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SENATE BILL 5628

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State of Washington

52nd Legislature

1991 Regular Session

By Senators Barr and Hansen.

Read first time February 12, 1991. Referred to Committee on  
Agriculture & Water Resources.

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, 60.11.130,  
3 60.11.140, and 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.

15 (2) "Grower" means a person who grows or produces crops.

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

7        (4) "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))~~ (5) "Secured party" and "security interest" have the same  
10 meaning as used in the Uniform Commercial Code, Title 62A RCW.

11        ~~((+4))~~ (6) "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))~~ (7) "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. For the purposes of the handler's lien provided by RCW  
25 60.11.020(3), grower and lien debtor shall mean the same person.

26        ~~((+6))~~ (8) "Lien holder" means a person who, by statute, has  
27 acquired a lien on the property of the lien debtor, or such person's  
28 successor in interest.

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

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

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

18       (3) A handler shall have a lien on all crops delivered by the lien  
19 debtor to the handler and on all proceeds of such crops for: (a) All  
20 customary charges for the ordinary and necessary handling of the crop,  
21 including but not limited to charges for transporting, receiving,  
22 inspecting, materials and supplies furnished, washing, waxing, sorting,  
23 packing, storing, promoting, marketing, selling, advertising, insuring,  
24 or otherwise handling the lien debtor's crop; (b) reasonable co-  
25 operative per unit retainages, and for all governmental or quasi-  
26 governmental assessments imposed by statute, ordinance, or government  
27 regulation; and (c) advances by the handler to the lien debtor of the  
28 anticipated proceeds of sale, provided the advances are paid to the  
29 lien debtor in the form of a joint payee check made payable to the lien

1 debtor and a party who at the time of the payment possessed a perfected  
2 security interest in the crops and the proceeds of the crops.

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

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

9       (2) Upon the delivery of crops by the lien debtor, without the  
10 necessity of filing, the lien for charges as set forth in RCW  
11 60.11.020(3) shall attach to the delivered crop and all proceeds of the  
12 crop.

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

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

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

- 1 (a) The name and address of the claimant;
- 2 (b) The name and address of the debtor;
- 3 (c) The date of commencement of performance for which the lien is
- 4 claimed;
- 5 (d) A description of the labor services, materials, or supplies
- 6 furnished;
- 7 (e) A description of the crop and its location to be charged with
- 8 the lien sufficient for identification; and
- 9 (f) The signature of the claimant.

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

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

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

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

1 (2) The lien created in RCW 60.11.020(2) in favor of any person who  
2 furnishes any work or labor upon the land of the grower or landowner  
3 shall be preferred and prior to any other lien or security interest  
4 upon the crops to which they attach including the liens described in  
5 subsections (3) ~~((and))~~, (4), and (5) of this section.

6 (3) The lien created in RCW 60.11.020(3) in favor of handlers is  
7 preferred and prior to another lien or security interest upon the crops  
8 to which they attach except the liens in favor of a person who  
9 furnishes work or labor upon the land of the grower or landlord.

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

15 ~~((4))~~ (5) A lien or security interest in crops otherwise entitled  
16 to priority pursuant to subsection (1) of this section shall be  
17 subordinate to a properly filed landlord's lien. A landlord's lien  
18 shall retain its priority if refiled within six months prior to its  
19 expiration.

20 **Sec. 6.** RCW 60.11.130 and 1986 c 242 s 13 are each amended to read  
21 as follows:

22 Judicial foreclosure or summary procedure as provided in RCW  
23 60.11.060 shall be brought within twenty-four calendar months after  
24 filing the claim for lien, except in the case of a handler claiming a  
25 lien under RCW 60.11.020(3) which shall be thirty-six months from the  
26 date of first delivery of the crop to the handler, except in the case  
27 of a landlord lien which shall be twenty-four calendar months from the  
28 date of default on the lease, and upon expiration of such time, the  
29 claimed lien shall expire. In a judicial foreclosure, the court shall

1 allow reasonable attorneys' fees and disbursement for establishing a  
2 lien.

3       **Sec. 7.** RCW 60.11.140 and 1986 c 242 s 14 are each amended to read  
4 as follows:

5       (1) Whenever the total amount of the lien has been fully paid, the  
6 lien holder filing a lien shall, within fifteen days following receipt  
7 of full payment, file its lien termination statement with the  
8 department of licensing. Failure to file a lien termination statement  
9 by the lien holder or the assignee of the lien holder shall cause the  
10 lien holder or its assignee to be liable to the debtor for the  
11 attorneys' fees and costs incurred by the debtor to have the lien  
12 terminated together with damages incurred by the debtor due to the  
13 failure of the lien holder to terminate the lien.

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

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

21       **Sec. 8.** RCW 62A.9-310 and 1986 c 242 s 16 are each amended to read  
22 as follows:

23       (1) When a person in the ordinary course of his business furnishes  
24 services or materials with respect to goods subject to a security  
25 interest, a lien upon goods in the possession of such person given by  
26 statute or rule of law for such materials or services takes priority  
27 over a perfected security interest only if the lien is statutory and  
28 the statute expressly provides for such priority.

1           (2) A preparer lien or processor lien properly created pursuant to  
2 chapter 60.13 RCW or a depositor's lien created pursuant to chapter  
3 22.09 RCW takes priority over any perfected or unperfected security  
4 interest.

5           (3) Conflicting priorities between ((~~nonpossessory~~)) crop liens  
6 created under chapter 60.11 RCW and security interests shall be  
7 governed by chapter 60.11 RCW.