

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 31

H. P. 22

House of Representatives, January 6, 1977

Referred to Committee on Agriculture. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Mahany of Easton.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

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 § 3325, as enacted by PL 1975, c. 725, is amended to read:

§ 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 or commercial banks, savings banks, industrial banks or savings and loan associations chartered by any other state of the United States 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.

Sec. 2. 10 MRSA § 3331, first ¶, as enacted by PL 1975, c. 725, is amended to read:

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, and except for any product or processed product removed to satisfy a lien which is approved by the Commissioner of Agriculture.

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

STATEMENT OF FACT

The intent of this bill is to provide out-of-state banks with the same privileges that Maine and federally chartered banks have in regard to bank liens levied on the inventory of a potato processor. Presently Maine banks and federally chartered banks have a preferred lien on the inventory of processors

for loans which are extended to processors prior to notification to the Commissioner of Agriculture by producers of nonpayment or partial payment of debts owed by processors to producers. By adding out-of-state banks to the list of lending institutions which can enjoy this privilege, this bill enables processors to obtain funds which may not be available in Maine.