

HOUSE BILL REPORT

SSB 5098

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

Title: An act relating to extending the coverage of processor liens.

Brief Description: Extending the coverage of processor liens.

Sponsor(s): Senate Committee on Agriculture & Water Resources (originally sponsored by Senators Barr, Hansen, Newhouse, Gaspard, Bailey, Conner, Amondson, Bauer and L. Smith).

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: In a bankruptcy proceeding, secured claims of creditors have priority over unsecured claims. That is, creditors with secured claims properly filed with the bankruptcy court are paid first, reducing the amount of the debtor's assets available for satisfying the claims of creditors with unsecured interests. A secured interest may be derived from: (1) a judicial lien obtained by judgment or other equitable process; (2) a lien created by statute; or (3) a lien created by a contractual agreement with the debtor.

In 1983, the Legislature established by statute a "processor" lien. Under these statutes, a producer who delivers certain agricultural products to a processor or conditioner has a first priority lien for the price or value of the product. The lien applies to horticultural, viticultural, and berry products, hay and straw, and turf and seed delivered to a processor or conditioner in an unprocessed form.

The lien attaches to the products delivered and the inventory and accounts receivable of the processor or conditioner. However, the lien does not attach to these items if the processor is organized on a cooperative basis and the producer is a member of the co-op.

Summary of Amended Bill: The categories of agricultural products for which a producer is entitled to a "processor" or "preparer" lien under state law regarding the products the producer has delivered to a preparer, processor, or conditioner are altered. Milk and milk products and aquacultural products are now expressly included as such products for establishing a processor lien. Products not used in the preparation of livestock products are removed from the categories expressly listed for establishing preparer liens.

Special rules apply to the person who has monies payable to a processor or to the processor's assigns which are encumbered by a processor lien upon an account receivable. Such a person is not obligated to pay the lien holder amounts to which the lien has been attached until that person receives written notice of the lien. Nor is that person liable to the lien holder for any amounts paid out prior to receipt of the notice.

The circumstances under which the delivery of a product has taken place to initiate eligibility for a lien are specified.

Amended Bill Compared to Substitute Bill: The amendments: reestablish a definition of agricultural products for the purpose of establishing preparer liens; and identify when a product has been delivered for the purposes of initiating eligibility for a lien.

Fiscal Note: Not requested.

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

Testimony For: (1) Recently, a milk plant went into receivership owing \$2.5 million to dairy farmers. This bill will clarify that dairy farmers have a "processor" lien against milk processors. (2) Dairy farmers are the basis for the milk products industry, yet they do not have the security granted to other farmers for the products they deliver to processors. Economic trends indicate instability in the processing industry in the future. This bill will provide some security to dairy farmers. (3) Currently banks have more security for their loans to processors than do

dairies, yet the bank loan is based on milk which has not been paid for.

Testimony Against: (1) Milk processors which are organized as cooperatives are not now subject to the processor lien law. The liens should apply to these entities. (2) The processor lien should not apply to dairy product processors. A security trust system should be set up instead.

Witnesses: Dan Coyne, Washington Dairy Farmers Federation (in favor); Steve Brown and Alan Thomas, Jr. (in favor); Trevor Sandison, Washington Bankers Association (in favor of bill, but opposed to amendments); Hernan Etchetto, Olympia Cheese Company (opposed); and Karl Kottman, Washington Council of Farmer Cooperatives.