

government and its existing public institutions, and shall take effect immediately, except section 9 of this act shall take effect July 1, 1986, and section 10 of this act shall take effect July 1, 1987.

Passed the Senate March 9, 1986.

Passed the House March 5, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 242

[Substitute Senate Bill No. 4547]

CROP LIENS

AN ACT Relating to crop liens; amending RCW 62A.9-310; adding a new chapter to Title 60 RCW; creating new sections; repealing RCW 60.12.010, 60.12.020, 60.12.030, 60.12.040, 60.12.060, 60.12.070, 60.12.080, 60.12.090, 60.12.100, 60.12.110, 60.12.120, 60.12.130, 60.12.140, 60.12.150, 60.12.160, 60.12.170, 60.12.180, 60.12.190, 60.12.200, 60.12.210, 60.14.010, 60.14.020, 60.14.030, 60.22.010, 60.22.020, and 60.22.030; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. DEFINITIONS. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Crop" means all products of the soil either growing or cropped, cut, or gathered which require annual planting, harvesting, or cultivating. A crop does not include vegetation produced by the powers of nature alone, nursery stock, or vegetation intended as a permanent enhancement of the land itself.

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

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

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

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

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

NEW SECTION. Sec. 2. PERSONS ENTITLED TO CROP LIENS; PROPERTY SUBJECT TO LIEN. (1) A landlord whose lease or other agreement with the tenant provides for cash rental payment shall have a lien upon all crops grown upon the demised land in which the landlord has an interest for no more than one year's rent due or to become due within six months following harvest. A landlord with a crop share agreement has an interest in the growing crop which shall not be encumbered by crop liens except as provided in subsection (2) of this section.

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

NEW SECTION. Sec. 3. ATTACHMENT OF LIENS; ATTACHMENT OF PROCEEDS. Upon filing, the liens described in section 2 of this act shall attach to the crop for all sums then and thereafter due and owing the lien holder and shall continue in all identifiable cash proceeds of the crop.

NEW SECTION. Sec. 4. CLAIM OF LIEN; FILING; CONTENTS; DURATION. (1) Except as provided in subsection (4) of this section with respect to the lien of a landlord, any lien holder must after the commencement of delivery of such supplies and/or of provision of such services, but before the completion of the harvest of the crops for which the lien is claimed: (a) File a statement evidencing the lien with the department of licensing; and (b) if the lien holder is to be allowed costs, disbursements, and attorneys' fees, mail a copy of such statement to the last known address of the debtor by certified mail, return receipt requested, within ten days.

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

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

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

(4) Any landlord claiming a lien under this chapter for rent shall file a statement evidencing the lien with the department of licensing. A lien for rent claimed by a landlord pursuant to this chapter shall be effective during the term of the lease for a period of up to five years. A landlord lien covering a lease term longer than five years may be refiled in accordance with section 5(4) of this act. A landlord who has a right to a share of the crop may place suppliers on notice by filing evidence of such interest in the same manner as provided for filing a landlord's lien.

NEW SECTION. Sec. 5. PRIORITIES OF LIENS AND SECURITY INTERESTS. (1) Except as provided in subsections (2), (3), and (4) of this section, conflicting liens and security interests shall rank in accordance with the time of filing.

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

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

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

NEW SECTION. Sec. 6. FORECLOSURE OF CROP LIEN. Any lien subject to this chapter, excluded by RCW 62A.9-104 from the provisions of the Uniform Commercial Code, Title 62A RCW, may be foreclosed by an action in the superior court having jurisdiction in the county in which the real property on which the crop in question was grown is situated in accordance with section 7 of this act or it may be foreclosed by summary procedure as provided in section 8 of this act.

NEW SECTION. Sec. 7. JUDICIAL FORECLOSURE. The lien holder may proceed upon his or her lien; and if there is a separate obligation in writing to pay the same, secured by the lien, he or she may bring suit upon such separate promise. When he or she proceeds on the promise, if there is a specific agreement therein contained, for the payment of a certain sum or there is a separate obligation for the sum in addition to a decree of sale of lien property, judgment shall be rendered for the amount due upon the promise or other instrument, the payment of which is thereby secured; the decree shall direct the sale of the lien property and if the proceeds of the sale are insufficient under the execution, the sheriff is authorized to levy

upon and sell other property of the lien debtor, not exempt from execution, for the sum remaining unsatisfied.

NEW SECTION. Sec. 8. SUMMARY FORECLOSURE. (1) A lien may be summarily foreclosed by notice and sale as provided in this section. The lien holder may sell or otherwise dispose of the collateral in its existing condition or following any commercially reasonable preparation or processing. The proceeds of disposition shall be applied in the order following to:

(a) The reasonable expenses of retaking, holding, preparing for sale, selling and the like, and to the extent provided for in the agreement and not prohibited by law, the reasonable attorneys' fees and legal expenses incurred by the secured party;

(b) The satisfaction of indebtedness secured by the lien under which the disposition is made;

(c) The satisfaction of indebtedness secured by any subordinate security interest in the collateral if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the lien holder, the holder of a subordinate security interest must seasonably furnish reasonable proof of his or her interest, and unless he or she does so, the lien holder need not comply with the demand.

