

2 SSB 6416 - S AMD

3 By Senators Barr, Hansen, Newhouse, Gaspard, Bailey and Bauer

4 ADOPTED 2/17/92

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 60.13 RCW
8 to read as follows:

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

13 If, without the express consent of the producer a handler
14 mortgages, pledges, or otherwise disposes of agricultural products
15 consigned only for sale for the benefit of the producer, the
16 disposition is void and title to the products does not pass but
17 remains in the producer as if no disposition were made until such time
18 as the products are sold by the final handler. Legal title to and
19 interest of the producer in the consigned agricultural products and
20 proceeds thereof shall be considered prior in right to any interest of
21 a third party in such goods or proceeds acquired after the delivery of
22 the products to the handler. Such products and/or proceeds shall not
23 be subject to the claims of the handler's creditors.

24 Nothing in this section impairs any right of any lien provided to
25 a handler under the provisions of RCW 60.11.020(3), or of any lien that
26 a handler acquires or is entitled to for bona fide advances made in
27 money, services, or goods to the producer on the faith and the security
28 of the consignment."

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

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

5 (1) "Agricultural product" means any unprocessed horticultural,
6 vermicultural and its byproducts, viticultural, berry, poultry, poultry
7 product, grain, bee, or other agricultural products, and includes mint
8 or mint oil processed by or for the producer thereof and hay and straw
9 baled or prepared for market in any manner or form and livestock. When
10 used in RCW 60.13.020, "agricultural product" means horticultural,
11 viticultural, aquacultural, or berry products, hay and straw, milk and
12 milk products, or turf and forage seed and applies only when such
13 products are delivered to a processor or conditioner in an unprocessed
14 form.

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

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

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

24 (5) "Processor" means any person, firm, company, or other
25 organization that purchases agricultural products except milk and milk
26 products from a consignor and that cans, freezes, dries, dehydrates,
27 cooks, presses, powders, or otherwise processes those crops in any
28 manner whatsoever for eventual resale, or that purchases or markets
29 milk from a dairy producer and is obligated to remit payment to such
30 dairy producer directly.

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

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

6 (8) "Handler" means a person, firm, company, or other organization
7 that prepares an agricultural product for market for the account of, or
8 as agent for, the producer of the agricultural product, the preparation
9 including, but not limited to, receiving, storing, packing, marketing,
10 selling, or delivering the agricultural product, and includes a person,
11 firm, company, or other organization who takes delivery of the
12 agricultural product from the producer of the agricultural product or
13 from another handler. "Handler" does not include a person who solely
14 transports the agricultural product from the producer to another
15 person."

16 "Sec. 3. RCW 62A.9-310 and 1991 c 286 s 7 are each amended to read
17 as follows:

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

24 (2) A preparer lien or processor lien properly created pursuant to
25 chapter 60.13 RCW, a producer's interest recognized pursuant to section
26 1 of this act, or a depositor's lien created pursuant to chapter 22.09
27 RCW takes priority over any perfected or unperfected security interest.

1 (3) Conflicting priorities between crop liens created under chapter
2 60.11 RCW and security interests shall be governed by chapter 60.11
3 RCW."

4 "Sec. 4. RCW 60.11.010 and 1991 c 286 s 1 are each amended to read
5 as follows:

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

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

13 (2) "Handler" means a person: Who prepares (~~(an orchard)~~) a crop
14 for market for the account of, or as agent for, the producer of the
15 crop, which preparation includes, but is not limited to, receiving,
16 storing, packing, marketing, selling, or delivering (~~(the orchard)~~) a
17 crop; and who takes delivery of the crop from the producer of the crop
18 or from another handler. "Handler" does not include a person who
19 solely transports the crop from the producer to another person.

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

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

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

26 (~~(6))~~) (5) "Supplier" includes, but is not limited to, a person
27 who furnishes seed, furnishes and/or applies commercial fertilizer,
28 pesticide, fungicide, weed killer, or herbicide, including spraying and
29 dusting, upon the land of the grower or landowner, or furnishes any

1 work or labor upon the land of the grower or landowner including
2 tilling, preparing for the growing of crops, sowing, planting,
3 cultivating, cutting, digging, picking, pulling, or otherwise
4 harvesting any crop grown thereon, or in gathering, securing, or
5 housing any crop grown thereon, or in threshing any grain or hauling to
6 any warehouse any crop or grain grown thereon.

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

11 ~~((8))~~ (7) "Lien holder" means a person who, by statute, has
12 acquired a lien on the property of the lien debtor, or such person's
13 successor in interest."

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

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

23 (2) A supplier shall have a lien upon all crops for which the
24 supplies are used or applied to secure payment of the purchase price of
25 the supplies and/or services performed: PROVIDED, That the landlord's
26 interest in the crop shall only be subject to the lien for the amount
27 obligated to be paid by the landlord if prior written consent of the
28 landlord is obtained or if the landlord has agreed in writing with the

1 tenant to pay or be responsible for a portion of the supplies and/or
2 services provided by the lien holder.

3 (3) A handler shall have a lien on all (~~orchard~~) crops delivered
4 by the lien debtor or another handler to the handler and on all
5 proceeds of the (~~orchard~~) crops for: (a) All customary charges for
6 the ordinary and necessary handling of the crop, including but not
7 limited to charges for transporting, receiving, inspecting, materials
8 and supplies furnished, washing, waxing, sorting, packing, storing,
9 promoting, marketing, selling, advertising, insuring, or otherwise
10 handling the lien debtor's crop; and (b) reasonable cooperative per
11 unit retainages, and for all governmental or quasi-governmental
12 assessments imposed by statute, ordinance, or government regulation.
13 Charges shall not include direct or indirect advances or extensions of
14 credit to [a] lien debtor."

15 "Sec. 6. RCW 60.11.030 and 1991 c 286 s 3 are each amended to read
16 as follows:

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

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

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4 On page 1, line 1 of the title, after "Relating to" strike the
5 remainder of the title and insert "handlers; amending RCW 60.13.010,
6 62A.9-310, 60.11.010, 60.11.020, and 60.11.030; and adding a new
7 section to chapter 60.13 RCW."