

Veggie Wars: Legal Update on the Perishable Agricultural Commodities Act & Related Produce Laws

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California Processor Law

In 1935, the Processors Law was added as Chapter 6, Division 20 to the California Food and Agricultural Code. It regulates all persons who purchase California farm products from growers for the purpose of processing.

Processor Law applies to every:

1. agricultural,
2. horticultural,
3. viticultural, or
4. vegetable product of the soil,
5. honey and beeswax,
6. oilseeds,
7. poultry, poultry product, livestock product, and livestock for immediate slaughter.

(FAC §55403)

Processor Law **does not** apply to:

1. timber or any timber product,
2. milk or any milk products,
3. aquacultural products,
4. cattle sold to any person who is bonded under the federal Packers and Stockyards Act, 1921 (see, 7 U.S.C. Sec. 181, et seq.).

Jurisdiction: PACA vs. Processor Law

DB

7 U.S.C. §499a (b)(6)(C) no person buying any commodity other than potatoes for canning and/or processing within the State where grown shall be considered a “dealer” whether or not the canned or processed product is to be shipped in interstate or foreign commerce, unless such product is frozen or packed in ice, or consists of cherries in brine, within the meaning of paragraph (4) of this section....

Processor Law

The goal is similar to PACA: to further the public interest in protecting the food supply, with an emphasis on ensuring that growers are paid for their crop.

Processor Law continued

Licensing Requirements:

CDFA Market Enforcement Branch issues licenses to Processors and their Agents after confirming:

1. Clean record (criminal, bankruptcy)
2. Financially sound position
3. Lack of history of failing to pay growers
4. Complete and accurate application
5. A bond may be required (FAC §55527.6)

Processor Law continued

Affirmative obligations of a licensed Processor:

1. Notify growers within 30 days if payments are late, (FAC §55601.3)
2. Not later than 5 days after demand, give grower a receipt containing the entire quantities of products delivered, the grade assigned to the products, and the amount owing to the grower for every lot and the total due to the grower. (§55609)

Processor Law continued

License violations include:

1. Unlicensed activity, (§55521)
2. Failure to maintain books of accounts and make them available to CDFA for inspection, (§§55725 and 55875)
3. Failure to timely pay growers, (§55872)
4. Refusal or rejection of crop deliveries without reasonable cause, (§55873)
5. Failure to furnish boxes or other containers etc. (§55873)

License violations continued

6. Knowingly employing unlicensed Agent and causing an Agent to violate this chapter, (§55874)
7. Any other violation of this chapter. (§55876)
8. Late payments incur late charges (§55881)

Penalties include license suspension, revocation, bond, administrative penalties, civil liability and misdemeanor criminal prosecution (Chapter 6, Arts. 12, 14, 17, 18 and 19)

Producer's Lien

Growers delivering to a Processor have a lien upon the product delivered and upon all processed forms of the product.

Amount of lien is the agreed upon price, or if no contract, the fair market value of the products at delivery.

(§§55631 – 55653)

Producer's Lien continued

Attaches automatically as of the date of delivery,
No recording ("Notice")

Preferred to all other liens except:

- a. Wage, Salary and other Labor claims against Processor, and
- b. Warehouseman liens for storage of the products delivered. (§§55632 and 55633)

Producer's Liens continued

Processor may not sell, transfer, or remove from its control, the products or any processed form of the product without first paying the grower, or otherwise securing payment.

Producer's Lien continued

Frazier Nuts, Inc. v. American Ag Credit,
141 Cal.App.4th 1263, 46 Cal.Rptr.3d 869 (2006)

<https://nationalaglawcenter.org/state-compilations/agricultural-liens>

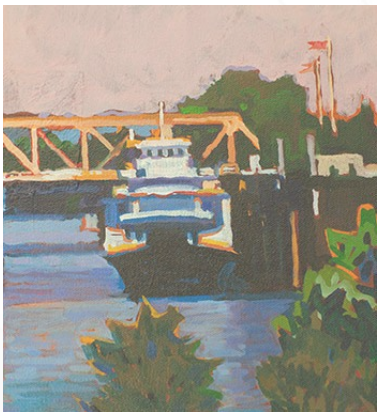
Materials

California Food & Agricultural Code, Division 20,
Chapters 6 and 7

CDFA Market Enforcement Branch Regulations:
Title 3. California Code of Regulations, Sections 1700.1
et seq.

<https://www.cdfa.ca.gov/mkt/meb/>

QUESTIONS?



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Thank You

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