(2) The lien holder shall account to the lien debtor for any surplus, and, unless otherwise agreed, the lien debtor is not liable for any deficiency.

(3) Disposition of the collateral may be by public or private proceedings and may be made by way of one or more contracts. Sale or other disposition may be as a unit or in parcels and at any time and place and on any terms but every aspect of the disposition including the method, manner, time, place, and terms must be commercially reasonable. Unless collateral is perishable or threatens to decline quickly in value or is of a type customarily sold on a recognized market, reasonable notification of the time after which any private sale or other intended disposition is to be made shall be sent by the lien holder to the lien debtor, and to any other person who has a duly filed crop lien, or who has a security interest in the collateral and has duly filed a financing statement indexed in the name of the lien debtor in this state, or who is known by the lien holder to have a security interest or crop lien in the collateral. The lien holder may buy at any public sale, and if the collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations the lien holder may buy at private sale.

NEW SECTION. Sec. 9. RIGHTS AND INTEREST OF PURCHASER FOR VALUE. When a lien is foreclosed in accordance with section 6 of this act, the disposition transfers to a purchaser for value all of the lien debtor's right therein and discharges the lien under which it is made and any security interest or lien subordinate thereto. The purchaser takes

free of all such rights and interest even though the lien holder fails to comply with the requirements of this chapter or of any judicial proceedings under section 7 of this act:

(1) In the case of a public sale, if the purchaser has no knowledge of any defects in the sale and if he or she does not buy in collusion with the lien holder, other bidders, or the person conducting the sale; or

(2) In any other case, if the purchaser acts in good faith.

NEW SECTION. Sec. 10. REDEMPTION. At any time before the lien holder has disposed of collateral or entered into a contract for its disposition under section 6 of this act, the lien debtor or any other secured party may redeem the collateral by tendering fulfillment of all obligations secured by the collateral as well as the expenses reasonably incurred by the lien holder in holding and preparing the collateral for disposition and in arranging for the sale and his or her reasonable attorneys' fees and legal expenses.

NEW SECTION. Sec. 11. NONCOMPLIANCE WITH CHAPTER—RIGHTS OF LIEN DEBTOR. If the lien holder is not proceeding in accordance with the provisions of this chapter, disposition may be ordered or restrained on appropriate terms and conditions. If the disposition has occurred the lien debtor or any person entitled to notification or whose security interest has been made known to the lien holder prior to the disposition has a right to recover from the lien holder any loss caused by a failure to comply with the provisions of this chapter.

NEW SECTION. Sec. 12. "COMMERCIALLY REASONABLE." The fact that a better price could have been obtained by a sale at a different time or in a different method from that selected by the lien holder is not in itself sufficient to establish that the sale was not made in a commercially reasonable manner. If the lien holder either sells the collateral in the usual manner in any recognized market therefor or if he or she sells at the price current in such market at the time of the sale or if he or she has otherwise sold in conformity with reasonable commercial practices among dealers in the type of property sold he or she has sold in a commercially reasonable manner. A disposition which has been approved in any judicial proceeding or by any bona fide creditors' committee or representative of creditors shall conclusively be deemed to be commercially reasonable, but this does not mean that approval must be obtained in any case nor does it mean that any disposition not so approved is not commercially reasonable.

For purposes of this chapter, "commercially reasonable" shall be construed in a manner consistent with this section.

NEW SECTION. Sec. 13. LIMITATION OF ACTION TO FORECLOSE—COSTS. Judicial foreclosure or summary procedure as provided in section 6 of this act shall be brought within twenty-four calendar months after filing the claim for lien, except in the case of a landlord lien

which shall be twenty-four calendar months from the date of default on the lease, and upon expiration of such time, the claimed lien shall expire. In a judicial foreclosure, the court shall allow reasonable attorneys' fees and disbursement for establishing a lien.

NEW SECTION. Sec. 14. LIEN TERMINATION STATEMENT.

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

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

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

NEW SECTION. Sec. 15. Liens created prior to the effective date of this act, which are based on statutes repealed by this act, shall remain in effect for the duration provided by the law in effect before the effective date of this act. The department of licensing shall notify persons requesting information for crop liens that, for this transition period, records of crop liens may exist at a county auditor's office as well as at the department of licensing.

Sec. 16. Section 9-310, chapter 157, Laws of 1965 ex. sess. as last amended by section 10, chapter 412, Laws of 1985 and RCW 62A.9-310 are each amended to read as follows:

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

(2) A preparer lien or processor lien properly created pursuant to chapter 60.13 RCW (~~((sections 1 through 7 of this 1985 act))~~) or a depositor's lien created pursuant to chapter 22.09 RCW takes priority over any perfected or unperfected security interest.

