

HOUSE BILL REPORT

ESSB 6703

As Passed House:

March 7, 2002

Title: An act relating to agricultural liens.

Brief Description: Changing timing provisions relating to agricultural liens.

Sponsors: By Senate Committee on Agriculture & International Trade (originally sponsored by Senators Rasmussen, Hochstatter, Shin, Sheahan, Swecker, Hewitt, Honeyford and Hale).

Brief History:

Committee Activity:

Agriculture & Ecology: 2/25/02, 2/28/02 [DP].

Floor Activity:

Passed House: 3/7/02, 93-0.

Brief Summary of Engrossed Substitute Bill

- Allows a reasonable estimate of the amount due in a statement filed for a processor or preparer lien.
- Extends the termination date of a processor lien from six months to 12 months after attachment or filing.
- Adds vegetable seed to the definition of "agricultural product" for purposes of the processor lien statutes.

HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

Majority Report: Do pass. Signed by 13 members: Representatives Linville, Chair; Hunt, Vice Chair; Schoesler, Ranking Minority Member; Chandler, Cooper, Delvin, Dunshee, Grant, Holmquist, Kirby, Quall, Roach and Sump.

Staff: Caroleen Dineen (786-7156).

Background:

An agricultural producer has a lien on agricultural products delivered to a processor or

conditioner, and a commercial fisherman has a lien on fish delivered to a processor. These liens are first priority statutory liens called "processor liens" and are for the contract price or the fair market value of the products delivered. "Agricultural products" are defined for purposes of the processor lien as horticultural, viticultural, aquacultural, or berry products, hay and straw, milk and milk products, or turf and forage seed when these products are delivered in unprocessed form.

A processor lien attaches to the agricultural products or fish, not to the processor's inventory or accounts receivable. The lien attaches on the date of delivery and continues without filing until 20 days after payment is due and remains unpaid. The payment due date is deemed to be the date specified in the contract or 30 days after delivery. Therefore, when the payment due date is not specified by contract, the lien continues to attach for 50 days after delivery if the amount remains unpaid.

A producer of grain, hay, or straw has a first priority statutory lien, called a "preparer lien," on these types of agricultural products from the date of delivery to a preparer until 20 days after payment is due and remains unpaid. The preparer lien is for the contract price or fair market value of the product. The preparer lien attaches to both the agricultural products and the preparer's accounts receivable.

A producer or commercial fisherman claiming a processor or preparer lien may file a statement with the Department of Licensing evidencing the lien after payment from the processor, conditioner, or preparer is due and remains unpaid. In addition to other required information, the statement must include a true statement of the amount due, after deductions are made for credits and offsets. If the statement is filed within 20 days of the payment due date, the lien has priority over all other liens or security interests except liens for taxes or labor perfected before the processor or preparer lien is filed. If not filed within the 20-day period, the processor or preparer lien is subordinate to a previously attached lien and to a perfected security interest.

A processor lien terminates six months after the later of the date of attachment of the lien or the filing of the statement. A preparer lien terminates 50 days after the date of attachment or filing. These dates do not apply if a suit has been filed to foreclose the lien according to statutory requirements.

Summary of Bill:

The statement evidencing the processor or preparer lien that is filed with the Department of Licensing may include either a true statement or a reasonable estimate of the amount demanded, after deductions are made for credits and offsets. The processor lien terminates 12 months after the date of attachment of the lien or filing of the statement.

Vegetable seed is added to the definition of "agricultural product" for purposes of the

processor lien statutes.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Seed crops may not be cleaned or conditioned for nine months or longer after delivery, as conditioners do not incur this expense until they have found a buyer. Therefore, seed growers cannot file liens within the time periods specified in current law.

The Washington State Farm Bureau and the banking industry have worked together on this bill. This bill gives seed growers the ability to file liens. The bill will provide more flexibility and ensure producers can collect for the products they grow.

Testimony Against: None.

Testified: (In support) Don Underhill, Columbia Basin Alfalfa Seed Growers Association; Ken Goodrich, Columbia Basin Vegetable Seed Association; and Hertha Lund, Washington State Farm Bureau.