

# SENATE BILL REPORT

## SB 5239

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As of February 21, 2005

**Title:** An act relating to limiting lien authority against a residential homeowner.

**Brief Description:** Limiting lien authority against a residential homeowner.

**Sponsors:** Senators Kohl-Welles, Fraser, Keiser, Franklin, Prentice and Rockefeller; by request of Department of Labor & Industries.

**Brief History:**

**Committee Activity:** Labor, Commerce, Research & Development: 2/3/05.

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### SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

**Staff:** John Dziedzic (786-7784)

**Background:** When equipment providers, material suppliers, or subcontractors (potential lien claimants) or workers do not receive payment for the goods and services supplied to a construction project, including a homeowner's single-family residence construction or remodel project, those suppliers of goods and services can file a lien against the homeowner's property.

When a potential lien claimant works through "prime" or "general" contractor, the potential lien claimant must first notify the homeowner, in writing, that the potential lien claimant has the right to claim a lien. This notice establishes the potential lien claimant's rights with respect to goods or services that were supplied to a remodel project up to 60 days prior to the notice; or up to ten days prior to the notice on a project for the construction of a new single-family residence.

To pursue a lien claim, a claimant providing a "notice of right to claim a lien" must: (1) record the lien with the county recording office not later than 90 days after the claimant last provided services, materials or equipment to the homeowner's project; (2) commence an action to enforce the lien within eight months of the date the lien is recorded; and (3) complete the action to enforce the lien within two years after the action was commenced.

**Summary of Bill:** A potential lien claimant providing proper "notice of right to claim a lien" may claim a lien for goods or services supplied to the new construction, repair, alteration or remodel of a single-family residence or appurtenant garage after notice was given.

The maximum lien that may be claimed for services, materials, or equipment supplied to the new construction, repair, alteration or remodel of a single-family residence or appurtenant garage is the lesser of: (1) the actual amount designated in the contract for such goods or services that is not yet paid to the prime contractor by the owner at the time the owner receives the notice of the right to claim the lien; or (2) 10 percent of the actual amounts

designated in the contract for such goods or services. The notice of right to claim a lien form is modified accordingly.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Testimony For:** This proposal represents two provisions of the comprehensive lien law update that were removed from the bill that passed four years ago. It will help prevent consumers from having to pay twice for the same work on a residential remodel or construction project.

**Testimony Against:** The proposal unfairly shifts the blame to suppliers and subcontractors for contractor financial mismanagement. It is bad public policy executed poorly.

**Who Testified:** PRO: Patrick Woods, Dept. of Labor & Industries; Sandy Swarthout, WA Homeowners Coalition; Elizabeth Morse, homeowner; Brian Minnich, Building Industry Assoc. of WA; Bob Blayden, Blayden Design Build; John Bratten, JW Bratten Construction.

CON: Bob Gee, Western Building Materials Assoc.; Jeff Swan, Evergreen Lumber; Debbie deBoer, Janet Cole, National Assoc. of Credit Managers; Kerry Lawrence, Attorney.