

Date of Hearing: June 17, 2025

ASSEMBLY COMMITTEE ON JUDICIARY
Ash Kalra, Chair
SB 846 (McNerney) – As Amended March 26, 2025

PROPOSED CONSENT

SENATE VOTE: 34-0

SUBJECT: LIENS: HARVESTED CROPS

KEY ISSUE: SHOULD A PERSON WHO PERFORMS THE WORK OF HARVESTING OR TRANSPORTING CROPS OR FARM PRODUCTS HAVE THE ABILITY TO PLACE A LIEN UPON THE CROPS OR PRODUCTS FOR THE VALUE OF THE WORK DONE AND OWED TO THEM, REGARDLESS OF WHETHER THE CROPS OR PRODUCTS ARE OWNED, GROWN, OR PRODUCED BY A LIMITED PARTNERSHIP?

SYNOPSIS

Under existing law, a person who performs the work of harvesting or transporting crops or farm products has the right to place a lien on the those crops or products for the value of the labor performed, unless the owner of the crops or products posts a bond for the payment of wages. However, existing law only authorizes the lien if the crops or products are owned, grown, or produced by a “limited partnership.” It is not entirely clear why the 1976 legislation, creating the crop lien, restricted its application to crops or products owned by a limited partnership. Today very few growers organize their businesses as a limited partnership; rather, most farm businesses operate as sole proprietorships, limited liability companies, or corporations. As such, the crop lien statute has effectively been rendered meaningless.

To be sure, a farmworker who does not receive wages owed can still file a claim with the Labor Commissioner, or bring a civil action against an employer who violates the wage provisions of the Labor Code, but the changing corporate structure of farm enterprises has all but eliminated a direct and effective option for obtaining justice. Moreover, the prospect of a lien on crops – that typically must be marketed shortly after they are harvested – creates a powerful inducement for growers to obey the law.

This non-controversial, but important, bill removes the words “limited partnership” from the crop lien statute, so that a farmworker will have a lien regardless of the grower’s business structure. The bill is co-sponsored by the California Farmworkers Coalition. There is no opposition to the measure and the bill has not received any negative votes.

SUMMARY: Removes the reference to “limited partnership” in the existing crop lien statute so that the lien is no longer limited to situations in which the harvested crops or farm products were owned, grown, or produced by a limited partnership.

EXISTING LAW:

- 1) Provides that any person who performs the work of harvesting or transporting crops or farm products that are owned, grown, or produced by a limited partnership shall have a lien on the

crops or products for the value of the labor done, up to a maximum of earnings for two weeks. (Civil Code Section 3061.5 (a).)

- 2) Specifies that the liens created by 1) above attach from the date of the commencement of the work or labor, and are preferred liens, as specified. Specifies, however, that no person has a lien if the owner of the crops or products gives a bond to the Labor Commissioner in an amount and form acceptable to the Labor Commissioner, which is conditional upon the payment of all wages due. (Civil Code Section 3061.5 (b)-(d).)
- 3) Provides that the liens created by 1) above shall continue in force for a period of 45 days from the time the person claiming a lien shall have ceased to do the labor for which the lien is claimed, and such lien shall cease after 45 days unless the claimant files a claim with the Labor Commissioner, or the lien foreclosure suit is finally determined and closed. If a claim is filed with the Labor Commissioner, the Labor Commissioner shall act on the claim within 10 days after filing, as specified. (Civil Code Section 3061.6 (a)-(b).)
- 4) Authorizes the Labor Commissioner to investigate employee complaints and provide for a hearing in any action to recover wages, penalties, and other demands for compensation, including liquidated damages if the complaint alleges payment of a wage less than the minimum wage. (Labor Code Sections 96 to 98.)
- 5) Allows an employee who is paid less than the minimum wage to bring a civil action to recover the unpaid balance for the full amount of the minimum wage or overtime compensation owed, including interest thereon, reasonable attorney's fees, and costs of suit. In addition, the employee may recover liquidated damages for unpaid wages and interest thereon; however, liquidated damages may not be recovered for failure to pay overtime compensation. (Labor Code Sections 1194 and 1194.2.)
- 6) Subjects any employer who pays an employee less than the state or local minimum wage to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any other applicable penalty imposed by law. (Labor Code Section 1197.1.)

FISCAL EFFECT: As currently in print this bill is keyed non-fiscal.

COMMENTS: According to the author:

California relies on nearly 800,000 migrant and seasonal farmworkers who cultivate over 400 agricultural commodities across the state. Unfortunately, this vulnerable workforce experiences wage theft more often than workers in other industries.

