

SECOND REGULAR SESSION

# SENATE BILL NO. 1390

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR FOSTER.

Read 1st time March 1, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

4821S.011

## AN ACT

To repeal section 263.534, RSMo, and to enact in lieu thereof one new section relating to boll weevil eradication.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 263.534, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 263.534, to read as follows:

263.534. 1. A cotton grower who fails to pay, when due and upon reasonable notice, any assessment levied under sections 263.500 to 263.537, shall be subject to a per-acre penalty as established in the department's regulations, in addition to the assessment.

2. A cotton grower who fails to pay all assessments, including penalties, within thirty days of notice of penalty, shall destroy any cotton plants growing on his acreage which is subject to the assessment. Any such cotton plants which are not destroyed shall be deemed to be a public nuisance, and such public nuisance may be abated in the same manner as any public nuisance.

3. The department may petition the circuit court of the judicial circuit in which the public nuisance is located to have the nuisance condemned and destroyed with all costs of destroying to be levied against the grower. Injunctive relief shall be available to the department notwithstanding the existence of any other legal remedy, and the department shall not be required to file a bond.

4. In addition to any other remedies for the collection of assessments, including penalties **and interest**, the department [may secure a lien upon cotton subject to such assessments] **shall have an assessment lien that attaches and is perfected sixty days after the date the department mails notice of the assessment and shall cover any cotton crop grown by the grower, including future crops, and the proceeds of the cotton sale, until the assessment, including penalties and interest, is paid in**

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

full. The department shall notify the farm service agency and first handlers of cotton, including buyers, lienholders on the cotton, and ginners, of liens attached after the date of perfections. This assessment lien is not an agricultural lien for purposes of, and is not subject to the provisions of Article 9 of the Uniform Commercial Code-Secured Transactions, as embodied in sections 400.9-101 to 400.9-508, RSMo, nor is the assessment lien created in section 263.534 subject to the provisions of the food security act. Such lien shall attach in preference to any prior lien, encumbrance or mortgage upon such cotton.

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