

INSTRUCTIONS FOR AN AGISTOR'S LIEN

These standard instructions are for informational purposes only and do not constitute legal advice about your case. If you choose to represent yourself, you are bound by the same rules and procedures as an attorney.

GENERAL INFORMATION

- An Agistor's lien is a lien filed by a person engaged in the business of feeding, herding, pasturing, keeping, ranching or boarding or for medical care of livestock.
- An Agistor's lien is effective for the entire period during which the livestock is held by the Agistor. If the livestock is sold, exchanged, or otherwise disposed of by someone other than the Agistor or Agistor's agent, the lien continues and attaches to the proceeds of the sale, exchange or disposition.
- The lien amount is limited to the value of \$15,000 in County Court.
- If the amount exceeds \$15,000 you must file in District Court.
- Before documents can be filed in the Court, the Agistor's Lien must be filed with the Secretary of State at www.sos.state.co.us OR the County Clerk and Recorder in the county where the livestock are located.
- The Lien must be filed for at least 30 days before foreclosure. After 30 days a foreclosure action may be filed in the County OR District Court, depending on the amount of the lien.
- For additional information, please review Colorado Revised Statutes §§38-20-201-210.
- If you have a disability and need a reasonable accommodation to access the courts, please contact your local ADA Coordinator. Contact information can be obtained from the following website: http://www.courts.state.co.us/Administration/HR/ADA/Coordinator_List.cfm

COMMON TERMS

- ☒ Complaint: Document officially commencing the Agistor's Lien with the Court.
- ☒ Plaintiff(s): The person(s) or business filing the Complaint.
- ☒ Defendant(s): The person(s) or business that the Complaint is filed against.
- ☒ Service of Process: The official means by which a Defendant is notified that a lawsuit has been filed against him/her and provided a copy of the Complaint and a description of the person's rights and obligations as a party to the case.
- ☒ Agistor: Any rancher, farmer, feeder, herder of cattle, livery stable keeper, veterinarian, or other person, to whom livestock are entrusted by the owner for feeding, herding, pasturing, keeping, ranching, or boarding, or providing medical care.
- ☒ Lienor: Person filing a lien.
- ☒ Abandoned: Having forsaken entirely or neglected or refused to pay for feeding, herding, pasturing, keeping, ranching, boarding, or medical care for any livestock help by an Agistor, its owner, or an owner's agent.
- ☒ Board: State Board of Stock Inspection Commissioners created in §35-41-101, C.R.S.
- ☒ Livestock: Includes horses, mules, asses, cattle, sheep, hogs, and alternative livestock as defined in §35-41.5-102(1), C.R.S.
- ☒ Continuing Payment: Charges that are due and owing to an Agistor and do not have a definite termination date.
- ☒ Public Livestock Market: Any facility operated for the profit as a public livestock market, consisting of enclosures in which livestock is received, held, or assembled for either public or private sale. The owners of the public livestock market shall be compensated for the use of the premises and the services performed in handling the livestock in connection with the sale see §35-55-101(2), C.R.S.

If you do not understand this information, please contact an attorney.

FEES

Filing Fee for County Court is \$97.00; Filing Fee in District Court is \$224.00. If you are unable to pay, you must complete the Motion to File without Payment and Supporting Financial Affidavit (JDF 205) and submit it to the Court. Once you submit the completed JDF 205 form and a blank Order (JDF 206), the Court will determine according to the statute if you need to pay the filing fee. JDF 205 and JDF 206 can be found on the state website under the “Forms” tab by selecting [Miscellaneous](#).

Other fees that a party to the case may encounter are as follows:

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| <input type="checkbox"/> Answer Fee – as appropriate | County Court = \$92.00; District Court = \$158.00 |
| <input type="checkbox"/> Certification Fee | \$20.00 |
| <input type="checkbox"/> Copy of Documents | \$.75 per page |
| <input type="checkbox"/> Service Fees | Varies (Not payable through or to the Court.) |
- Ex: Serving the Show Cause Order on the owner of the livestock.

FORMS

To access a form online go to www.courts.state.co.us and click on “Forms” tab. The packet/forms are available in PDF or WORD by selecting “County Civil – Agistor’s Lien” or “District Civil – Agistor’s Lien”. You may complete a form online and print it or you may print it and type or print legibly in black ink. **Read these instructions carefully to determine what forms you may need.**

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|----------------------------------|---|--|
| <input type="checkbox"/> JDF 132 | Agistor’s Lien or UCC Financing Statement | www.iaca.org/downloads/forms/ucc1.pdf |
| <input type="checkbox"/> JDF 133 | Complaint for Foreclosure of Agistor’s Lien | |
| <input type="checkbox"/> JDF 134 | Order to Show Cause re: Sale of Livestock | |
| <input type="checkbox"/> JDF 135 | Order re: Judgment on Agistor’s Lien | |
| <input type="checkbox"/> JDF 136 | Notice of Demand - Agistor’s Lien | |

STEPS TO FILING YOUR CASE

Step 1: Complete appropriate forms.

Please refer to the list of required forms above to determine which forms must be submitted when filing your case based on your individual circumstances. The caption illustrated below needs to be completed on all forms filed with the court. Check with your local district for additional filing requirements. **Keep a copy of each form for your own records and make a copy to provide to the other party.**

| | | |
|--|--|---|
| <input type="checkbox"/> County Court <input type="checkbox"/> District Court _____ County, Colorado Court Address: _____ <hr/> Plaintiff(s): (print your name here) v. Defendant(s): (print name here) | | ▲ COURT USE ONLY ▲ |
| Attorney or Party Without Attorney (Name and Address): (Print your name and address here if you are representing yourself.) Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____ | | |
| NAME OF FORM | | Case Number: Division Courtroom |

- Agistor's Lien (JDF 132).**
 - Fill out the form completely and be specific with your answers.
 - You are required to file the lien with the Colorado Secretary of State (www.sos.state.co.us) located at 1700 Broadway, Denver, CO 80290 **OR** the Clerk and Recorder's Office in the county where the livestock are located. The filing of this lien constitutes notice of what the lien says and the legal effect of the lien.

