

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE

FIRST REGULAR SESSION

January 5, 1977 to July 25, 1977

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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND EIGHTH LEGISLATURE

1977

CHAPTER 1

AN ACT to Amend the Potato Lien Law.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the One Hundred Seventh Legislature of the State of Maine at the First Special Session between January 19, 1976 and April 29, 1976 enacted chapter 725, the Potato Lien Law, MRSA Title 10, chapter 606, which became effective on July 29, 1976; and

Whereas, the intent of the Legislature in enacting that legislation was to provide for a potato producer's lien upon the raw and processed potato inventory of a processor who purchased potatoes from the producer thereby securing payment to the producer, subject to prior liens on that inventory held by financial institutions; and

Whereas, that legislation limited that priority to financial institutions chartered in Maine or federally chartered without affording the same protection and priority to financial institutions chartered by any of the other 49 states; and

Whereas, potato processors may in the immediate future obtain working capital from financial institutions chartered by other states in the United States by granting to the financial institutions security interests in the inventory of such processors, which working capital will enable the processors

to purchase substantial quantities of potatoes from potato producers, and which expanded market will enhance and improve the potato industry of this State and therefore the prosperity and welfare of the State; and

Whereas, the borrowing by processors from out-of-state banks can be accomplished only if the out-of-state banks are afforded the same protection as financial institutions in Maine or federally chartered financial institutions; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore:

Be it enacted by the People of the State of Maine, as follows:

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 ~~24~~ 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.

Effective January 28, 1977

CHAPTER 2

AN ACT to Establish the Maine Tort Claims Act.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine Supreme Judicial Court has abrogated the common law doctrine of sovereign immunity effective February 1, 1977; and

Whereas, exposure to unlimited liability may cause undue reluctance on the part of government entities to provide needed services, and increase governmental costs; and

Whereas, liability insurance for governmental entities is becoming increasingly difficult to obtain in all areas of exposure and may become completely unavailable in some areas of exposure; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine, as follows: