
SUBSTITUTE SENATE BILL 5628

State of Washington

52nd Legislature

1991 Regular Session

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

Read first time March 5, 1991.

1 AN ACT Relating to crop liens for handlers; and amending RCW
2 60.11.010, 60.11.020, 60.11.030, 60.11.040, 60.11.050, 60.11.140, and
3 62A.9-310.

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

5 **Sec. 1.** RCW 60.11.010 and 1986 c 242 s 1 are each amended to read
6 as follows:

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

9 (1) "Crop" means all products of the soil either growing or
10 cropped, cut, or gathered which require annual planting, harvesting, or
11 cultivating, including without limitation horticultural, viticultural,
12 and berry products. A crop does not include vegetation produced by the
13 powers of nature alone, nursery stock, or vegetation intended as a
14 permanent enhancement of the land itself.

1 (2) "Handler" means a person who takes delivery of crops from a
2 lien debtor or handler for the purpose of handling the horticultural
3 crop for the account of, or as agent for, the lien debtor, but does not
4 include a person who solely transports the crop from the lien debtor to
5 a handler. Handling includes but is not limited to receiving, storing,
6 packing, marketing, selling, and delivering the crop.

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

9 (~~(3)~~) (4) "Secured party" and "security interest" have the same
10 meaning as used in the Uniform Commercial Code, Title 62A RCW.

11 (~~(4)~~) (5) "Supplier" includes, but is not limited to, a person
12 who furnishes seed, furnishes and/or applies commercial fertilizer,
13 pesticide, fungicide, weed killer, or herbicide, including spraying and
14 dusting, upon the land of the grower or landowner, or furnishes any
15 work or labor upon the land of the grower or landowner including
16 tilling, preparing for the growing of crops, sowing, planting,
17 cultivating, cutting, digging, picking, pulling, or otherwise
18 harvesting any crop grown thereon, or in gathering, securing, or
19 housing any crop grown thereon, or in threshing any grain or hauling to
20 any warehouse any crop or grain grown thereon.

21 (~~(5)~~) (6) "Lien debtor" means the person who is obligated or owes
22 payment or other performance. If the lien debtor and the owner of the
23 collateral are not the same person, "lien debtor" means the owner of
24 the collateral.

25 (~~(6)~~) (7) "Lien holder" means a person who, by statute, has
26 acquired a lien on the property of the lien debtor, or such person's
27 successor in interest.

28 **Sec. 2.** RCW 60.11.020 and 1986 c 242 s 2 are each amended to read
29 as follows:

1 (1) A landlord whose lease or other agreement with the tenant
2 provides for cash rental payment shall have a lien upon all crops grown
3 upon the demised land in which the landlord has an interest for no more
4 than one year's rent due or to become due within six months following
5 harvest. A landlord with a crop share agreement has an interest in the
6 growing crop which shall not be encumbered by crop liens except as
7 provided in subsections (2) and (3) of this section.

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

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

28 **Sec. 3.** RCW 60.11.030 and 1986 c 242 s 3 are each amended to read
29 as follows:

1 (1) Upon filing, the liens described in RCW 60.11.020 (1) and (2)
2 shall attach to the crop for all sums then and thereafter due and owing
3 the lien holder and shall continue in all identifiable cash proceeds of
4 the crop.

5 (2) Upon the delivery of horticultural crops by the lien debtor,
6 without the necessity of filing, the lien for charges as set forth in
7 RCW 60.11.020(3) shall attach to the delivered crop and shall continue
8 in both the crop and all proceeds of the crop.

9 **Sec. 4.** RCW 60.11.040 and 1989 c 229 s 1 are each amended to read
10 as follows:

11 (1) Except as provided in subsection (4) of this section with
12 respect to the lien of a landlord, and except for the lien of a handler
13 as provided in RCW 60.11.020(3), any lien holder must after the
14 commencement of delivery of such supplies and/or of provision of such
15 services, but before the completion of the harvest of the crops for
16 which the lien is claimed, or in the case of a lien for furnishing work
17 or labor within twenty days after the cessation of the work or labor
18 for which the lien is claimed: (a) File a statement evidencing the
19 lien with the department of licensing; and (b) if the lien holder is to
20 be allowed costs, disbursements, and attorneys' fees, mail a copy of
21 such statement to the last known address of the debtor by certified
22 mail, return receipt requested, within ten days.

