

By: Perry, Zaffirini

S.B. No. 1339

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the perfection and priority of an agricultural lien on
3 an agricultural crop.

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

5 SECTION 1. Section 70.401(4), Property Code, is amended to
6 read as follows:

7 (4) "Contract purchaser" means a person who [~~before~~
8 ~~the planting of an agricultural crop,~~] has agreed under a [~~written~~
9 contract to purchase an agricultural [~~the~~] crop or otherwise pay
10 the agricultural producer for growing, producing, or harvesting the
11 agricultural crop. The term does not include a person who, as to
12 the transaction in question, is licensed and bonded under Chapter
13 14, Agriculture Code, or the United States Warehouse Act (7 U.S.C.
14 Section 241 et seq.).

15 SECTION 2. Sections 70.402(a) and (b), Property Code, are
16 amended to read as follows:

17 (a) An agricultural producer who, under a [~~written~~
18 contract with a contract purchaser, is to receive consideration for
19 selling an agricultural crop grown, produced, or harvested by the
20 producer has a lien for the amount owed under the contract, or for
21 the reasonable value of the crop on the date of transfer or delivery
22 if there is no agreement [~~provision~~] concerning the amount owed
23 under the contract [~~in the agreement~~].

24 (b) A lien created under this subchapter is on every

1 agricultural crop, either in raw or processed form, that has been
2 transferred or delivered by the agricultural producer and is in the
3 possession of the contract purchaser, and if the contract purchaser
4 sells all or part of the crop, on the proceeds of the sale. If the
5 agricultural crop is commingled after the crop has been transferred
6 or delivered, a lien created under this subchapter applies only to
7 that portion of the contract purchaser's inventory in an amount
8 that is equal to the amount of the crop transferred or delivered by
9 the agricultural producer.

10 SECTION 3. Section 70.403, Property Code, is amended to
11 read as follows:

12 Sec. 70.403. WHEN LIEN ATTACHES. A lien created under this
13 subchapter attaches [~~to the agricultural crop~~] on the date on which
14 physical possession of the agricultural crop is delivered or
15 transferred by the agricultural producer to the contract purchaser
16 or the purchaser's agent, or if there is to be a series of
17 deliveries to the contract purchaser or purchaser's agent, on the
18 date of the first [~~last~~] delivery of the agricultural crop to the
19 contract purchaser or purchaser's agent.

20 SECTION 4. Section 70.404, Property Code, is amended to
21 read as follows:

22 Sec. 70.404. APPLICABILITY OF OTHER LAW. Except as
23 provided by Section 70.4045, Chapter 9, Business & Commerce Code,
24 including applicable filing and perfection requirements, applies
25 to a lien created under this subchapter.

26 SECTION 5. Subchapter E, Chapter 70, Property Code, is
27 amended by adding Section 70.4045 to read as follows:

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

7 (1) the physical possession of the crop is delivered
8 or transferred by the agricultural producer to the contract
9 purchaser or the purchaser's agent, if there is only one delivery
10 under the contract; or

11 (2) of the last delivery of the crop to the contract
12 purchaser or the purchaser's agent, if there is a series of
13 deliveries under the contract.

14 (b) If a financing statement covering the agricultural crop
15 is not filed within the time prescribed by Subsection (a)(1) or (2),
16 as applicable, the lien is considered unperfected on the date the
17 lien attached until the date the financing statement is filed or the
18 lien is perfected under Chapter 9, Business & Commerce Code.

19 (c) Notwithstanding Chapter 9, Business & Commerce Code, a
20 lien created and perfected under this subchapter has priority over
21 a conflicting security interest in or lien on the agricultural crop
22 or the proceeds from the sale of the crop created by the contract
23 purchaser in favor of a third party, other than a cotton ginner's
24 lien created under Section 70.003(d), regardless of the date the
25 security interest or lien created by the contract purchaser
26 attached. This subsection does not affect a security interest or
27 lien created and perfected to secure a loan directly to the

1 agricultural producer.

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

8 SECTION 7. This Act takes effect September 1, 2015.