

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5628

52nd Legislature
1991 Regular Session

Passed by the Senate April 22, 1991
Yeas 46 Nays 0

President of the Senate

Passed by the House April 10, 1991
Yeas 93 Nays 0

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Gordon Golob, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5628** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5628

AS AMENDED BY THE HOUSE

Passed Legislature - 1991 Regular Session

State of Washington 52nd Legislature 1991 Regular Session

By Senate Committee on Agriculture & Water Resources (originally sponsored by Senators Barr and Hansen).

Read first time March 5, 1991.

1 AN ACT Relating to crop liens for handlers; and amending RCW
2 60.11.010, 60.11.020, 60.11.030, 60.11.040, 60.11.050, 60.11.140, and
3 62A.9-310.

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

5 **Sec. 1.** RCW 60.11.010 and 1986 c 242 s 1 are each amended to read
6 as follows:

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

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

14 (2) "Handler" means a person: Who prepares an orchard crop for
15 market for the account of, or as agent for, the producer of the crop,

1 which preparation includes, but is not limited to, receiving, storing,
2 packing, marketing, selling, or delivering the orchard crop; and who
3 takes delivery of the crop from the producer of the crop or from
4 another handler. "Handler" does not include a person who solely
5 transports the crop from the producer to another person.

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

8 ((+3)) (4) "Orchard crop" means cherries, peaches, nectarines,
9 plums or prunes, pears, apricots, and apples.

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

12 ((+4)) (6) "Supplier" includes, but is not limited to, a person
13 who furnishes seed, furnishes and/or applies commercial fertilizer,
14 pesticide, fungicide, weed killer, or herbicide, including spraying and
15 dusting, upon the land of the grower or landowner, or furnishes any
16 work or labor upon the land of the grower or landowner including
17 tilling, preparing for the growing of crops, sowing, planting,
18 cultivating, cutting, digging, picking, pulling, or otherwise
19 harvesting any crop grown thereon, or in gathering, securing, or
20 housing any crop grown thereon, or in threshing any grain or hauling to
21 any warehouse any crop or grain grown thereon.

22 ((+5)) (7) "Lien debtor" means the person who is obligated or owes
23 payment or other performance. If the lien debtor and the owner of the
24 collateral are not the same person, "lien debtor" means the owner of
25 the collateral.

26 ((+6)) (8) "Lien holder" means a person who, by statute, has
27 acquired a lien on the property of the lien debtor, or such person's
28 successor in interest.

1 **Sec. 2.** RCW 60.11.020 and 1986 c 242 s 2 are each amended to read
2 as follows:

3 (1) A landlord whose lease or other agreement with the tenant
4 provides for cash rental payment shall have a lien upon all crops grown
5 upon the demised land in which the landlord has an interest for no more
6 than one year's rent due or to become due within six months following
7 harvest. A landlord with a crop share agreement has an interest in the
8 growing crop which shall not be encumbered by crop liens except as
9 provided in subsections (2) and (3) of this section.

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

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

1 **Sec. 3.** RCW 60.11.030 and 1986 c 242 s 3 are each amended to read
2 as follows:

3 (1) Upon filing, the liens described in RCW 60.11.020 (1) and (2)
4 shall attach to the crop for all sums then and thereafter due and owing
5 the lien holder and shall continue in all identifiable cash proceeds of
6 the crop.

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

11 **Sec. 4.** RCW 60.11.040 and 1989 c 229 s 1 are each amended to read
12 as follows:

13 (1) Except as provided in subsection (4) of this section with
14 respect to the lien of a landlord, and except for the lien of a handler
15 as provided in RCW 60.11.020(3), any lien holder must after the
16 commencement of delivery of such supplies and/or of provision of such
17 services, but before the completion of the harvest of the crops for
18 which the lien is claimed, or in the case of a lien for furnishing work
19 or labor within twenty days after the cessation of the work or labor
20 for which the lien is claimed: (a) File a statement evidencing the
21 lien with the department of licensing; and (b) if the lien holder is to
22 be allowed costs, disbursements, and attorneys' fees, mail a copy of
23 such statement to the last known address of the debtor by certified
24 mail, return receipt requested, within ten days.

25 (2) The statement shall be in writing, signed by the claimant, and
26 shall contain in substance the following information:

27 (a) The name and address of the claimant;

28 (b) The name and address of the debtor;

1 (c) The date of commencement of performance for which the lien is
2 claimed;

3 (d) A description of the labor services, materials, or supplies
4 furnished;

5 (e) A description of the crop and its location to be charged with
6 the lien sufficient for identification; and

7 (f) The signature of the claimant.

