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**Business & Financial Services Committee**

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**HB 2375**

**Brief Description:** Allowing appraisers to place a lien on property for unpaid balances for services rendered.

**Sponsors:** Representatives Pike and Takko.

**Brief Summary of Bill**

- Allows real estate appraisers to place a lien on property for unpaid balances for their services.

**Hearing Date:** 1/21/14

**Staff:** Linda Merelle (786-7092).

**Background:**

A person furnishing labor, professional services, materials, or equipment for the improvement of real property has a lien upon the improvement for the contract price of labor, professional services, materials, or equipment furnished at the request of the owner, or the agent of the owner.

"Professional services" are defined as surveying, establishing or marking the boundaries of, preparing maps, plans or specifications for, or inspecting, testing, or otherwise performing any other architectural or engineering services for the improvement of real property."

A "real property lender" is defined as a bank, savings bank, savings and loan association, credit union, mortgage company or other corporation, association, partnership, trust, or individual that makes loans secured by real property located in Washington.

Notice.

A notice of the right to claim a lien is required to establish a lien for professional services, materials, or equipment supplied. Such notice must be provided at least 60 days before mailing

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the notice by certified or registered mail to the owner or reputed owner or delivering or serving the notice personally upon the owner or reputed owner.

Notices of a right to claim a lien are not required of:

- Persons who contract directly with the owner or the owner's common law agent;
- Laborers whose claim of lien is based solely on performing labor; or
- Subcontractors who contract for the improvement of real property directly with the prime contractor.

Persons who contract directly with an owner-occupier to furnish professional services, materials, or equipment in connection with the repair, alteration, or remodel of an existing owner-occupied single family residence or garage are not required to send a written notice of the right to claim a lien. They have a lien for the full amount due under their contract. Persons who do not contract directly with the owner-occupier or their common law agent must give notice of the right to claim lien to the owner-occupier.

The form of the notice of a right to claim a lien is depicted in statute.

#### Real Property Subject to Lien.

The lot, tract, or parcel of land which is improved is subject to a lien to the extent of the interest of the owner who, directly or through a construction agent, requested professional services or materials. If for some reason, the title or interest in the land upon which the improvement is located cannot be subjected to the lien, the court may order the sale and removal of the improvement from the land to satisfy the lien.

#### Informational Material.

The Department of Labor and Industries (L&I) must prepare documents that provide informational material about construction lien laws and available safeguards against real property lien claims. The material must also include sources of further information, including the L&I and the Office of the Attorney General. Every real property lender must provide a copy of these materials to all persons obtaining loans, the proceeds of which are to be used for residential construction or residential repair or remodeling.

#### **Summary of Bill:**

The definition of "professional services" is modified to include the preparation of appraisals or reports for real property and the performance of appraisals and inspections for the improvement of real property.

An "appraisal management company" is added to the definition of "real property lender."

#### Lien Rights.

A lender, mortgage broker, or appraisal management company required to be registered under state law is the lender agent of the owner for the purposes of establishing the lien created in this act. Lien rights are not lost by the suspension or revocation of registration or license without the

knowledge of the person or entity that claims the lien. They are also not lost as a result of the absence, suspension, or revocation of registration or license with respect to any contractor or subcontractor who does not have a direct contractual relationship with the lien claimant. Persons dealing with lenders, mortgage brokers, or appraisal management companies may rely upon a certificate of registration or other certificate or license issued pursuant to law.

Real Property Subject to Lien.

A lot, tract, or parcel of real property that is improved is subject to a lien to the extent of the interest of the owner who requested, through a construction agent or a lending agent, the labor, professional services, equipment, or materials furnished.

Informational Material.

In addition to current requirement, a copy of the materials prepared by L&I must also be provided to all persons obtaining loans for residential refinancing.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.