
ENGROSSED SUBSTITUTE SENATE BILL 6416

State of Washington

52nd Legislature

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By Senate Committee on Agriculture & Water Resources (originally sponsored by Senators Barr, Newhouse and Gaspard)

Read first time 02/07/92.

1 AN ACT Relating to handlers; amending RCW 60.13.010, 62A.9-310,
2 60.11.010, 60.11.020, and 60.11.030; and adding a new section to
3 chapter 60.13 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 60.13 RCW
6 to read as follows:

7 A consignment of agricultural products by a producer to a handler
8 for sale for the benefit of the producer does not vest in the handler
9 any other title or right to the products except to sell and deliver
10 them to a bona fide purchaser for valuable consideration.

11 If, without the express consent of the producer a handler
12 mortgages, pledges, or otherwise disposes of agricultural products
13 consigned only for sale for the benefit of the producer, the
14 disposition is void and title to the products does not pass but

1 remains in the producer as if no disposition were made until such time
2 as the products are sold by the final handler. Legal title to and
3 interest of the producer in the consigned agricultural products and
4 proceeds thereof shall be considered prior in right to any interest of
5 a third party in such goods or proceeds acquired after the delivery of
6 the products to the handler. Such products and/or proceeds shall not
7 be subject to the claims of the handler's creditors.

8 Nothing in this section impairs any right of any lien provided to
9 a handler under the provisions of RCW 60.11.020(3), or of any lien that
10 a handler acquires or is entitled to for bona fide advances made in
11 money, services, or goods to the producer on the faith and the security
12 of the consignment.

13 **Sec. 2.** RCW 60.13.010 and 1991 c 174 s 2 are each amended to read
14 as follows:

15 As used in this chapter, the terms defined in this section have the
16 meanings indicated unless the context clearly requires otherwise.

17 (1) "Agricultural product" means any unprocessed horticultural,
18 vermicultural and its byproducts, viticultural, berry, poultry, poultry
19 product, grain, bee, or other agricultural products, and includes mint
20 or mint oil processed by or for the producer thereof and hay and straw
21 baled or prepared for market in any manner or form and livestock. When
22 used in RCW 60.13.020, "agricultural product" means horticultural,
23 viticultural, aquacultural, or berry products, hay and straw, milk and
24 milk products, or turf and forage seed and applies only when such
25 products are delivered to a processor or conditioner in an unprocessed
26 form.

27 (2) "Conditioner," "consignor," "person," and "producer" have the
28 meanings defined in RCW 20.01.010.

1 (3) "Delivers" means that a producer completes the performance of
2 all contractual obligations with reference to the transfer of actual or
3 constructive possession or control of an agricultural product to a
4 processor or conditioner or preparer, regardless of whether the
5 processor or conditioner or preparer takes physical possession.

6 (4) "Preparer" means a person engaged in the business of feeding
7 livestock or preparing livestock products for market.

8 (5) "Processor" means any person, firm, company, or other
9 organization that purchases agricultural products except milk and milk
10 products from a consignor and that cans, freezes, dries, dehydrates,
11 cooks, presses, powders, or otherwise processes those crops in any
12 manner whatsoever for eventual resale, or that purchases or markets
13 milk from a dairy producer and is obligated to remit payment to such
14 dairy producer directly.

15 (6) "Commercial fisherman" means a person licensed to fish
16 commercially for or to take food fish or shellfish or steelhead legally
17 caught pursuant to executive order, treaty right, or federal statute.

18 (7) "Fish" means food fish or shellfish or steelhead legally caught
19 pursuant to executive order, treaty right, or federal statute.

20 (8) "Handler" means a person, firm, company, or other organization
21 that prepares an agricultural product for market for the account of, or
22 as agent for, the producer of the agricultural product, the preparation
23 including, but not limited to, receiving, storing, packing, marketing,
24 selling, or delivering the agricultural product, and includes a person,
25 firm, company, or other organization who takes delivery of the
26 agricultural product from the producer of the agricultural product or
27 from another handler. "Handler" does not include a person who solely
28 transports the agricultural product from the producer to another
29 person.

1 **Sec. 3.** RCW 62A.9-310 and 1991 c 286 s 7 are each amended to read
2 as follows:

3 (1) When a person in the ordinary course of his business furnishes
4 services or materials with respect to goods subject to a security
5 interest, a lien upon goods in the possession of such person given by
6 statute or rule of law for such materials or services takes priority
7 over a perfected security interest only if the lien is statutory and
8 the statute expressly provides for such priority.

9 (2) A preparer lien or processor lien properly created pursuant to
10 chapter 60.13 RCW, a producer's interest recognized pursuant to section
11 1 of this act, or a depositor's lien created pursuant to chapter 22.09
12 RCW takes priority over any perfected or unperfected security interest.

