

SENATE BILL REPORT

SB 6695

As Reported By Senate Committee On:
Labor, Commerce & Financial Institutions, February 7, 2002

Title: An act relating to claiming construction-related liens.

Brief Description: Claiming construction-related liens.

Sponsors: Senators Winsley, Prentice and Fraser.

Brief History:

Committee Activity: Labor, Commerce & Financial Institutions: 2/7/02 [DP].

SENATE COMMITTEE ON LABOR, COMMERCE & FINANCIAL INSTITUTIONS

Majority Report: Do pass.

Signed by Senators Prentice, Chair; Keiser, Vice Chair; Fairley, Franklin, Gardner, Rasmussen, Regala and Winsley.

Staff: Dave Cheal (786-7576)

Background: Anyone who contributes to the design or construction of an improvement to real property has a right to place a lien on that property if they don't get paid for their contribution. That is true even if the owner of the property has paid the general contractor with the expectation that the contractor will pay another the amount owed and the general contractor fails to do so. This sometimes results in the owner of the property paying twice for a portion of the improvement.

The right to claim a lien is qualified in the case of residential remodeling or repair projects. Certain notice requirements must be met before the right to claim a lien is perfected. In the case of a single family residence repair or remodel, notice of the right of the subcontractor, material supplier, or other contributor may be given at any time, but it only protects the right to claim a lien for services or materials supplied after a date which is ten days before the notice is received by the home owner.

For single family residential remodel or repair projects, lien claimants may only reach that portion of the contract not yet paid to the prime contractor at the time the notice of a right to make a claim is received. An exception is made for claimants who contracted directly with the owner or owner's agent (usually the prime contractor).

Summary of Bill: The limitations on lien claims in single family residential remodel and repair projects are made applicable to custom single family residential new construction. The effect of a notice of a right to claim a lien in a single family residential project is that it protects the right to claim a lien for material or services supplied after the notice is given, rather than after a date ten days prior to the notice.

Recovery on a lien claim in a single family residential project is limited to the lesser of 10 percent of the contract price or the amount in the contract designated for the service or material which serves as a basis for the lien claim.

Appropriation: None.

Fiscal Note: Requested on January 28, 2002.

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

Testimony For: Further protection is needed to protect homeowners from getting stuck with lien claims against their property when a general contractor fails to pass along payment to subcontractors or suppliers. As between the two innocent parties, the trade creditors have more ability and sophistication to protect themselves than homeowners, who may deal with this situation only once in their lifetime.

Testimony Against: The bill punishes innocent suppliers and subcontractors whose lien rights are being substantially reduced. They contribute to the improvement of the property and are entitled to the protection that lien rights provide.

Testified: Dana Lantz, Gale Albertson, NACM Construction Legislative Task Force (con); Bob Camp, Brian Minnich, BIAW (pro); Bob Gee, Casey Voorhees, WBMA (con); Jim King, Gary Smith, IBA (con); Jim King, WA Drywall Coalit. (con); Larry Stevens, NECA (con); Patrick Woods, L&I (pro).