

BILL ANALYSIS

Senate Research Center

S.B. 1339
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Agriculture, Water & Rural Affairs
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Farmers entrust their crop to a warehouse or processor upon harvest. Often times, by the nature of the industry the farmer does not receive payment until the crop is processed and sold. However, unbeknownst to the farmer, the warehouse or processor might be experiencing financial difficulty, as is the case increasingly across the state. If the warehouse or processor is taken over by a lending institution, that institution can end up owning the farmer's product. In that case, the farmer will not receive payment for the crop, potentially causing the loss of a whole year's investment which in turn can cause farms, many being multi-generational, to be forced into bankruptcy and be sold off.

Current law does not provide for an automatically attaching, perfected agricultural lien for an agricultural crop on the date of delivery that lasts for 90 days, but can be extended upon filing of a financing statement. Creditors of warehouses or operators are better protected under law to the rights of the companies' assets, than are the farmers who planted, grew, harvested, and delivered the crop. S.B. 1339 creates an automatically attaching, perfected agricultural lien for an agricultural crop on the date of delivery that lasts for 90 days, but can be extended upon filing of a financing statement. This would give a farmer a superior security interest to that of a creditor of a warehouse or processor.

As proposed, S.B. 1339 amends current law relating to the perfection and priority of an agricultural lien on an agricultural crop.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter E, Chapter 70, Property Code, by adding Section 70.4045, as follows:

Sec. 70.4045. PERFECTION AND PRIORITY OF AGRICULTURAL LIEN ON AN AGRICULTURAL CROP. (a) Provides that an agricultural lien on an agricultural crop created under this subchapter, notwithstanding Chapter 9 (Secured Transactions), Business and Commerce Code, is perfected at the time the lien attaches under Section 70.403 (When Lien Attaches) and continues to be perfected if a financing statement covering the agricultural crop is filed on or before the 90th day after the date the lien attaches under that section.

(b) Provides that the lien, if a financing statement covering the agricultural crop is not filed on or before the 90th day after the date the lien attaches under Section 70.403, is considered unperfected on the date the lien attached until the date the financing statement is filed or the lien is perfected under Chapter 9, Business and Commerce Code.

(c) Provides that an agricultural lien on an agricultural crop created and perfected under this subchapter, notwithstanding Chapter 9, Business and Commerce Code, has priority over a conflicting security interest in an agricultural lien on the agricultural crop.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2015.