

SENATE BILL REPORT

SB 6703

As Reported By Senate Committee On:
Agriculture & International Trade, February 8, 2002

Title: An act relating to agricultural liens.

Brief Description: Changing timing provisions relating to agricultural liens.

Sponsors: Senators Rasmussen, Hochstatter, Shin, Sheahan, Swecker, Hewitt, Honeyford and Hale.

Brief History:

Committee Activity: Agriculture & International Trade: 2/6/02, 2/8/02 [DPS].

SENATE COMMITTEE ON AGRICULTURE & INTERNATIONAL TRADE

Majority Report: That Substitute Senate Bill No. 6703 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rasmussen, Chair; Shin, Vice Chair; Parlette and Swecker.

Staff: Bob Lee (786-7404)

Background: The processor lien statutes provide a mechanism for protecting producers of agricultural products who deliver crops to processors that are failing financially. An automatic statutory lien is in place from the date of delivery until 20 days after payment is due and remains unpaid. The current law requires the producer to file a statement of lien within 20 days after payment is due and remains unpaid if the priority status of the lien is to be retained. In those cases that the date of payment is not stated in the contract, the statutes provide for the purpose of filing a processor lien, that payment is assumed to be due 30 days after delivery. The result is that to preserve a priority lien, a lien statement must be filed within 50 days of delivery if the contract does not specify a payment date.

To file a processor lien, a true statement containing the amount demanded after deducting all credits and offsets must be submitted to the Department of Licensing. Concern has been expressed by farmers that reports from processors showing cleaning rates and cleaning charges are not frequently available within the 50-day period.

If a lien statement is filed, the processor lien terminates six months after the later of the date of attachment or filing, unless a suit to foreclose the lien has been filed.

Summary of Substitute Bill: For contracts that do not provide a date that payment is due, payment is assumed to be due within 30 days of delivery for the purpose of filing a lien. For these contracts, the time period within which a lien must be filed to preserve its priority status is extended from the current 20-day period to within 180 days after the date payment is assumed to be due.

The period of time that a processor lien terminates without having to file a suit is extended from six months to 12 months.

Substitute Bill Compared to Original Bill: For contracts that do not provide a date that payment is due, the assumed payment date for purposes of filing a lien continues to be 30 days rather than the 180 days proposed in the original bill. In this case, the period within which a lien must be filed to retain its priority is extended from the current 20-day period to 180 days.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The purpose of the bill is to lengthen the period during which a farmer can file a lien, and to lengthen the period for which a lien is valid before a lawsuit must be filed. Seed producers often do not get clean out reports back from processors and germination tests back from the Department of Agriculture in time to file a lien under current law. Current time periods for filing liens place producers at risk if the processors go bankrupt. A recent bankruptcy of a seed processor resulted in significant losses to vegetable seed and alfalfa seed producers.

Testimony Against: There is concern that the original bill would delay the date that payment is due where the contract does not specify the payment date.

Testified: Jon Warling, WA Farm Bureau (pro/concerns); Ken Goodnoch, Columbia Basin Alfalfa Seed Assn. (pro).