Recognizing this, the Legislature passed a law in 1976 to help farmworkers recover stolen wages from agricultural employers. However, farmworkers today continue to suffer high rates of wage theft and are often unable to recover owed wages because the 1976 statute is out of date. SB 846 modernizes the 1976 statute to ensure that California agricultural businesses that engage in wage theft are held accountable and farmworkers can recover stolen wages.

Wage laws and wage theft in California agriculture. The California Labor Commissioner (LC), through its Division of Labor Standard's Enforcement (DLSE), enforces California's wage and hour laws. According to its website, the LC's "mission . . . is to ensure a just day's pay in every

workplace in the State and to promote economic justice through robust enforcement of labor laws. By combating wage theft, protecting workers from retaliation, and educating the public, we put earned wages into workers' pockets and help level the playing field for law-abiding employers.”

Any worker who feels that they have not been paid the legal wage may file a wage claim with a local DLSE office. Once filed, the claim is assigned to a Deputy Labor Commissioner who, based upon the information presented in the claim and after any initial investigation, will either dismiss the claim or schedule a conference. The purpose of any conference is to determine the validity of the claim, and to see if the claim can be resolved without a hearing. If the claim is not resolved at the conference, the deputy may schedule the matter for a hearing, where parties and witnesses testify under oath. After the hearing, the LC will serve an Order, Decision, or Award (ODA) on the parties. Either party may appeal the ODA to a civil court for a trial on the matter. If the employer makes the appeal, DLSE may represent an employee who is financially unable to afford counsel in the court proceeding. In addition to filing a complaint with the Labor Commissioner, an aggrieved employee may also bring a civil action in the appropriate superior court.

Notwithstanding California’s relatively robust wage and hour protections and options for recovery, the law in the books does not always match the law in action. For example, an analysis of 787 investigations of California farms, between 2016 and 2019, found that 75% of the farms owed back wages to their employees, and that most did not pay the back wages that were assessed by 2019. (See e.g. “Labor Standards Enforcement in California Agriculture,” *Rural Migration News*, March 2021.)

Antiquated limitation on the existing crop lien statute. In addition to having a right to file a claim with the Labor Commissioner or bring a lawsuit to recover unpaid wages, any person who performs the work of harvesting or transporting crops or farm products has a “crop lien” on the harvested crops or products in the amount of the value of the labor performed, unless the owner of the crops or products has posted a bond with the Labor Commissioner that guarantees the payment of wages. However, the existing crop lien statute – unlike all other statutes creating liens for labor performed – only imposes the lien if the crops or products were owned, grown, or produced by a “limited partnership.” It is not entirely clear why the 1976 legislation creating the crop lien restricted its application only to the crops or products owned by a limited partnership, or why the grower’s ownership structure would be a relevant factor in one’s right to recover stolen wages. Whatever the reason, the limitation has effectively eliminated the crop lien as a tool of recovery because very few growers today organize their businesses as a limited partnership; rather, most farm businesses operate as sole proprietorships, limited liability companies, or corporations. As such, the crop lien statute has been rendered meaningless.

This non-controversial bill removes the words “limited partnership” from the crop lien statute, so that a farmworker will have the power to place a lien, regardless of the grower’s business structure.

ARGUMENTS IN SUPPORT: The California Farmworker Coalition writes in support:

The farmworker lien – which was enacted nearly 50 years ago – no longer functions as intended. In the 1970s, the Legislature gave farm workers the right to a lien to secure payment of up to two weeks of wages. This lien attaches to crops, farm products, and the proceeds from their sale. However, the farmworker lien currently only applies to businesses

that operate as a “limited partnership” as defined in Corporations Code Section 15501. Limited partnerships became obsolete in the agricultural industry—and most other industries—decades ago, and few businesses use this structure anymore. Thus, the farmworker lien has become largely useless. SB 846 removes the reference to “limited partnerships” in the existing farmworker lien statute to align with how agricultural business is conducted today. This issue needs urgent resolution because farmworkers continue to suffer high rates of wage theft and are unable to recover owed wages because of outdated language in the California farmworker lien. Without this proposal, the existing farmworker lien will remain useless, nullifying the Legislature’s original purpose in passing the lien statute and denying workers this basic protection given to them 50 years ago.

REGISTERED SUPPORT / OPPOSITION:**Support**

California Coalition for Worker Power
California Farmworker Coalition
California Food and Farming Network
California Rural Legal Assistance Foundation, INC.
California Teamsters Public Affairs Council
Central California Environmental Justice Network
Central Coast Alliance United for a Sustainable Economy
Centro Binacional Para El Desarrollo Indigena Oaxaqueño (CBDIO)
Farm2people
Mixteco/indigena Community Organizing Project (MICOP)
Sierra Harvest
Todec Legal Center
UCLA Labor Center

Opposition

None on file

Analysis Prepared by: Tom Clark / JUD. / (916) 319-2334