

HOUSE BILL REPORT

SSB 5628

*As Reported By House Committee on:
Agriculture & Rural Development*

Title: An act relating to crop liens for handlers.

Brief Description: Modifying provisions for crop liens for handlers.

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

Brief History:

Reported by House Committee on:
Agriculture & Rural Development, April 4, 1991, DPA.

**HOUSE COMMITTEE ON
AGRICULTURE & RURAL DEVELOPMENT**

Majority Report: *Do pass as amended.* Signed by 10 members: Representatives Rayburn, Chair; Kremen, Vice Chair; Nealey, Ranking Minority Member; P. Johnson, Assistant Ranking Minority Member; Chandler; Grant; R. Johnson; McLean; Rasmussen; and Roland.

Staff: Kenneth Hirst (786-7105).

Background: Crop liens are used to secure payment for supplies or services performed regarding a crop and to secure a cash rental payment for the landlord of the land on which a crop is grown. Among those eligible to have crop liens are those who supply seed, chemicals, and spraying services and those who provide work or labor on the land of the grower or landowner or haul the crop to a warehouse. With certain limited exceptions, a landlord's crop share interest in a crop cannot be encumbered by a crop lien.

In general, the priority of one crop lien or security interest over another is determined by the time they were filed, with an earlier filed lien having priority over one filed later. The exceptions to this rule are as follows: (1) a labor lien is superior to any other lien or security interest in a crop; (2) a properly filed landlord's lien is superior to all other liens or security interests; and (3) an earlier filed lien or security interest is subordinate to a later filed lien or interest to the extent that the

earlier lien or interest was not incurred to produce the crop.

Summary of Amended Bill: Handlers are now expressly eligible to secure crop liens. A "handler" is a person who takes delivery of an orchard crop from the producer of the crop or another handler and prepares the crop for market for the account of, or as an agent for, the producer of the crop. This preparation includes receiving, storing, packing, marketing, selling, or delivering the crop but not simply transporting the crop from the producer to another person. The lien is on all orchard crops delivered by the producer or by another handler and on all proceeds of the crops.

The crops to which the lien applies are: cherries, peaches, nectarines, plums or prunes, pears, apricots, and apples. The lien is for: customary charges for the ordinary and necessary handling of the crop; reasonable cooperative per unit retainages; and governmental or quasi-governmental assessments. The lien need not be filed.

The handler's lien has priority over all other liens or security interests in a crop except a labor lien. Unless the parties agree otherwise in writing, a later handler's lien on a crop has priority over an earlier handler's lien.

Amended Bill Compared to Substitute Bill: The substitute Senate bill creates a handler's lien for all horticultural crops; the amendments limit the crops to certain specified orchard crops. The definition of "handler" is clarified.

Fiscal Note: Not requested.

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

Testimony For: The customary practice in the tree fruit industry has been to permit handlers to have the lien created by this bill; however, the courts have recently ruled that there is no statutory authority to support the practice. The bill will simply reinstate the customary practice without handlers, producers, and others having to enter contracts for each crop for this purpose.

Testimony Against: None.

Witnesses: Senator Barr; Frank DeLong, Washington State Horticultural Association; Keith Matthews, Yakima Traffic Association; Karl Kottman, Washington Council of Farmer Cooperatives; and Bruce Lee, Washington Agribusiness Coalition.