

1-1 By: Perry S.B. No. 1339
1-2 (In the Senate - Filed March 11, 2015; March 18, 2015, read
1-3 first time and referred to Committee on Agriculture, Water, and
1-4 Rural Affairs; April 7, 2015, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
1-6 April 7, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 1339 By: Perry

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the perfection and priority of an agricultural lien on
1-20 an agricultural crop.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 70.401(4), Property Code, is amended to
1-23 read as follows:

1-24 (4) "Contract purchaser" means a person who ~~[, before~~
1-25 ~~the planting of an agricultural crop,~~] has agreed under a ~~[written]~~
1-26 contract to purchase an agricultural ~~[the]~~ crop or otherwise pay
1-27 the agricultural producer for growing, producing, or harvesting the
1-28 agricultural crop. The term does not include a person who, as to
1-29 the transaction in question, is licensed and bonded under Chapter
1-30 14, Agriculture Code, or the United States Warehouse Act (7 U.S.C.
1-31 Section 241 et seq.).

1-32 SECTION 2. Sections 70.402(a) and (b), Property Code, are
1-33 amended to read as follows:

1-34 (a) An agricultural producer who, under a ~~[written]~~
1-35 contract with a contract purchaser, is to receive consideration for
1-36 selling an agricultural crop grown, produced, or harvested by the
1-37 producer has a lien for the amount owed under the contract, or for
1-38 the reasonable value of the crop on the date of transfer or delivery
1-39 if there is no agreement ~~[provision]~~ concerning the amount owed
1-40 under the contract ~~[in the agreement]~~.

1-41 (b) A lien created under this subchapter is on every
1-42 agricultural crop, either in raw or processed form, that has been
1-43 transferred or delivered by the agricultural producer and is in the
1-44 possession of the contract purchaser, and if the contract purchaser
1-45 sells all or part of the crop, on the proceeds of the sale. If the
1-46 agricultural crop is commingled after the crop has been transferred
1-47 or delivered, a lien created under this subchapter applies only to
1-48 that portion of the contract purchaser's inventory in an amount
1-49 that is equal to the amount of the crop transferred or delivered by
1-50 the agricultural producer.

1-51 SECTION 3. Section 70.403, Property Code, is amended to
1-52 read as follows:

1-53 Sec. 70.403. WHEN LIEN ATTACHES. A lien created under this
1-54 subchapter attaches ~~[to the agricultural crop]~~ on the date on which
1-55 physical possession of the agricultural crop is delivered or
1-56 transferred by the agricultural producer to the contract purchaser
1-57 or the purchaser's agent, or if there is to be a series of
1-58 deliveries to the contract purchaser or purchaser's agent, on the
1-59 date of the first ~~[last]~~ delivery of the agricultural crop to the
1-60 contract purchaser or purchaser's agent.

2-1 SECTION 4. Section 70.404, Property Code, is amended to
2-2 read as follows:

2-3 Sec. 70.404. APPLICABILITY OF OTHER LAW. Except as
2-4 provided by Section 70.4045, Chapter 9, Business & Commerce Code,
2-5 including applicable filing and perfection requirements, applies
2-6 to a lien created under this subchapter.

2-7 SECTION 5. Subchapter E, Chapter 70, Property Code, is
2-8 amended by adding Section 70.4045 to read as follows:

2-9 Sec. 70.4045. PERFECTION AND PRIORITY OF AGRICULTURAL LIEN
2-10 ON CROPS. (a) Notwithstanding Chapter 9, Business & Commerce
2-11 Code, a lien created under this subchapter is perfected at the time
2-12 the lien attaches under Section 70.403 and continues to be
2-13 perfected if a financing statement covering the agricultural crop
2-14 is filed on or before the 90th day after the date:

2-15 (1) the physical possession of the crop is delivered
2-16 or transferred by the agricultural producer to the contract
2-17 purchaser or the purchaser's agent, if there is only one delivery
2-18 under the contract; or

2-19 (2) of the last delivery of the crop to the contract
2-20 purchaser or the purchaser's agent, if there is a series of
2-21 deliveries under the contract.

2-22 (b) If a financing statement covering the agricultural crop
2-23 is not filed within the time prescribed by Subsection (a)(1) or (2),
2-24 as applicable, the lien is considered unperfected on the date the
2-25 lien attached until the date the financing statement is filed or the
2-26 lien is perfected under Chapter 9, Business & Commerce Code.

2-27 (c) Notwithstanding Chapter 9, Business & Commerce Code, a
2-28 lien created and perfected under this subchapter has priority over
2-29 a conflicting security interest in or lien on the agricultural crop
2-30 or the proceeds from the sale of the crop created by the contract
2-31 purchaser in favor of a third party, other than a cotton ginner's
2-32 lien created under Section 70.003(d), regardless of the date the
2-33 security interest or lien created by the contract purchaser
2-34 attached. This subsection does not affect a security interest or
2-35 lien created and perfected to secure a loan directly to the
2-36 agricultural producer.

2-37 SECTION 6. The changes in law made by this Act apply only to
2-38 a lien that attaches under Section 70.403, Property Code, as
2-39 amended by this Act, on or after the effective date of this Act. A
2-40 lien that attaches before the effective date of this Act is governed
2-41 by the law as it existed immediately before that date, and that law
2-42 is continued in effect for that purpose.

2-43 SECTION 7. This Act takes effect September 1, 2015.

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