

ASSEMBLY BILL

No. 2187

Introduced by Assembly Member Liu

February 22, 2006

An act to amend Section 3080.02 of the Civil Code, relating to livestock.

LEGISLATIVE COUNSEL'S DIGEST

AB 2187, as introduced, Liu. Livestock: liens.

(1) Existing law creates a general lien on livestock in the possession of a livestock servicer to secure the performance of the obligations of the owner to that person. Under existing law, if the owner fails to satisfy those obligations, the livestock servicer may sell the livestock after obtaining the consent of the owner, a court order, or judgment, and recover the costs of the obligations of the owner and lien enforcement, as specified.

This bill would permit the livestock servicer, if the obligations of the owner are not satisfied, to sell livestock that has a value of \$4,000 or less without obtaining the consent of the owner, court order, or judgment, if the livestock servicer sends notice to the owner prior to the sale of the livestock, as specified. This bill would require that the notice of sale be signed under penalty of perjury. By creating a new crime, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3080.02 of the Civil Code is amended
 2 to read:
 3 3080.02. In addition to any other rights and remedies
 4 provided by law, a lienholder may:
 5 (a) Retain possession of the livestock and charge the owner for
 6 the reasonable value of providing livestock services to the
 7 livestock until the owner’s obligations secured by the lien have
 8 been satisfied.
 9 (b) Proceed to sell all or ~~any~~ a portion of the livestock
 10 pursuant to Section 3080.16 if *any of the following apply*:
 11 (1) A judicial order authorizing sale ~~has been~~ *is* entered
 12 pursuant to Section ~~3080.06~~; *3080.06*.
 13 (2) A judgment authorizing sale ~~has been~~ *is* entered in favor of
 14 the lienholder on the claim ~~which that~~ gives rise to the ~~lien~~; *or*
 15 *lien*.
 16 (3) The owner of the livestock ~~has released~~ *releases*, after the
 17 lien ~~has arisen~~ *arises*, its interest in the livestock in the form
 18 prescribed by Section 3080.20.
 19 (4) *The lienholder determines in good faith that the value of*
 20 *the livestock is four thousand dollars (\$4,000) or less and, if the*
 21 *owner does not object to the sale in writing as described in this*
 22 *section, the lienholder satisfies the requirements in subdivision*
 23 *(d)*.
 24 (c) A lienholder may commence a legal action on its claim
 25 against the owner of the livestock or ~~any~~ other person indebted to
 26 the lienholder for services to the livestock and reduce the claim
 27 to judgment. ~~When the lienholder has reduced the claim to~~ *If that*
 28 *judgment is entered,* ~~any~~ a lien or levy or other form of
 29 enforcement ~~which that~~ may be made ~~upon~~ *on* the livestock by
 30 virtue of ~~any~~ an execution based ~~upon~~ *on* the judgment shall
 31 relate back to the attachment of and have the same priority as the
 32 livestock service lien. The lienholder may purchase at a judicial
 33 sale held pursuant to the execution on the judgment and
 34 ~~thereafter~~ hold the livestock free of ~~any liens upon~~ *a lien on* or
 35 security ~~interests~~ *interest* in the livestock.

1 *(d) If the lienholder determines in good faith that the value of*
2 *the livestock is four thousand dollars (\$4,000) or less, the*
3 *lienholder shall send, by certified mail with return receipt*
4 *requested or by United States Postal Service Certificate of*
5 *Mailing, a Notice of Sale and a return envelope, postage prepaid*
6 *for certified mail with return receipt requested or United States*
7 *Postal Service Certificate of Mailing, preaddressed to the*
8 *lienholder, to the owner of the livestock and other person*
9 *indebted to the lienholder for services to the livestock. The Notice*
10 *of Sale shall be signed under penalty of perjury under the laws of*
11 *this state and shall include all of the following information and*
12 *statements:*

13 *(1) A description of the livestock and the estimated value of*
14 *that livestock.*

15 *(2) The specific date, exact time, and place of sale that shall*
16 *be set not less than 31 days or more than 41 days, from the date*
17 *of mailing.*

18 *(3) The names and addresses of the owners of the livestock*
19 *and other persons indebted to the lienholder for services to the*
20 *livestock.*

21 *(4) All of the following statements:*

22 *(A) The amount of the lien and the facts concerning the claim*
23 *that gives rise to the lien.*

24 *(B) The owner or other person has a right to a hearing in*
25 *court.*

26 *(C) If a court hearing is desired, the owner or other person*
27 *shall object to the sale in writing, sent to the lienholder by*
28 *certified mail with return receipt requested or by United States*
29 *Postal Service Certificate of Mailing, within 10 days of the date*
30 *the owner or other person received the Notice of Sale.*

31 *(D) If the written objection to the sale is sent to the lienholder*
32 *within 10 days of the date the owner or other person received the*
33 *Notice of Sale, the lienholder may not sell the livestock except*
34 *pursuant to court order, judgment or written release by the*
35 *owner.*

36 *(E) If a court action is filed, the owner or other person shall*
37 *be notified of the lawsuit and may appear to contest the claim.*

38 *(F) If an order or judgment is entered in favor of the*
39 *lienholder, the owner or other person may be liable for court*
40 *costs and attorney's fees.*

1 (e) *If the owner or other person objects in writing within 10*
2 *days of the date the owner or other person received the Notice of*
3 *Sale, the lienholder may not sell the livestock except as described*
4 *in paragraphs (1), (2), and (3) of subdivision (b).*

5 SEC. 2. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the
10 penalty for a crime or infraction, within the meaning of Section
11 17556 of the Government Code, or changes the definition of a
12 crime within the meaning of Section 6 of Article XIII B of the
13 California Constitution.