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HOUSE BILL 2871

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State of Washington

52nd Legislature

1992 Regular Session

By Representatives Prince, Jacobsen and Rayburn

Read first time 01/31/92. Referred to Committee on Agriculture & Rural Development.

1 AN ACT Relating to producer liens; amending RCW 60.13.010,  
2 60.13.050, 60.13.060, 60.13.070, and 62A-9.310; reenacting and amending  
3 RCW 60.13.040; and adding a new section to chapter 60.13 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 60.13 RCW  
6 to read as follows:

7 Starting on the date a producer delivers an agricultural product to  
8 a handler, the producer has a first priority statutory lien, referred  
9 to as a "producer lien." This producer lien continues twenty days  
10 after payment for the product is due and remains unpaid, without filing  
11 a notice of lien, for the full value of the products delivered, less  
12 the amount subject to a lien provided to a handler of the producer's  
13 agricultural products under RCW 60.11.020(3). The producer lien  
14 attaches to the agricultural products delivered by the producer to the

1 handler and to the handler's accounts receivable for the producer's  
2 agricultural products.

3       **Sec. 2.** RCW 60.13.010 and 1991 c 174 s 2 are each amended to read  
4 as follows:

5       As used in this chapter, the terms defined in this section have the  
6 meanings indicated unless the context clearly requires otherwise.

7       (1) "Agricultural product" means any unprocessed horticultural,  
8 vermicultural and its byproducts, viticultural, berry, poultry, poultry  
9 product, grain, bee, or other agricultural products, and includes mint  
10 or mint oil processed by or for the producer thereof and hay and straw  
11 baled or prepared for market in any manner or form and livestock. When  
12 used in RCW 60.13.020, "agricultural product" means horticultural,  
13 viticultural, aquacultural, or berry products, hay and straw, milk and  
14 milk products, or turf and forage seed and applies only when such  
15 products are delivered to a processor or conditioner in an unprocessed  
16 form.

17       (2) "Conditioner," "consignor," "person," and "producer" have the  
18 meanings defined in RCW 20.01.010.

19       (3) "Delivers" means that a producer completes the performance of  
20 all contractual obligations with reference to the transfer of actual or  
21 constructive possession or control of an agricultural product to a  
22 processor or conditioner or preparer, regardless of whether the  
23 processor or conditioner or preparer takes physical possession.

24       (4) "Preparer" means a person engaged in the business of feeding  
25 livestock or preparing livestock products for market.

26       (5) "Processor" means any person, firm, company, or other  
27 organization that purchases agricultural products except milk and milk  
28 products from a consignor and that cans, freezes, dries, dehydrates,  
29 cooks, presses, powders, or otherwise processes those crops in any

1 manner whatsoever for eventual resale, or that purchases or markets  
2 milk from a dairy producer and is obligated to remit payment to such  
3 dairy producer directly.

4 (6) "Commercial fisherman" means a person licensed to fish  
5 commercially for or to take food fish or shellfish or steelhead legally  
6 caught pursuant to executive order, treaty right, or federal statute.

7 (7) "Fish" means food fish or shellfish or steelhead legally caught  
8 pursuant to executive order, treaty right, or federal statute.

9 (8) "Handler" means a person, firm, company, or other organization  
10 that prepares an agricultural product for market for the account of, or  
11 as agent for, the producer of the agricultural product, the preparation  
12 including, but not limited to, receiving, storing, packing, marketing,  
13 selling, or delivering the agricultural product, and includes a person,  
14 firm, company, or other organization who takes delivery of the  
15 agricultural product from the producer of the agricultural product or  
16 from another handler. "Handler" does not include a person who solely  
17 transports the agricultural product from the producer to another  
18 person.

19 **Sec. 3.** RCW 60.13.040 and 1987 c 189 s 7 and 1987 c 148 s 3 are  
20 each reenacted and amended to read as follows:

21 (1) A producer or commercial fisherman claiming a processor ((~~or~~)),  
22 preparer, or producer lien may file a statement evidencing the lien  
23 with the department of licensing after payment from the processor,  
24 conditioner, or preparer to the producer or fisherman is due and  
25 remains unpaid. For purposes of this subsection and RCW 60.13.050,  
26 payment is due on the date specified in the contract, or if not  
27 specified, then within thirty days from time of delivery.

