

MAINE STATE LEGISLATURE

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(New Title)
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FIRST SPECIAL SESSION

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 2328

S. P. 775

In Senate, March 26, 1976

Reported by Senator Hichens of York, from the Committee on Agriculture
and printed under Joint Rules No. 18.

HARRY N. STARBRANCH, Secretary

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SIX

AN ACT to Establish a Potato Lien Law.

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

10 MRSA c. 606 is enacted to read:

CHAPTER 606

POTATO LIEN LAW

§ 3321. Purpose

The Legislature finds that the potato industry has a substantial and unique effect on the economy of the entire State and Aroostook County in particular. A large number of people in Maine are directly or indirectly dependent upon the potato industry. In the recent past, a number of potato producers have been very adversely affected by the failure of processors of potatoes to compensate producers for the raw product contracted and delivered to the processor. As a result, some producers have been forced out of business as a way of life and as a means of earning a livelihood.

The Legislature intends through this legislation to provide producers of potatoes with a limited guarantee of payment for the raw product contracted by and delivered to a processor. This legislation is designed to afford limited protection for producers and thereby promote the general welfare of the State which is dependent upon the potato industry and the producer.

§ 3322. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Commissioner. "Commissioner" shall mean the Commissioner of Agriculture.
2. Farm product or raw product. "Farm product or raw product" shall mean potatoes.
3. Finished product. "Finished product" shall mean any manufactured or processed form of potatoes.
4. Inventory. "Inventory" shall have the same meaning as defined in Title II, section 9-109, subsection (4).
5. Processor. "Processor" means any person other than a consumer who purchases or contracts to purchase potatoes for processing or manufacturing which changes the physical form that the raw product possessed when harvested. The effects of the following operations shall be considered as changing the physical form possessed by such raw products when harvested: Chopping, slicing, cutting, dicing, mashing, removing skin or peel, frying or otherwise cooking, freezing, canning, dehydrating or comparable methods of preparation for marketing in what is generally considered to be a processed form.

§ 3323. Producer's lien attached to processed agricultural goods

Every producer of potatoes which the producer grows, harvests and sells to any processor under contract, express or implied, has a lien upon such product and upon all processed or manufactured forms of potatoes for his labor, care and expense in growing and harvesting the raw product. The producer's lien attached to the finished product shall be the full extent of the agreed price, if any, or the unpaid balance of the agreed price of the raw product delivered to the processor. If there is no agreed price or a method for determining it which is agreed upon, the extent of the lien shall be the full value of the raw product as of the date of delivery and shall be determined by the commissioner after a hearing. Anyone aggrieved by this decision may appeal the decision to Superior Court.

§ 3324. Attachment of lien

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 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. If the producer fails to notify the commissioner within the time period specified in this section or if the commissioner, following an investigation finds that there is no evidence of insufficient payment or no payment to a producer, the lien established in this chapter shall not be in effect.

1. Notice of lien. All producer liens against the inventories of all potato processors in this State shall be filed with the Department of Agriculture and shall be deemed public information for the purposes of this chapter.

§ 3325. Preference of liens

The producer's lien is a preferred lien attached to the finished product in inventory 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 labor claims for wages and salaries for personal services which are rendered by any person to any processor in connection with the processing business and except for the claims of financial institutions as defined in Title 9-B, section 131 or federally chartered financial institutions for loans secured by the inventory of a processor and extended to the processor prior to notification by the producer to the commissioner of insufficient or no payment for the product delivered to the processor.

§ 3326. Duration of lien

Except as herein provided in section 3324, the lien of a producer shall remain in effect until the producer receives payment that satisfies the total claim of the producer against the processor.

§ 3327. Personal action to recover debt

This chapter does not impair or affect the right of any claimant that possesses a lien to maintain a personal action to recover such debt against a processor, either in an action to foreclose his lien or in a separate action. He is not required to state in his affidavit to procure an attachment that his demand is not secured by a lien.

1. Collections credited to claims. The judgment, if any, which is obtained by the plaintiff in such personal action, or personal judgment which is obtained in such lien action, does not impair or merge any lien right or claim which is held by such plaintiff. Any money which is collected on the judgment shall be credited on the amount of such lien or claims in any action which is brought to enforce the lien or in any action which is filed pursuant to this chapter by the commissioner.

2. Posting of bonds. In an action that is filed by any such lien claimant, the defendant processor may file with the court in which the action is pending a surety bond which is approved by such court in an amount that is sufficient to cover the demand of plaintiff's complaint, including the costs, whereupon the court may order the release of a portion or the whole of any product or processed product upon which the lien of plaintiff has attached.

3. Presentation of evidence to court. Such processor may also, on motion duly noticed, introduce evidence to the court before whom any such action is pending to the effect that he has sufficient security or money on deposit with the commissioner to protect the lien or other rights of plaintiff. If he does so, the court may order the release of a portion or the whole or such product upon which the lien of plaintiff is attached and deny to plaintiff any recovery in such action. Such action by the court does not prejudice any other rights or remedies which are possessed by the plaintiff.

§ 3328. Request for an injunction

The plaintiff in an action which is brought to foreclose any of the liens which are provided for in this chapter may, in a proper case, and upon proper

allegations, secure an injunction against the processor to restrain the doing of any acts on the part of such processor which are designed to or which would, in effect, remove any processed product in his possession or under his control and upon which valid liens exist, beyond the process of the court, to plaintiff's injury.

§ 3329. Insufficient security

If in a court proceeding to foreclose such lien it is found and determined by the court that there is no cash, bond or other deposit as security for the payment of any of the lien claims as set out in the complaint, the judgment of foreclosure shall be against a sufficient quantity in value of such farm product or processed product in the possession or under the control of the defendant processor, as may be necessary to satisfy such claim or render judgment and declare forfeited any bond which is deposited in the court by such processor to secure the lawful claims of the plaintiff as determined by the court.

§ 3330. Consolidation of liens

All actions filed by the commissioner or producers against any processor for the foreclosure of the liens or other security which are provided for in this chapter may be consolidated by the court and all persons that are necessary, to a determination of such action may be made parties to such actions. Any judgment which is rendered shall determine the lawfulness of the amount of each claim as represented by the pleadings.

§ 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 such a lien or any of the liens which are provided for in this chapter, are attached, except any of such product or processed product as may be in excess of a quantity which is on hand of a value that is sufficient to satisfy all existing liens.

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