

# HOUSE BILL ANALYSIS

## HB 1603

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

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**Sponsors:** Representatives Clements, McMorris and Honeyford

Hearing: February 24, 1997

### 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 BILL:**

A seller of new residential real property is required to give a buyer an informational statement regarding possible lien claims by individuals who provided professional services, materials, equipment, or labor to the construction project. A seller must give the information statement within five business days after any interest money deposit by a buyer or preliminary contract between a buyer and a seller.

The statement informs a buyer that a lien for materials, equipment, labor, or services used in the improvement of the property may be filed in the event subcontractors, suppliers, or laborers are not paid. The statement informs the buyer about the availability of title insurance to protect himself or herself from liability for the legally filed liens. A buyer may call telephone numbers at the Department of Labor and Industries and the Attorney General's Office for information on the operation of the lien law.

The lien information statement is for information purposes, and is not considered part of a written agreement between the seller and the buyer.

**RULES AUTHORITY:** The bill does not contain provisions addressing the rule-making powers of an agency.

**FISCAL NOTE:** Not requested.

**EFFECTIVE DATE:** Ninety days after adjournment of session in which bill is passed.