|
| Yellow Corn 1.9475 | Yellow Soybeans 4.7225 | Wheat 2.5275 |
|-------------------------|-----------------------------|-------------------|

(Unpriced Obligations) Grain delivered to river for the account of Ty-Walk Liquid Sales, Inc.

| | | |
|-------------------------|-----------------------------|-------------------|
| Yellow Corn 2.0375 | Yellow Soybeans 4.7775 | Wheat 2.5725 |
|-------------------------|-----------------------------|-------------------|

CLAIMANT COMPENSATION

Timeline for determining level of compensation



- I. Warehouse Claims covered 100%, subject to \$1,000,000 maximum draw from the Grain Insurance Fund:
 - A. All grain in storage with the failed elevator.

- II. Grain Dealer Claims covered 100%, subject to \$1,000,000 maximum draw from the Grain Insurance Fund:
 - A. Covers a producer who has completed delivery and pricing of grain within 21 days of the date of failure (on or after 8-2-2001)

- III. Grain Dealer Claims covered 85%, \$100,000 maximum:
 - A. Producers who have completed delivery and priced this grain within 160 days of the date of failure (on or after 3/16/2001 and before 8/2/2001)
 - 1. If grain in this category was sold on price later contract, the date of delivery was within 270 days of the date of failure (on or after 11/26/2000) and pricing occurred within 160 days of the date of failure (on or after 3/16/2001)

 - B. Producers who have sold grain on price later contract, for which a final price has not been established, where the date of delivery is within 270 days of the date of failure (on or after 11/26/2000)

Who Should File A Claim?

Any producer of grain who has sold grain to Ty-Walk Liquid Sales, Inc. and has not been paid in full, any depositor of grain, and holders of warehouse receipts.

Where Can I File A Claim?

Claims can be filed with Department personnel at Ty-Walk Liquid Sales, Inc., 60 Route 52, Minooka, IL 60447 or by mail with the Illinois Department of Agriculture, Bureau of Warehouses, P.O. Box 19281, 8th Street and Sangamon Avenue, State Fairgrounds, Springfield, IL 62794-9281.

When Should I File A Claim?

All claimants must file a claim with the Department by November 21, 2001 or their claim will be barred. Due to the extremely large number of potential claimants, the Department would request that claimants contact Department personnel at the Minooka location to schedule an appointment for filing a claim. At the Minooka location, Department personnel will assist you in the claim filing process and answer any questions you may have. Department personnel will be available to accept claims in person at the Minooka office Monday through Friday, 7:30 A.M. to 5:00 P.M.

What Do I Need to File A Claim?

Claim forms are attached to this informational handout and are available at the Ty-Walk Liquid Sales, Inc. Minooka office at 60 Route 52, Minooka, IL. Claim forms may also be obtained by contacting the Illinois Department of Agriculture, P.O. Box 19281, 8th Street and Sangamon Ave., Springfield IL 62794-9281, or by calling (800)654-0882. Copies of supporting documentation such as scale tickets, settlement sheets, and contracts must be submitted with the claim. Original copies of warehouse receipts must be submitted with warehouse claims involving warehouse receipts. Every claim filed must be in writing and verified and must include information sufficient to identify the nature of the claim and the amount sought. All claims must be signed by the person whose name appears on the claim form as the claimant.

Claim Process Timeline