13 (3) Conflicting priorities between crop liens created under chapter
14 60.11 RCW and security interests shall be governed by chapter 60.11
15 RCW.

16 **Sec. 4.** RCW 60.11.010 and 1991 c 286 s 1 are each amended to read
17 as follows:

18 As used in this chapter, the following terms have the meanings
19 indicated unless the context clearly requires otherwise.

20 (1) "Crop" means all products of the soil either growing or
21 cropped, cut, or gathered which require annual planting, harvesting, or
22 cultivating. A crop does not include vegetation produced by the powers
23 of nature alone, nursery stock, or vegetation intended as a permanent
24 enhancement of the land itself.

25 (2) "Handler" means a person: Who prepares (~~(an orchard)~~) a crop
26 for market for the account of, or as agent for, the producer of the
27 crop, which preparation includes, but is not limited to, receiving,
28 storing, packing, marketing, selling, or delivering (~~(the orchard)~~) a
29 crop; and who takes delivery of the crop from the producer of the crop

1 or from another handler. "Handler" does not include a person who
2 solely transports the crop from the producer to another person.

3 (3) "Landlord" means a person who leases or subleases to a tenant
4 real property upon which crops are growing or will be grown.

5 (4) (~~("Orchard crop" means cherries, peaches, nectarines, plums or~~
6 ~~prunes, pears, apricots, and apples.~~

7 ~~(5))~~) "Secured party" and "security interest" have the same meaning
8 as used in the Uniform Commercial Code, Title 62A RCW.

9 ~~((6))~~ (5) "Supplier" includes, but is not limited to, a person
10 who furnishes seed, furnishes and/or applies commercial fertilizer,
11 pesticide, fungicide, weed killer, or herbicide, including spraying and
12 dusting, upon the land of the grower or landowner, or furnishes any
13 work or labor upon the land of the grower or landowner including
14 tilling, preparing for the growing of crops, sowing, planting,
15 cultivating, cutting, digging, picking, pulling, or otherwise
16 harvesting any crop grown thereon, or in gathering, securing, or
17 housing any crop grown thereon, or in threshing any grain or hauling to
18 any warehouse any crop or grain grown thereon.

19 ~~((7))~~ (6) "Lien debtor" means the person who is obligated or owes
20 payment or other performance. If the lien debtor and the owner of the
21 collateral are not the same person, "lien debtor" means the owner of
22 the collateral.

23 ~~((8))~~ (7) "Lien holder" means a person who, by statute, has
24 acquired a lien on the property of the lien debtor, or such person's
25 successor in interest.

26 **Sec. 5.** RCW 60.11.020 and 1991 c 286 s 2 are each amended to read
27 as follows:

28 (1) A landlord whose lease or other agreement with the tenant
29 provides for cash rental payment shall have a lien upon all crops grown

1 upon the demised land in which the landlord has an interest for no more
2 than one year's rent due or to become due within six months following
3 harvest. A landlord with a crop share agreement has an interest in the
4 growing crop which shall not be encumbered by crop liens except as
5 provided in subsections (2) and (3) of this section.

6 (2) A supplier shall have a lien upon all crops for which the
7 supplies are used or applied to secure payment of the purchase price of
8 the supplies and/or services performed: PROVIDED, That the landlord's
9 interest in the crop shall only be subject to the lien for the amount
10 obligated to be paid by the landlord if prior written consent of the
11 landlord is obtained or if the landlord has agreed in writing with the
12 tenant to pay or be responsible for a portion of the supplies and/or
13 services provided by the lien holder.

14 (3) A handler shall have a lien on all (~~orchard~~) crops delivered
15 by the lien debtor or another handler to the handler and on all
16 proceeds of the (~~orchard~~) crops for: (a) All customary charges for
17 the ordinary and necessary handling of the crop, including but not
18 limited to charges for transporting, receiving, inspecting, materials
19 and supplies furnished, washing, waxing, sorting, packing, storing,
20 promoting, marketing, selling, advertising, insuring, or otherwise
21 handling the lien debtor's crop; and (b) reasonable cooperative per
22 unit retainages, and for all governmental or quasi-governmental
23 assessments imposed by statute, ordinance, or government regulation.
24 Charges shall not include direct or indirect advances or extensions of
25 credit to [a] lien debtor.

26 **Sec. 6.** RCW 60.11.030 and 1991 c 286 s 3 are each amended to read
27 as follows:

28 (1) Upon filing, the liens described in RCW 60.11.020 (1) and (2)
29 shall attach to the crop for all sums then and thereafter due and owing

1 the lien holder and shall continue in all identifiable cash proceeds of
2 the crop.

3 (2) Upon the delivery of (~~(an orchard)~~) a crop by the lien debtor,
4 without the necessity of filing, the lien for charges as set forth in
5 RCW 60.11.020(3) shall attach to the delivered crop and shall continue
6 in both the crop and all proceeds of the crop.