8 (3) The department of licensing may by rule prescribe standard
9 filing forms, fees, and uniform procedures for filing with, and
10 obtaining information from, filing officers, including provisions for
11 filing crop liens together with financing statements filed pursuant to
12 RCW 62A.9-401 so that one request will reveal all filed crop liens and
13 security interests.

14 (4) Any landlord claiming a lien under this chapter for rent shall
15 file a statement evidencing the lien with the department of licensing.
16 A lien for rent claimed by a landlord pursuant to this chapter shall be
17 effective during the term of the lease for a period of up to five
18 years. A landlord lien covering a lease term longer than five years
19 may be refiled in accordance with RCW 60.11.050(~~((4))~~) (5). A landlord
20 who has a right to a share of the crop may place suppliers on notice by
21 filing evidence of such interest in the same manner as provided for
22 filing a landlord's lien.

23 **Sec. 5.** RCW 60.11.050 and 1986 c 242 s 5 are each amended to read
24 as follows:

25 (1) Except as provided in subsections (2), (3), ~~((and))~~ (4), and
26 (5) of this section, conflicting liens and security interests shall
27 rank in accordance with the time of filing.

28 (2) The lien created in RCW 60.11.020(2) in favor of any person who
29 furnishes any work or labor upon the land of the grower or landowner

1 shall be preferred and prior to any other lien or security interest
2 upon the crops to which they attach including the liens described in
3 subsections (3) ~~((and))~~, (4), and (5) of this section.

4 (3) The lien created in RCW 60.11.020(3) in favor of handlers is
5 preferred and prior to a lien or security interest described in
6 subsection (4) or (5) of this section and to any other lien or security
7 interest upon the crops to which they attach except the liens in favor
8 of a person who furnishes work or labor upon the land of the grower or
9 landlord. Whenever more than one handler holds a handler's lien
10 created by RCW 60.11.020(3) in the same crop, unless the affected
11 parties otherwise agree in writing, the later of the liens to attach
12 has priority over all previously attached handlers' liens.

13 (4) A lien or security interest in crops otherwise entitled to
14 priority pursuant to subsection (1) of this section shall be
15 subordinate to a later filed lien or security interest incurred to
16 produce the crop to the extent that obligations secured by such earlier
17 filed security interest or lien were not incurred to produce such
18 crops.

19 ~~((4))~~ (5) A lien or security interest in crops otherwise entitled
20 to priority pursuant to subsection (1) of this section shall be
21 subordinate to a properly filed landlord's lien. A landlord's lien
22 shall retain its priority if refiled within six months prior to its
23 expiration.

24 **Sec. 6.** RCW 60.11.140 and 1986 c 242 s 14 are each amended to read
25 as follows:

26 (1) Whenever the total amount of the lien has been fully paid, the
27 lien holder filing a lien shall, within fifteen days following receipt
28 of full payment, file its lien termination statement with the
29 department of licensing. Failure to file a lien termination statement

1 by the lien holder or the assignee of the lien holder shall cause the
2 lien holder or its assignee to be liable to the debtor for the
3 attorneys' fees and costs incurred by the debtor to have the lien
4 terminated together with damages incurred by the debtor due to the
5 failure of the lien holder to terminate the lien.

6 (2) There shall be no charge by the department of licensing for
7 entering the lien termination statement and indexing the same and
8 returning a copy of the lien termination statement stamped as "filed"
9 with the filing date thereon.

10 (3) The department of licensing may enter the lien termination
11 statement on microfilm or other photographic record and destroy all
12 originals of the lien and lien satisfaction filed with him or her.

13 **Sec. 7.** RCW 62A.9-310 and 1986 c 242 s 16 are each amended to read
14 as follows:

15 (1) When a person in the ordinary course of his business furnishes
16 services or materials with respect to goods subject to a security
17 interest, a lien upon goods in the possession of such person given by
18 statute or rule of law for such materials or services takes priority
19 over a perfected security interest only if the lien is statutory and
20 the statute expressly provides for such priority.

21 (2) A preparer lien or processor lien properly created pursuant to
22 chapter 60.13 RCW or a depositor's lien created pursuant to chapter
23 22.09 RCW takes priority over any perfected or unperfected security
24 interest.

25 (3) Conflicting priorities between ((~~nonpossessory~~)) crop liens
26 created under chapter 60.11 RCW and security interests shall be
27 governed by chapter 60.11 RCW.