28 (2) The statement shall be in writing, verified by the producer or  
29 fisherman, and shall contain in substance the following information:

1 (a) A true statement of the amount demanded after deducting all  
2 credits and offsets;

3 (b) The name of the processor, conditioner, or preparer who  
4 received the agricultural product or fish to be charged with the lien;

5 (c) A description sufficient to identify the agricultural product  
6 or fish to be charged with the lien;

7 (d) A statement that the amount claimed is a true and bona fide  
8 existing debt as of the date of the filing of the notice evidencing the  
9 lien;

10 (e) The date on which payment was due for the agricultural product  
11 or fish to be charged with the lien; and

12 (f) The department of licensing may by rule prescribe standard  
13 filing forms, fees, and uniform procedures for filing with, and  
14 obtaining information from, filing officers.

15 **Sec. 4.** RCW 60.13.050 and 1987 c 148 s 4 are each amended to read  
16 as follows:

17 (1)(a) If a statement is filed pursuant to RCW 60.13.040 within  
18 twenty days of the date upon which payment from the processor,  
19 conditioner, or preparer to the producer or commercial fisherman is due  
20 and remains unpaid, the processor ~~((or))~~, preparer, or producer lien  
21 evidenced by the statement continues its priority over all other liens  
22 or security interests upon agricultural products or fish, inventory,  
23 and accounts receivable, except as provided in (b) of this subsection.  
24 Such priority is without regard to whether the other liens or security  
25 interests attached before or after the date on which the processor  
26 ~~((or))~~, preparer, or producer lien attached.

27 (b) The processor ~~((or))~~, preparer, or producer lien shall be  
28 subordinate to a handler lien under RCW 60.11.020(3), and the liens for

1 taxes or labor perfected before filing of the processor ((~~or~~)),  
2 preparer, or producer lien.

3 (2) If the statement provided for in RCW 60.13.040 is not filed  
4 within twenty days of the date payment is due and remains unpaid, the  
5 processor ((~~or~~)), preparer, or producer lien shall thereupon become  
6 subordinate to:

7 (a) A lien that has attached to the agricultural product or fish,  
8 inventory, or accounts receivable before the date on which the  
9 processor ((~~or~~)), preparer, or producer lien attaches; and

10 (b) A perfected security interest in the agricultural product or  
11 fish, inventory, or accounts receivable.

12 **Sec. 5.** RCW 60.13.060 and 1987 c 148 s 5 are each amended to read  
13 as follows:

14 (1) The processor lien shall terminate six months after, and the  
15 preparer or producer lien shall terminate fifty days after, the later  
16 of the date of attachment or filing, unless a suit to foreclose the  
17 lien has been filed before that time as provided in RCW 60.13.070.

18 (2) If a statement has been filed as provided in RCW 60.13.040 and  
19 the producer or commercial fisherman has received payment for the  
20 obligation secured by the lien, the producer or fisherman shall  
21 promptly file with the department of licensing a statement declaring  
22 that full payment has been received and that the lien is discharged.  
23 If, after payment, the producer or fisherman fails to file such  
24 statement of discharge within ten days following a request to do so,  
25 the producer or fisherman shall be liable to the processor,  
26 conditioner, or preparer in the sum of one hundred dollars plus actual  
27 damages caused by the failure.

1       **Sec. 6.** RCW 60.13.070 and 1985 c 412 s 7 are each amended to read  
2 as follows:

3       (1) The processor ~~((or))~~, preparer, or producer liens may be  
4 foreclosed and enforced by civil action in superior court.

5       (2) In all suits to enforce processor ~~((or))~~, preparer, or producer  
6 liens, the court shall, upon entering judgment, allow to the prevailing  
7 party as a part of the costs, all moneys paid for the filing and  
8 recording of the lien and reasonable attorney fees.

9       **Sec. 7.** RCW 62A.9-310 and 1991 c 286 s 7 are each amended to read  
10 as follows:

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

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

21       (3) Conflicting priorities between crop liens created under chapter  
22 60.11 RCW and security interests shall be governed by chapter 60.11  
23 RCW.