

**SENATE BILL 5098**

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**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** Senators Barr, Hansen, Newhouse, Gaspard, Bailey, Conner, Amondson, Bauer and L. Smith.

Read first time January 21, 1991. Referred to Committee on Agriculture & Water Resources.

1 AN ACT Relating to extending the coverage of processor liens; and  
2 amending RCW 20.01.010.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 20.01.010 and 1989 c 354 s 37 are each amended to read  
5 as follows:

6 As used in this title the terms defined in this section have the  
7 meanings indicated unless the context clearly requires otherwise.

8 (1) "Director" means the director of agriculture or his or her duly  
9 authorized representative.

10 (2) "Person" means any natural person, firm, partnership, exchange,  
11 association, trustee, receiver, corporation, and any member, officer,  
12 or employee thereof or assignee for the benefit of creditors.

13 (3) "Agricultural product" means any unprocessed horticultural,  
14 vermicultural and its byproducts, viticultural, berry, poultry, poultry  
15 product, grain, bee, or other agricultural products, and includes mint

1 or mint oil processed by or for the producer thereof and hay and straw  
2 baled or prepared for market in any manner or form and livestock. When  
3 used in RCW 60.13.020, "agricultural product" means horticultural,  
4 viticultural, and berry products, milk and milk products, hay and  
5 straw, and turf and forage seed and applies only when such products are  
6 delivered to a processor or conditioner in an unprocessed form.

7 (4) "Producer" means any person engaged in the business of growing  
8 or producing any agricultural product, whether as the owner of the  
9 products, or producing the products for others holding the title  
10 thereof.

11 (5) "Consignor" means any producer, person, or his or her agent who  
12 sells, ships, or delivers to any commission merchant, dealer, cash  
13 buyer, or agent, any agricultural product for processing, handling,  
14 sale, or resale.

15 (6) "Commission merchant" means any person who receives on  
16 consignment for sale or processing and sale from the consignor thereof  
17 any agricultural product for sale on commission on behalf of the  
18 consignor, or who accepts any farm product in trust from the consignor  
19 thereof for the purpose of resale, or who sells or offers for sale on  
20 commission any agricultural product, or who in any way handles for the  
21 account of or as an agent of the consignor thereof, any agricultural  
22 product.

23 (7) "Dealer" means any person other than a cash buyer, as defined  
24 in subsection (10) of this section, who solicits, contracts for, or  
25 obtains from the consignor thereof for reselling or processing, title,  
26 possession, or control of any agricultural product, or who buys or  
27 agrees to buy any agricultural product from the consignor thereof for  
28 sale or processing and includes any person, other than one who acts  
29 solely as a producer, who retains title in an agricultural product and  
30 delivers it to a producer for further production or increase. For the

1 purposes of this chapter, the term dealer includes any person who  
2 purchases livestock on behalf of and for the account of another, or who  
3 purchases cattle in another state or country and imports these cattle  
4 into this state for resale.

5 (8) "Limited dealer" means any person operating under the  
6 alternative bonding provision in RCW 20.01.211.

7 (9) "Broker" means any person other than a commission merchant,  
8 dealer, or cash buyer who negotiates the purchase or sale of any  
9 agricultural product, but no broker may handle the agricultural  
10 products involved or proceeds of the sale.

11 (10) "Cash buyer" means any person other than a commission  
12 merchant, dealer, or broker, who obtains from the consignor thereof for  
13 the purpose of resale or processing, title, possession, or control of  
14 any agricultural product or who contracts for the title, possession, or  
15 control of any agricultural product, or who buys or agrees to buy for  
16 resale any agricultural product by paying to the consignor at the time  
17 of obtaining possession or control of any agricultural product the full  
18 agreed price of the agricultural product, in coin or currency, lawful  
19 money of the United States. However, a cashier's check, certified  
20 check, or bankdraft may be used for the payment. For the purposes of  
21 this subsection, "agricultural product," does not include hay, grain,  
22 straw, or livestock.

