

2 SHB 2502 - S AMD

3 By Senators Newhouse and Barr

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5 On page 13, after line 16, insert the following:

6 "NEW SECTION. **Sec. 15.** A new section is added to chapter 60.13

7 RCW to read as follows:

8 A consignment of agricultural products by a producer to a handler
9 who prepares the agricultural products for market for the account of,
10 or as agent for the producer of the agricultural products does not vest
11 in the handler any ownership interest in or to the products except to
12 prepare the agricultural products for market for the account of, or as
13 agent for the producer in accordance with the terms of the consignment.

14 If, without the express consent of the producer, a handler pledges
15 or otherwise attempts to create a security interest in consigned
16 agricultural products, such pledge or security interest is void as
17 against the producer; and the producer's right, title, and interest in
18 and to the agricultural products and the proceeds thereof remains in
19 the producer free and clear of any such interest.

20 Nothing in this section impairs any right of any lien or security
21 interest which a handler acquires or is entitled to pursuant to RCW
22 60.11.020(3), or pursuant to a written security agreement signed by the
23 producer, nor shall any provision of this section impair the right of
24 a handler to pledge or grant a security interest in the handler's
25 statutory and consensual lien rights in and to an agricultural product
26 and its proceeds."

1 **"Sec. 16.** RCW 60.13.010 and 1991 c 174 s 2 are each amended to
2 read 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. 17.** RCW 60.11.010 and 1991 c 286 s 1 are each amended to
17 read as follows:

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

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

25 (2) "Handler" means a person: Who prepares ~~((an orchard))~~ a crop
26 for market for the account of, or as agent for, the producer of the
27 crop, which preparation includes, but is not limited to, receiving,
28 storing, packing, marketing, selling, or delivering ~~((the orchard))~~ a
29 crop; and who takes delivery of the crop from the producer of the crop

1 or from another handler. "Handler" does not include a person who
2 solely transports the crop from the producer to another person.

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

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

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

9 ~~((6))~~ (5) "Supplier" includes, but is not limited to, a person
10 who furnishes seed, furnishes and/or applies commercial fertilizer,
11 pesticide, fungicide, weed killer, or herbicide, including spraying and
12 dusting, upon the land of the grower or landowner, or furnishes any
13 work or labor upon the land of the grower or landowner including
14 tilling, preparing for the growing of crops, sowing, planting,
15 cultivating, cutting, digging, picking, pulling, or otherwise
16 harvesting any crop grown thereon, or in gathering, securing, or
17 housing any crop grown thereon, or in threshing any grain or hauling to
18 any warehouse any crop or grain grown thereon.

19 ~~((7))~~ (6) "Lien debtor" means the person who is obligated or owes
20 payment or other performance. If the lien debtor and the owner of the
21 collateral are not the same person, "lien debtor" means the owner of
22 the collateral.

23 ~~((8))~~ (7) "Lien holder" means a person who, by statute, has
24 acquired a lien on the property of the lien debtor, or such person's
25 successor in interest."

26 "**Sec. 18.** RCW 60.11.020 and 1991 c 286 s 2 are each amended to
27 read as follows:

28 (1) A landlord whose lease or other agreement with the tenant
29 provides for cash rental payment shall have a lien upon all crops grown

1 upon the demised land in which the landlord has an interest for no more
2 than one year's rent due or to become due within six months following
3 harvest. A landlord with a crop share agreement has an interest in the
4 growing crop which shall not be encumbered by crop liens except as
5 provided in subsections (2) and (3) of this section.

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

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

26 "Sec. 19. RCW 60.11.030 and 1991 c 286 s 3 are each amended to
27 read as follows:

28 (1) Upon filing, the liens described in RCW 60.11.020 (1) and (2)
29 shall attach to the crop for all sums then and thereafter due and owing

1 the lien holder and shall continue in all identifiable cash proceeds of
2 the crop.

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

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10 On page 1, line 1 of the title, after "15.86.060," strike "and
11 15.86.070" and insert "15.86.070, 60.13.010, 60.11.010, 60.11.020, and
12 60.11.030"

13 On page 1, line 3 of the title, after "42.17.310;" insert "adding
14 a new section to chapter 60.13 RCW;"