

HOUSE BILL REPORT

HB 1603

As Reported By House Committee On:

Commerce & Labor

Title: An act relating to residential real property transfers.

Brief Description: Requiring a lien information statement for sale of new residential property.

Sponsors: Representatives Clements, McMorris, Honeyford, L. Thomas, Mielke and Sullivan.

Brief History:

Committee Activity:

Commerce & Labor: 2/24/97, 3/5/97 [DPS].

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives McMorris, Chairman; Honeyford, Vice Chairman; Conway, Ranking Minority Member; Wood, Assistant Ranking Minority Member; Boldt; Clements; Cole; Hatfield and Lisk.

Staff: Selwyn Walters (786-7117).

Background:

LIENS

A mechanic's and materialmen's lien benefits subcontractors, laborers, and suppliers of materials to a private construction project. If a laborer, supplier, or subcontractor does not receive payment for services, or for materials used in the improvement of the property, he or she may claim a lien against the property to recover payment. Sale of the property may occur to satisfy the lien, and a property owner may be further liable for any deficiency after the sale of the property.

Notice: A person furnishing professional services, materials, or equipment to an owner may give notice of his or her right to claim a lien to an owner, or to a prime contractor. A lien claimant is not required to give notice if he or she did not contract directly with an owner. A subcontractor is not required to give notice if he or she did

not contract directly with a prime contractor. The lien notice may be given at anytime.

For new construction, the lien is limited to materials, equipment, and services provided ten days preceding an owner's receipt of the lien claimant's notice of right to claim a lien. In all other cases a lien is limited to materials, equipment, and services provided 60 days preceding an owner's personal receipt of a lien claimant's notice of right to claim a lien.

Laborers are not required to file a pre-claim lien notice.

Remodeling projects: A lien claim of a subcontractor, or a supplier who participates in a residential remodeling project and who does not contract directly with an owner, is limited to an amount not yet paid to the prime contractor by the owner. The amount is limited as of the time an owner receives a notice of involvement from a subcontractor or a supplier.

Filing a lien: A lien is recorded like other instruments affecting title, and must be filed within 90 days after a subcontractor, a supplier, or a laborer ceased to provide materials, equipment, services, or labor. An action on the lien must be commenced within eight months after filing, and prosecuted within two years after commencement of the action. In case of a judgment, foreclosure of lien property is similar to the foreclosure of a mortgage.

Owner protection: An owner may avoid a construction lien by making checks payable jointly to a contractor and a subcontractor, or a material supplier; or by requiring a contractor to provide a lien release signed by all the suppliers and subcontractors. An owner may also file a bond, or withhold or deduct from payment to a prime contractor the amount claimed by a subcontractor, or supplier.

Summary of Substitute Bill: Sellers of new residential single-family real property or their agents are required to provide buyers with a lien information statement five days after deposit of any earnest money by the buyer, or preliminary contract between the seller and the buyer. The lien information statement must be read by the seller to the buyer.

Substitute Bill Compared to Original Bill: Makes clear the lien information statement must be given by a seller or a seller's agent to the buyer of new residential single-family real property five days after deposit of any earnest money by the buyer, or preliminary contract between the seller and the buyer. The lien information must be read instead of verbally explained.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill protects all consumers, especially elderly customers from hidden liens. It places the consumer on notice that there may be liens and advises the consumer to protect himself or herself. With the enormous stack of paper required at closing, the requirement that the lien information must be verbally read is an added protection for the consumer. Consumers are given more security in their home purchases.

Testimony Against: None.

Testified: Bob Gee, Western Building Material Association; and Dale Layton, Unregistered Contractor Task Force.