23 (2) The statement shall be in writing, signed by the claimant, and
24 shall contain in substance the following information:

25 (a) The name and address of the claimant;

26 (b) The name and address of the debtor;

27 (c) The date of commencement of performance for which the lien is
28 claimed;

1 (d) A description of the labor services, materials, or supplies
2 furnished;

3 (e) A description of the crop and its location to be charged with
4 the lien sufficient for identification; and

5 (f) The signature of the claimant.

6 (3) The department of licensing may by rule prescribe standard
7 filing forms, fees, and uniform procedures for filing with, and
8 obtaining information from, filing officers, including provisions for
9 filing crop liens together with financing statements filed pursuant to
10 RCW 62A.9-401 so that one request will reveal all filed crop liens and
11 security interests.

12 (4) Any landlord claiming a lien under this chapter for rent shall
13 file a statement evidencing the lien with the department of licensing.
14 A lien for rent claimed by a landlord pursuant to this chapter shall be
15 effective during the term of the lease for a period of up to five
16 years. A landlord lien covering a lease term longer than five years
17 may be refiled in accordance with RCW 60.11.050(4). A landlord who has
18 a right to a share of the crop may place suppliers on notice by filing
19 evidence of such interest in the same manner as provided for filing a
20 landlord's lien.

21 **Sec. 5.** RCW 60.11.050 and 1986 c 242 s 5 are each amended to read
22 as follows:

23 (1) Except as provided in subsections (2), (3), ~~((and))~~ (4), and
24 (5) of this section, conflicting liens and security interests shall
25 rank in accordance with the time of filing.

26 (2) The lien created in RCW 60.11.020(2) in favor of any person who
27 furnishes any work or labor upon the land of the grower or landowner
28 shall be preferred and prior to any other lien or security interest

1 upon the crops to which they attach including the liens described in
2 subsections (3) ~~((and))~~, (4), and (5) of this section.

3 (3) The lien created in RCW 60.11.020(3) in favor of handlers is
4 preferred and prior to another lien or security interest upon the crops
5 to which they attach except the liens in favor of a person who
6 furnishes work or labor upon the land of the grower or landlord.
7 Whenever more than one handler holds a handler's lien created by RCW
8 60.11.020(3) in the same crop, unless the affected parties otherwise
9 agree in writing, the later of the liens to attach has priority over
10 all previously attached handlers' liens.

11 (4) A lien or security interest in crops otherwise entitled to
12 priority pursuant to subsection (1) of this section shall be
13 subordinate to a later filed lien or security interest incurred to
14 produce the crop to the extent that obligations secured by such earlier
15 filed security interest or lien were not incurred to produce such
16 crops.

17 ~~((4))~~ (5) A lien or security interest in crops otherwise entitled
18 to priority pursuant to subsection (1) of this section shall be
19 subordinate to a properly filed landlord's lien. A landlord's lien
20 shall retain its priority if refiled within six months prior to its
21 expiration.

22 **Sec. 6.** RCW 60.11.140 and 1986 c 242 s 14 are each amended to read
23 as follows:

24 (1) Whenever the total amount of the lien has been fully paid, the
25 lien holder filing a lien shall, within fifteen days following receipt
26 of full payment, file its lien termination statement with the
27 department of licensing. Failure to file a lien termination statement
28 by the lien holder or the assignee of the lien holder shall cause the
29 lien holder or its assignee to be liable to the debtor for the

1 attorneys' fees and costs incurred by the debtor to have the lien
2 terminated together with damages incurred by the debtor due to the
3 failure of the lien holder to terminate the lien.

4 (2) There shall be no charge by the department of licensing for
5 entering the lien termination statement and indexing the same and
6 returning a copy of the lien termination statement stamped as "filed"
7 with the filing date thereon.

8 (3) The department of licensing may enter the lien termination
9 statement on microfilm or other photographic record and destroy all
10 originals of the lien and lien satisfaction filed with him or her.

11 **Sec. 7.** RCW 62A.9-310 and 1986 c 242 s 16 are each amended to read
12 as follows:

13 (1) When a person in the ordinary course of his business furnishes
14 services or materials with respect to goods subject to a security
15 interest, a lien upon goods in the possession of such person given by
16 statute or rule of law for such materials or services takes priority
17 over a perfected security interest only if the lien is statutory and
18 the statute expressly provides for such priority.

19 (2) A preparer lien or processor lien properly created pursuant to
20 chapter 60.13 RCW or a depositor's lien created pursuant to chapter
21 22.09 RCW takes priority over any perfected or unperfected security
22 interest.

23 (3) Conflicting priorities between ((~~nonpossessory~~)) crop liens
24 created under chapter 60.11 RCW and security interests shall be
25 governed by chapter 60.11 RCW.