

**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. [PL 1975, c. 725 (NEW).]

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. [PL 1975, c. 725 (NEW).]

**SECTION HISTORY**

PL 1975, c. 725 (NEW).

**§3322. Definitions**

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings. [PL 1975, c. 725 (NEW).]

**1. Commissioner.** "Commissioner" shall mean the Commissioner of Agriculture, Conservation and Forestry.

[PL 1979, c. 731, §19 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

**2. Farm product or raw product.** "Farm product or raw product" shall mean potatoes.

[PL 1975, c. 725 (NEW).]

**3. Finished product.** "Finished product" shall mean any manufactured or processed form of potatoes.

[PL 1975, c. 725 (NEW).]

**4. Inventory.** "Inventory" has the same meaning as defined in Title 11, section 9-1102, subsection (48).

[PL 1999, c. 699, Pt. D, §6 (AMD); PL 1999, c. 699, Pt. D, §30 (AFF).]

**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.

[PL 1975, c. 725 (NEW).]

**SECTION HISTORY**

PL 1975, c. 725 (NEW). PL 1999, c. 699, §D6 (AMD). PL 1999, c. 699, §D30 (AFF). PL 2011, c. 657, Pt. W, §6 (REV).

**§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 upon notice and opportunity for a hearing, provided in a manner consistent with the provisions as to adjudicatory proceedings of the Maine Administrative Procedure Act. [PL 1977, c. 694, §190 (AMD).]

#### SECTION HISTORY

PL 1975, c. 725 (NEW). PL 1977, c. 694, §190 (AMD).

#### §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 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. 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. [PL 1977, c. 1, §1 (AMD).]

**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, Conservation and Forestry and shall be deemed public information for the purposes of this chapter.

[PL 1979, c. 731, §19 (AMD); PL 2011, c. 657, Pt. W, §5 (REV).]

#### SECTION HISTORY

PL 1975, c. 725 (NEW). PL 1977, c. 1, §1 (AMD). PL 2011, c. 657, Pt. W, §5 (REV).

#### §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. [PL 1977, c. 1, §2 (RPR).]

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, Conservation and Forestry 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. [PL 1979, c. 731, §19 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

#### SECTION HISTORY

PL 1975, c. 725 (NEW). PL 1977, c. 1, §2 (RPR). PL 2011, c. 657, Pt. W, §6 (REV).

#### §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. [PL 1975, c. 725 (NEW).]

#### SECTION HISTORY

PL 1975, c. 725 (NEW).

#### **§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. [PL 1975, c. 725 (NEW).]

**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. [PL 1975, c. 725 (NEW).]

**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. [PL 1975, c. 725 (NEW).]

**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. [PL 1975, c. 725 (NEW).]

#### SECTION HISTORY

PL 1975, c. 725 (NEW).

#### **§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. [PL 1975, c. 725 (NEW).]

#### SECTION HISTORY

PL 1975, c. 725 (NEW).

#### **§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. [PL 1975, c. 725 (NEW).]

#### SECTION HISTORY

PL 1975, c. 725 (NEW).

#### §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. [PL 1975, c. 725 (NEW).]

#### SECTION HISTORY

PL 1975, c. 725 (NEW).

#### §3331. Violations and penalty

**1. Violation.** A processor may not remove any farm product that is delivered to the processor or any processed form of the farm product upon which any of the liens that are provided for in this chapter are attached from this State or beyond the processor's ownership or control, except any farm product or processed form of the product as may be in excess of a quantity that is on hand of a value that is sufficient to satisfy all existing liens, provided, that neither this section and the penalties provided in this section or any other provision of this chapter may 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 of the processor and the lienor or security interest holder or any person cooperating or acting in accordance with the request of the lienor or security interest holder may not be in violation of this section.

[PL 2001, c. 421, Pt. B, §9 (NEW); PL 2001, c. 421, Pt. C, §1 (AFF).]

**2. Penalty.** A person who violates a provision of this chapter commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged.

[PL 2001, c. 421, Pt. B, §9 (NEW); PL 2001, c. 421, Pt. C, §1 (AFF).]

#### SECTION HISTORY

PL 1975, c. 725 (NEW). PL 1977, c. 1, §3 (RPR). PL 2001, c. 421, §B9 (RPR). PL 2001, c. 421, §C1 (AFF).

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