23 (11) "Agent" means any person who, on behalf of any commission  
24 merchant, dealer, broker, or cash buyer, acts as liaison between a  
25 consignor and a principal, or receives, contracts for, or solicits any  
26 agricultural product from the consignor thereof or who negotiates the  
27 consignment or purchase of any agricultural product on behalf of any  
28 commission merchant, dealer, broker, or cash buyer and who transacts  
29 all or a portion of that business at any location other than at the  
30 principal place of business of his or her employer. With the exception

1 of an agent for a commission merchant or dealer handling horticultural  
2 products, an agent may operate only in the name of one principal and  
3 only to the account of that principal.

4 (12) "Retail merchant" means any person operating from a bona fide  
5 or established place of business selling agricultural products twelve  
6 months of each year.

7 (13) "Fixed or established place of business" for the purpose of  
8 this chapter means any permanent warehouse, building, or structure, at  
9 which necessary and appropriate equipment and fixtures are maintained  
10 for properly handling those agricultural products generally dealt in,  
11 and at which supplies of the agricultural products being usually  
12 transported are stored, offered for sale, sold, delivered, and  
13 generally dealt in ((in)) quantities reasonably adequate for and  
14 usually carried for the requirements of such a business, and that is  
15 recognized as a permanent business at such place, and carried on as  
16 such in good faith and not for the purpose of evading this chapter, and  
17 where specifically designated personnel are available to handle  
18 transactions concerning those agricultural products generally dealt in,  
19 which personnel are available during designated and appropriate hours  
20 to that business, and shall not mean a residence, barn, garage, tent,  
21 temporary stand or other temporary quarters, any railway car, or  
22 permanent quarters occupied pursuant to any temporary arrangement.

23 (14) "Processor" means any person, firm, company, or other  
24 organization that purchases agricultural crops from a consignor and  
25 that cans, freezes, dries, dehydrates, cooks, presses, powders, or  
26 otherwise processes those crops in any manner whatsoever for eventual  
27 resale.

28 (15) "Pooling contract" means any written agreement whereby a  
29 consignor delivers a horticultural product to a commission merchant  
30 under terms whereby the commission merchant may commingle the

1 consignor's horticultural products for sale with others similarly  
2 agreeing, which must include all of the following:

3 (a) A delivery receipt for the consignor that indicates the variety  
4 of horticultural product delivered, the number of containers, or the  
5 weight and tare thereof;

6 (b) Horticultural products received for handling and sale in the  
7 fresh market shall be accounted for to the consignor with individual  
8 pack-out records that shall include variety, grade, size, and date of  
9 delivery. Individual daily packing summaries shall be available within  
10 forty-eight hours after packing occurs. However, platform inspection  
11 shall be acceptable by mutual contract agreement on small deliveries to  
12 determine variety, grade, size, and date of delivery;

13 (c) Terms under which the commission merchant may use his or her  
14 judgment in regard to the sale of the pooled horticultural product;

15 (d) The charges to be paid by the consignor as filed with the state  
16 of Washington;

17 (e) A provision that the consignor shall be paid for his or her  
18 pool contribution when the pool is in the process of being marketed in  
19 direct proportion, not less than eighty percent of his or her interest  
20 less expenses directly incurred, prior liens, and other advances on the  
21 grower's crop unless otherwise mutually agreed upon between grower and  
22 commission merchant.

23 (16) "Date of sale" means the date agricultural products are  
24 delivered to the person buying the products.

25 (17) "Conditioner" means any person, firm, company, or other  
26 organization that receives turf, forage, or vegetable seeds from a  
27 consignor for drying or cleaning.

28 (18) "Seed bailment contract" means any contract meeting the  
29 requirements of chapter 15.48 RCW.

1           (19) "Proprietary seed" means any seed that is protected under the  
2 federal plant variety protection act.

3           (20) "Licensed public weighmaster" means any person, licensed under  
4 the provisions of chapter 15.80 RCW, who weighs, measures, or counts  
5 any commodity or thing and issues therefor a signed certified  
6 statement, ticket, or memorandum of weight, measure, or count upon  
7 which the purchase or sale of any commodity or upon which the basic  
8 charge of payment for services rendered is based.

9           (21) "Certified weight" means any signed certified statement or  
10 memorandum of weight, measure or count issued by a licensed public  
11 weighmaster in accordance with the provisions of chapter 15.80 RCW.