

**SENATE BILL REPORT**

**SB 5628**

**AS REPORTED BY COMMITTEE ON AGRICULTURE & WATER RESOURCES  
MARCH 1, 1991**

**Brief Description:** Modifying provisions for crop liens for handlers.

**SPONSORS:** Senators Barr and Hansen.

**SENATE COMMITTEE ON AGRICULTURE & WATER RESOURCES**

**Majority Report:** That Substitute Senate Bill No. 5628 be substituted therefor, and the substitute bill do pass.

Signed by Senators Barr, Chairman; Anderson, Vice Chairman; Bailey, Conner, and Newhouse.

**Staff:** Steve Nelsen (786-7535)

**Hearing Dates:** February 15, 1991; March 1, 1991

**BACKGROUND:**

In the regular course of current agricultural business practices, value is often added to crops by activities such as handling and selling which fall outside of the protection afforded by existing statutory liens. The Washington Supreme Court held in a recent decision that the interest of marketers and handlers was subordinate to prior perfected secured creditors. This decision leaves crop marketers and handlers without an assured source of repayment for their services in the event the grower of those crops later becomes insolvent.

**SUMMARY:**

A "handler" is defined as a person who receives, stores, packs, markets, sells, or delivers crops but does not include a person who solely transports crops from a grower to a handler. "Crop" is defined to include without limitation horticultural, viticultural, and berry products.

The existing provisions for crop liens are expanded to provide protection for handlers to the extent of: all customary charges for ordinary and necessary handling; reasonable cooperative per unit retainages; governmental assessments; and advances to the lien debtor of the anticipated proceeds from the sale of the crops. The handler's lien attaches upon delivery of the crops without the necessity of filing. The handler's lien is preferred to other liens and security interests with the exception of the labor lien. The handler's lien will expire in 36 months unless a judicial foreclosure or summary procedure action is brought. The person with a handler's lien is not required to file a lien termination statement.

**EFFECT OF PROPOSED SUBSTITUTE:**

Advances to the lien debtor are not protected by the handler's lien. The handler's lien only applies to horticultural products. The handler's lien will expire in 24 months unless a judicial foreclosure or summary procedure action is brought.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested

**TESTIMONY FOR:**

Handlers of horticultural products need additional protection for their services after the Washington Supreme Court's decision in the Mendelson - Zeller case. This new lien approximates standard business practices before the Mendelson - Zeller case.

**TESTIMONY AGAINST:**

Lack of a filing requirement may create discovery problems for persons who hold a labor lien.

**TESTIFIED:** Donald K. Franklin, Attorney, Washington Council of Ag Coops (pro); Louis Meissner, Washington Agri-Business Coalition (con); Karl Kottman, Washington Council of Farm Coops (pro); Jim Clements, Washington Association of Apple Growers (con); Michelle Besso, Evergreen Legal Services; Trevor Sandison, Washington Bankers Association; Frank DeLong, Yakima Growers and Shippers (pro); Tony Czebotar, President, Pacific Produce (pro); Mark Peterson, Munn and Peterson (pro); Bruce R. Ellingson, Washington Association of Apple Growers (con)