(3) (~~(A commercial fertilizer, pesticide, or weed killer lien takes priority over any perfected or unperfected security interest for which no new value was provided if materials or services were given to enable the debtor~~

~~to produce the crops during the production season))~~ Conflicting priorities between nonpossessory crop liens created under sections 1 through 14 of this 1986 act and security interests shall be governed by chapter 60.— RCW (sections 1 through 14 of this 1986 act).

NEW SECTION. Sec. 17. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 256, Laws of 1927, section 1, chapter 32, Laws of 1933 and RCW 60.12.010;

(2) Section 2, chapter 256, Laws of 1927 and RCW 60.12.020;

(3) Section 3, chapter 256, Laws of 1927, section 2, chapter 336, Laws of 1955 and RCW 60.12.030;

(4) Section 4, chapter 256, Laws of 1927, section 1, chapter 119, Laws of 1933 and RCW 60.12.040;

(5) Section 5, chapter 256, Laws of 1927 and RCW 60.12.060;

(6) Section 6, chapter 256, Laws of 1927, section 2, chapter 32, Laws of 1933, section 11, chapter 44, Laws of 1985 and RCW 60.12.070;

(7) Section 7, chapter 256, Laws of 1927, section 5, chapter 336, Laws of 1955 and RCW 60.12.080;

(8) Section 8, chapter 256, Laws of 1927 and RCW 60.12.090;

(9) Section 9, chapter 256, Laws of 1927 and RCW 60.12.100;

(10) Section 10, chapter 256, Laws of 1927 and RCW 60.12.110;

(11) Section 11, chapter 256, Laws of 1927 and RCW 60.12.120;

(12) Section 12, chapter 256, Laws of 1927, section 2, chapter 119, Laws of 1933 and RCW 60.12.130;

(13) Section 13, chapter 256, Laws of 1927 and RCW 60.12.140;

(14) Section 14, chapter 256, Laws of 1927 and RCW 60.12.150;

(15) Section 15, chapter 256, Laws of 1927 and RCW 60.12.160;

(16) Section 16, chapter 256, Laws of 1927 and RCW 60.12.170;

(17) Section 1, chapter 336, Laws of 1955, section 1, chapter 226, Laws of 1959 and RCW 60.12.180;

(18) Section 3, chapter 336, Laws of 1955, section 12, chapter 44, Laws of 1985 and RCW 60.12.190;

(19) Section 4, chapter 336, Laws of 1955 and RCW 60.12.200;

(20) Section 6, chapter 336, Laws of 1955 and RCW 60.12.210;

(21) Section 1, chapter 217, Laws of 1955 and RCW 60.14.010;

(22) Section 2, chapter 217, Laws of 1955 and RCW 60.14.020;

(23) Section 3, chapter 217, Laws of 1955 and RCW 60.14.030;

(24) Section 1, chapter 264, Laws of 1961, section 9, chapter 412, Laws of 1985 and RCW 60.22.010;

(25) Section 2, chapter 264, Laws of 1961, section 1, chapter 21, Laws of 1977 and RCW 60.22.020; and

(26) Section 3, chapter 264, Laws of 1961 and RCW 60.22.030.

NEW SECTION. Sec. 18. As used in this act, section captions constitute no part of the law.

NEW SECTION. Sec. 19. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 20. Sections 1 through 14 of this act shall constitute a new chapter in Title 60 RCW.

NEW SECTION. Sec. 21. This act shall take effect January 1, 1987.

Passed the Senate March 9, 1986.

Passed the House March 7, 1986.

Approved by the Governor April 3, 1986.

Filed in Office of Secretary of State April 3, 1986.

CHAPTER 243

[Engrossed Senate Bill No. 4582]

HEALTH CARE CLAIMS—FRAUD

AN ACT Relating to fraud in the obtaining of health care benefits; adding a new chapter to Title 48 RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds and declares that the welfare of the citizens of this state is threatened by the spiraling increases in the cost of health care. It is further recognized that fraudulent health care claims contribute to these increases in health care costs. In recognition of these findings, it is declared that special attention must be directed at eliminating the unjustifiable costs of fraudulent health care claims by establishing specific penalties and deterrents. This chapter may be known and cited as "the health care false claim act."

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Claim" means any attempt to cause a health care payer to make a health care payment.

(2) "Deceptive" means presenting a claim to a health care payer that contains a statement of fact or fails to reveal a material fact, leading the health care payer to believe that the represented or suggested state of affairs is other than it actually is. For the purposes of this chapter, the determination of what constitutes a material fact is a question of law to be resolved by the court.

(3) "False" means wholly or partially untrue or deceptive.

(4) "Health care payment" means a payment for health care services or the right under a contract, certificate, or policy of insurance to have a payment made by a health care payer for a specified health care service.

(5) "Health care payer" means any insurance company authorized to provide health insurance in this state, any health care service contractor