

## **UCC Lien Searches Help Dealers Manage Risk in Selling Process**

By AgDirect

Has it ever happened at your dealership?

You give a customer good value for a trade-in on a brand-new tractor. The customer is satisfied and so are you.

It's only after you re-sell the trade that things go bad. You learn belatedly that a lender holds a lien and should have gotten the proceeds on that long-gone trade-in. Your dealership ends up paying twice for that trade-in, and there goes the profit on that deal.

That's a worst-case scenario, for sure. But equipment dealers have a tool that can minimize the risk of a double payoff or less troubling issues that still take time and money to resolve. The tool is called a "UCC lien search."

### **Commercial Lien System Standardized**

According to Anne McDaniel, a fixtures specialist with AgDirect in Omaha, rules on when and how Uniform Commercial Code (UCC) liens are filed were standardized across state lines in 1998. AgDirect is a financing and leasing program offered through dealers by Farm Credit Services of America.

UCC liens cover personal property used as collateral by a lender to secure a loan, the same way a mortgage secures a loan on real property. The UCC lien filed with the secretary of state acts as a public notice by the creditor of the creditor's interest in the property. Liens on fixtures use UCC forms and are filed with the appropriate county register of deeds.

The biggest benefit to dealers of properly executed lien searches is to minimize their risk and liability, according to Dan Takle, AgDirect relationship officer in Cedar Falls, Iowa.

"The vast majority of producers who trade equipment in have a blanket UCC lien filed on them," Takle notes. "Dealers tend to assume that the lending institution that filed the lien won't have a problem with the customer trading in that piece of equipment. But the act of trading reduces the lender's overall security and collateral coverage. It's not a good idea to take their permission for granted."

Takle believes dealers should search for liens on every piece of equipment they take in trade, but he acknowledges that's not realistic. Still, he advises dealers to make time for a lien search in three specific situations: if they suspect the customer is highly leveraged; if the trade-in is a late-model piece of equipment that's worth a significant amount of money; or if the trade-in accounts for more than 25 percent of the down payment.

## **Lien Searches Free for AgDirect Dealers**

States charge varying fees for the reports, but dealers who participate in the AgDirect financing program can request lien searches at no cost with an addendum to their original contract.

AgDirect provides dealers a copy of each UCC lien filed on the particular customer or entity requested. The lien will show the debtor, lender and the specific equipment financed. In the case of a blanket lien, the language would include the word “all” with different collateral listed. AgDirect does not interpret the reports nor give opinions on a course of action, McDaniel notes.

“We opened this free search program to all participating dealers last fall. It’s an added-value service and so far more than 40 dealers have signed up,” McDaniel says. “Searching UCC lien filings has become much simpler and faster since records are available through computer access. A search can take just a few minutes or a half hour and we try to get the reports back to the dealer the same day they make the request.”

For more information about the free UCC lien search program, contact an AgDirect representative or the processing center at 1-888-525-9805.