

## **BILL ANALYSIS**

Senate Research Center

H.B. 963  
By: Swinford (Haywood)  
Agriculture  
4-30-97  
Committee Report (Amended)

### **DIGEST**

Currently, under law passed in H.B. 1463, 74th Legislature, 1995, suppliers of agricultural inputs have the ability to perfect a lien with the Secretary of State's Office, without the debtor's signature. In the event that an account is 30 days past due, a supplier must provide notice to the debtor that unless certain requirements are met, a notice of claim of lien will be filed with the Secretary of State's Office in order to perfect the lien on the proceeds of crops and livestock produced with the inputs furnished by the supplier. The law specifies that a lien applies to all chemicals furnished during the 60-day period prior to the date of attachment, and that it applies to all animal feed and seed furnished during the 45-day period prior to the date of attachment. In contrast to this, the Uniform Commercial Code, codified in the Business & Commerce Code, provides that a lien is attached at the time the services are provided, and, if a lien is later perfected, it applies to goods furnished for a certain period of time following the date of attachment. Since the law enacted by H.B. 1463 states that the amount of a lien applies to the unpaid charges of inputs furnished prior to the date of attachment, confusion has arisen over when attachment of such liens actually occur. This bill would clarify the date on which a lien on certain agricultural inputs attaches. Additionally, this bill would clarify the amount of the lien for such attachments.

### **PURPOSE**

As proposed, H.B. 963 sets forth the date on which a lien on agricultural inputs attaches. Additionally, this bill authorizes the amount of such a lien to include the unpaid reasonable or agreed charges on chemicals, animal feed and agricultural seed furnished within a 180-day period immediately preceding the perfection of the lien by a filing of notice with the secretary of state.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 128.007, Agriculture Code, provides that a lien established under this chapter attaches on the first day agricultural chemicals, labor, or both are furnished to the lien debtor. Provides that a lien that has attached under this section is removed if the lien claimant does not satisfy the notice and filing requirements of this chapter. Makes a conforming change.

SECTION 2. Amends Section 128.008, Agriculture Code, to provide that the amount of a lien under this chapter is equal to the sum of the amount of the unpaid reasonable or agreed charges for agricultural chemicals, labor, or both, as appropriate, furnished within the 180-day, rather than 60-day, period immediately preceding, rather than ending on, the day the notice of claim of lien is filed with the secretary of state as provided by this chapter, rather than the day the lien attaches; and agricultural seeds, labor, or both, as appropriate, furnished within the 180-day period immediately preceding the day the notice of claim of lien is filed with the secretary of state as provided by this chapter; and the filing fees for the lien as provided by this chapter.

SECTION 3. Amends Section 128.009(b), Agricultural Code, to prohibit a claimant from filing a notice of claim of lien if the settlement of a dispute between the claimant and the debtor has been submitted to the Department of Agriculture (department) and is pending. Makes conforming changes.

SECTION 4. Amends Section 188.007, Agriculture Code, to provide that a lien established under this chapter attaches on the first day that animal feed is furnished to the lien debtor. Provides that a lien that has attached under this section is removed if the lien claimant does not satisfy the notice and filing requirements of this chapter. Makes conforming changes.

SECTION 5. Amends Section 188.008, Agriculture Code, to make conforming changes.

SECTION 6. Amends Section 188.009(b), Agriculture Code, to make conforming changes.

SECTION 7. Effective date: September 1, 1997.  
Makes application of this Act prospective.

SECTION 8. Emergency clause.

#### **SUMMARY OF COMMITTEE CHANGES**

Amendment 1.

On page 1, line 11, insert ", labor, or both" between the words "chemicals" and "are."