

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Judiciary Committee

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BILL: SB 1236

INTRODUCER: Senator Hays

SUBJECT: Liens for Ginning Cotton

DATE: January 18, 2012

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Irwin	Cibula	JU	<b>Pre-meeting</b>
2.			AG	
3.			BC	
4.				
5.				
6.				

**I. Summary:**

This bill repeals s. 713.595, F.S., which creates a superior lien in favor of a person who performs the service of ginning or classifying cotton for a cotton producer.

This bill repeals section 713.595, Florida Statutes.

**II. Present Situation:**

**State Statutory Liens**

While s. 713.595, F.S., creates a specific lien for cotton ginner and classifiers, s. 713.58(1), F.S., authorizes a lien “[i]n favor of persons performing labor or services for any other person, upon the personal property of the latter upon which the labor or services is performed, or which is used in the business, occupation, or employment in which the labor or services is performed.”

**Uniform Commercial Code**

Chapter 679, F.S., codifies Article 9 of the Uniform Commercial Code, which governs secured transactions. Section 679.1021(1)(e), F.S., states, an agricultural lien means an interest, other than a security interest, in farm products: (1) which secures payment or performances of an obligation for goods or services furnished in connection with a debtor’s farming operation or rent on real property leased by a debtor in connection with the debtor’s farming operations; (2) which is created by statute in favor of a person who in the ordinary course of the person’s business furnished goods or services to a debtor in connection with a debtor’s farming operations or

leased real property to a debtor in connection with the debtor's farming operation; and (3) whose effectiveness does not depend on the person's possession of the personal property.

Additionally, s. 679.2031(7), F.S., provides that "the attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien." This section "codifies the common-law rule that a transfer of an obligation secured by a security interest or other lien on personal or real property also transfers the security interest or lien."<sup>1</sup>

### **III. Effect of Proposed Changes:**

The bill repeals s. 713.595, F.S., which:

- Creates a superior lien in favor of a person who performs the service of ginning or classifying cotton for a cotton producer; and
- Authorizes a ginner or classifier to withhold a cotton producer's warehouse receipts or the proceeds from the sale of cotton or a loan on the cotton until paid in full.

The bill has an effective date of July 1, 2012.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

As these liens are provided for under other statutory provisions, no significant private sector impact is anticipated.

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<sup>1</sup> 47 FLA. JUR 2D SECURED TRANSACTIONS s. 137 *Automatic Attachment Resulting from Related Security Interests* (2011); see also Official Comment 9 to U.C.C. s. 9-203 (2000).

C. Government Sector Impact:

As these liens are provided for under other statutory provisions, no significant government sector impact is anticipated.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.