

AMENDMENT TO HCS 2058

DELETE SUBSECTION 2 IN ITS ENTIRETY AND REPLACE WITH THE FOLLOWING:

2. As used in this section, the term “residential real property” means any parcel of real estate, improved or unimproved, that is intended to be used or is used for the construction of a new residential structure and related improvements which support the residential use of the land and which new residential structure consists of a single new structure of four units or less and is intended to be owned by the inhabitant.

REASON: The current language has an extremely broad definition of “residential real property” that includes certain commercial projects such as mixed-use developments **that contain commercial and residential components in the same building.** The current definition would result in liens on a mixed-use building for improvements used for commercial purposes having priority over liens on the same building where a portion is for residential purposes because liens on commercial property attach as of the first day of any work by any contractor on the project. Whereas, under the Bill liens for residential property do not attach until the first Notice is recorded or filed by a lien claimant which could be weeks or months after actual work began. This puts lien claimants on the residential portion of the building at a disadvantage because their liens would be subordinate to liens on the same building which were filed by contractors working on the commercial portions of the project. Such disparity changes the equal treatment that is currently afforded all lien claimants on the same building under existing lien law.

The primary problem, we are told with liens on residential property is with large subdivisions of single family homes. There is no need to introduce and implicate large mixed-use developments when trying to address problems related to subdivisions.

The proposed amendment is much more realistic and practical while addressing the problem some allege exists.