

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
108TH LEGISLATURE  
FIRST REGULAR SESSION

(Filing No. H-1)

COMMITTEE AMENDMENT "A" to H.P. 0022, L.D. 31, Bill, "AN ACT to Amend the Potato Lien Law."

Amend the Bill by striking out everything after the enacting clause and inserting the following in its place:

'Sec. 1. 10 MRSA §3324, first sentence, as enacted by PL 1975, c. 725, is amended to read:

Except as herein provided, the producer lien, attached to the finished product manufactured or processed by a processor shall take effect immediately upon notification by a producer within ~~21~~ 10 business days from the date specified in the contract, express or implied, for payment of insufficient or no payment to the producer for the raw product delivered to the processor.

Sec. 2. 10 MRSA §3325, as enacted by PL 1975, c. 725, is repealed and the following enacted in its place:

§3325. Preference of liens

The producer's lien is a preferred lien attached to the finished product in inventory and to the proceeds thereof to the full extent of the price of the raw product delivered to the processor and shall be preferred to all other liens, claims or encumbrances except for the liens or security interests of financial institutions chartered by the Federal Government or by any State of the United States, including, without limitation, trust companies, commercial banks, savings banks and savings and loan associations, and commercial finance companies and other

institutional lenders, granted upon the inventory of a processor and all proceeds and products thereof to secure existing and future loans, advances and all other indebtedness of the processor to financial institutions, as described when such liens are granted to such financial institutions prior to notification by the producer to the commissioner of insufficient or no payment for the product delivered to the processor.

If any financial institution described in this section shall foreclose upon its lien, the proceeds realized after foreclosure shall be applied first to satisfy all producers' liens having priority over the lien of the financial institution and then to satisfy the lien of the financial institution. The balance of the proceeds, if any, shall be remitted to the Commissioner of Agriculture or his designee for distribution to producers having liens approved by the commissioner under section 3324 in the order of their priority. Any surplus remaining thereafter shall be remitted to the processor.

Sec. 3. 10 MRSA §3331, as enacted by PL 1975,c. 725,  
is repealed and the following enacted in its place:

§3331. Violations and penalty

It is unlawful for any processor to remove any farm product which is delivered to him, or any processed form of the farm product, from this State or beyond his ownership or control upon which any of the liens which are provided for in this chapter are attached, except any of such product or processed form of the product as may be in excess of a quantity which is on hand of a value that is sufficient to satisfy all existing

liens, provided, that neither this section and the penalties provided herein or any other provision of this chapter shall affect, impede or restrict the rights and remedies of a lienor or holder of a security interest having priority under section 3325 to enforce its liens or security interests against the inventory of a processor, and the proceeds and products thereof and no such lienor or security interest holder or any person cooperating or acting in accordance with the request of such lienor or security interest holder shall be in violation of this section.

Any violation of this chapter is a Class E crime as defined in Title 17-A, section 4.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.'

#### Statement of Fact

The purpose of this bill is to clarify the definition of "financial institutions" and their liens on processors' inventories afforded priority to the potato producer's lien so as to include financial institutions chartered outside of the State and to clarify the rights of financial institutions to enforce their rights against the collateral as provided by law without incurring criminal penalties under the potato lien law.

This bill also attaches the producers' liens to the proceeds of the sale of a processor's inventory at the time of foreclosure.

Another change requires the producer to notify the Commissioner of Agriculture of insufficient or no payment for potatoes delivered to a processor within 10 business days from the date that payment was due in order to obtain a preferred lien on the

inventory. By reducing the notification period from 21 to 10 business days, it is possible that payment problems between growers and defaulting processors will be diminished.

Reported by the Committee on Agriculture.

Reproduced and distributed under the direction of the Clerk of the House.

1/25/77

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