

SENATE BILL REPORT

SSB 5628

AS PASSED SENATE, MARCH 19, 1991

Brief Description: Modifying provisions for crop liens for handlers.

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

SENATE COMMITTEE ON AGRICULTURE & WATER RESOURCES

Majority Report: That Substitute Senate Bill No. 5628 be substituted therefor, and the substitute bill do pass.

Signed by Senators Barr, Chairman; Anderson, Vice Chairman; Bailey, Conner, and Newhouse.

Staff: Steve Nelsen (786-7535)

Hearing Dates: February 15, 1991; March 1, 1991

HOUSE COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT

BACKGROUND:

In the regular course of current agricultural business practices, value is often added to crops by activities such as handling and selling which fall outside of the protection afforded by existing statutory liens. The Washington Supreme Court held in a recent decision that the interest of marketers and handlers was subordinate to prior perfected secured creditors. This decision leaves crop marketers and handlers without an assured source of repayment for their services in the event the grower of those crops later becomes insolvent.

SUMMARY:

A "handler" is defined as a person who receives, stores, packs, markets, sells, or delivers crops but does not include a person who solely transports crops from a grower to a handler. "Crop" is defined to include without limitation horticultural, viticultural, and berry products.

The existing provisions for crop liens are expanded to provide protection for handlers to the extent of: all customary charges for ordinary and necessary handling; reasonable cooperative per unit retainages; and governmental assessments. The handler's lien attaches upon delivery of the crops without the necessity of filing. The handler's lien is preferred to other liens and security interests with the exception of the labor lien. The handler's lien will expire in 24 months unless a judicial foreclosure or summary procedure action is brought. The person with a handler's lien is not required to

file a lien termination statement. The handler's lien only applies to horticultural products.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

Handlers of horticultural products need additional protection for their services after the Washington Supreme Court's decision in the Mendelson - Zeller case. This new lien approximates standard business practices before the Mendelson - Zeller case.

TESTIMONY AGAINST:

Lack of a filing requirement may create discovery problems for persons who hold a labor lien.

TESTIFIED: Donald K. Franklin, Attorney, Washington Council of Ag Coops (pro); Louis Meissner, Washington Agri-Business Coalition (con); Karl Kottman, Washington Council of Farm Coops (pro); Jim Clements, Washington Association of Apple Growers (con); Michelle Besso, Evergreen Legal Services; Trevor Sandison, Washington Bankers Association; Frank DeLong, Yakima Growers and Shippers (pro); Tony Czebotar, President, Pacific Produce (pro); Mark Peterson, Munn and Peterson (pro); Bruce R. Ellingson, Washington Association of Apple Growers (con)

HOUSE AMENDMENT(S):

The extension of the crop lien is limited to handlers of cherries, peaches, nectarines, plums or prunes, pears, apricots, and apples.