- Complaint for Foreclosure of Agistor's Lien (JDF 133).**
 - If payment is not made after 30 days from the filing of the lien identifying charges due, the Complaint can be filed with the County or District Court depending on the amount of the claim as identified in section 4 of the Complaint.
 - Complete all sections on the form.
 - The Complaint must be filed in the County where the:
 - Contract was entered into; **or**
 - Owner resided at the time the foreclosure action commenced; **or**
 - Livestock are located
 - A Notice of Demand (JDF 136) must be provided to the owner or the owner's agent by certified mail at their last-known address. This Notice must be provided to the owner at least 15 days before any sale. Attach the return receipt to the Complaint. If the address is not known, notice by publication can be provided pursuant to §38-20-206(1)(a), C.R.S.

- Order to Show Cause re: Sale of Livestock (JDF 134).**
 - Complete the caption only on this form. The Court will complete the applicable sections of this form after the Complaint has been reviewed by the Court.
 - If a judgment has been received on the lien, the lienholder may proceed to sell the livestock to satisfy the lien.
 - The hearing date will be scheduled not more than 10 working days after the date of the issuance of the Order to Show Cause.

- Order and Judgment re: Agistor's Lien (JDF 135).**
 - Complete the caption only on this form.
 - The Court will complete the applicable sections of this form following the hearing.

Step 2: Mail Complaint to the State Board.

- Before you file the Complaint with the Court you must send a copy of the Complaint (JDF 133) to the State Board of Livestock Inspection at 305 Interlocken Parkway, Broomfield CO 80021.
- For additional information, please review the Department of Agriculture website at <http://www.colorado.gov/ag> and then select Divisions to access Brand Inspection Division.

Step 3: You are ready to file your Documents with the Court.

- Provide the Court with the documents completed as described in Step 1 above.
- Pay the [filing fee](#) as appropriate.
- If the Complaint has not been signed in the presence of a Notary Public, you will sign the Complaint before the Clerk at this time.
- The Court will review the Complaint and if satisfactory will issue an Order to Show Cause why the livestock should not be sold.

Step 4: You are ready to have the Defendant(s) served.

You are responsible for paying the service fees. Personal service must be made by someone who is 18 years or older and not a party to the action. **Service must be completed at least five business days before the Show Cause Hearing date.** Complete the following process based on the type of service selected:

Personal Service:

- Select either the Sheriff's Department, a private process server, or someone you know who is 18 years or older and not a party to the action and who knows the rules of service to serve each Defendant. There is a service fee that is payable to the Sheriff's Department or Private Process Server. The fee for service is usually awarded as part of your court costs if the court rules in your favor.
 - You can locate private process servers in the yellow pages under Process Servers.
 - Provide the person who will complete service a set of the following forms for each Defendant:
 - Complaint for Foreclosure of Agistor's Lien (JDF 133), Order to Show Cause re: Sale of Livestock (JDF 134). In addition, attach the exhibits identified in the Complaint.
 - Provide the process server with an Affidavit of Service (JDF 98) for each Defendant.
 - The process server will return the original Order to Show Cause to you with the Affidavit of Service completed.
 - Each Defendant must be served at least 5 business days before the hearing date specified in the Order to Show Cause re: Sale of Livestock (JDF 134).

Step 5: Service is complete.

Return the original Order to Show Cause re: Sale of Livestock (JDF 134) with proof of service using the Affidavit of Service (JDF 98) to the Clerk on or before the hearing date.

Step 6: Show Cause Hearing.

- Appear on your court date. If you fail to appear, your case may be dismissed.
- Be prepared for your hearing
- Once the Court issues the Order re: Judgment on Agistor's Lien (JDF 135) and judgment is in favor of the Plaintiff, the sale of the livestock may be completed to satisfy the amount of the lien. The sale shall take place not more than 45 days after the entry of judgment at the nearest Public Livestock Market in Colorado.

Step 7: Sale of Livestock Pursuant to §38-20-206, C.R.S.

- You must notify the owner of the livestock at least 15 days before the sale.
 - The Notice of Demand shall include the time and place of the sale and a description of the livestock to be sold.
 - The Notice of Demand has been provided to the owner or the owner's agent by certified mail at their last-known address.
 - If the address is not known, the Notice of Demand shall be by publication in one newspaper in the county where you live or you can post in three public places and deliver a copy to the owner or owner's agent. (§38-20-206(1)(a), C.R.S.)
- The Public Livestock Market shall pay you from the sale proceeds the reasonable cost of the foreclosure (filing fees, etc.), the notice, sale and the reasonable and necessary charges you incurred for preserving, maintaining, feeding, boarding, pasturing, caring, and keeping the livestock up to the date of the sale.
- The reasonable cost of keeping the livestock up to the date of the sale shall not exceed \$5.00 per head per day.
- Any remaining proceeds and any unsold livestock shall be forwarded to the Court for distribution to the owner or the owner's agent.
- If the owner or owner's agent are not known and cannot be found, the sale proceeds shall be returned to the Brand Board.
- The Public Livestock Market shall file a bill of sale with the Court that entered the Order re: Judgment. The bill of sale shall include the amount for each animal that was sold and the name of each purchaser.