



**House Committee on Economic Recovery and Prosperity
OFBF/OPOA Testimony in Support of the Dash-6 Amendments to House Bill 4016**

February 4, 2022

Chair Lively and Committee Members:

We write in support of the dash-6 amendments to HB 4016, which would delete Sections 7 and 8 from the bill. These two sections create an “industrial hemp lien” authorizing the placement of a lien on real property for violation of any provision of state or local law relating to the production of hemp, and providing the district attorney for the county in which the property is located with authority to foreclose on that lien.

The problem with these sections is that they create the very real possibility of state action to take property owned by innocent property owners who are unaware of any wrongdoing, either because the accused violation is of a nature that’s completely unrelated to the obvious and important harm which the rest of this bill seeks to address (and which we do not oppose), or because the violation is by an actor who is not the property owner, and who in fact may be acting in violation of the wishes of the property owner. Punishing the property owner for acts outside of the property owner’s control with liens and foreclosures is not only excessively punitive and unfair, in the wrong circumstance it will likely create constitutional issues.

The language of Section 8 is broad enough to allow the placement of a lien on property for minor, technical violations that are not criminal in nature, but rather create civil penalties. The language of Section 8 allows the creation of a lien for violation of “any state or local ordinance” related to industrial hemp. It’s not unfair to expect the property owner to know all of the state and local provisions relating to growing hemp, but not all violations are equal. Some may in fact be exceedingly minor or technical, with small fines being the result of the violation. Allowing the state to take private property in this situation is wrong.

Fortunately, Representative Wallan has offered the dash-6 amendments, which eliminate the lien language in Section 8. We understand that AOC and LOC, the proponents of this section, are willing to accept the removal of the lien language in Section 8, and that a work group will be formed to look at this issue in advance of the 2023 session. We thank them for this concession, and pledge to work with them and other interested parties during the interim.

Thank you for the opportunity to comment, and we thank Representative Wallan for preparing the dash-6 amendments. We urge the committee to adopt those amendments into the bill.