

AMENDMENT TO HCS 2058

DELETE SUBSECTION 21 IN ITS ENTIRETY

Reasons: This subsection turns existing law upside down. Currently all liens attach as of the first day any visible works begins on the project regardless of which trade was first on the site. The current language changes that. The proposed language in the bill would cut off lien rights for the value of improvements made before the first Notice is recorded. This could be a serious and substantial denial of lien rights.

The language of subsection 21 could cause lien claimants to lose priority over mortgages and other encumbrances against the property. By delaying the time lien rights attach there is the distinct possibility that intervening filings could come ahead of lien rights thus doing violence to long established priority principles ingrained in the current lien law.

We are told this legislation is needed in order to give notice to the owners and title companies of potential lien claimants before property is sold. The owners and title companies do not need to cut off lien rights by establishing new obstacles in order to have notice they say they need to protect against double payment to the unknown claimant. The existing law with regard to the date liens attach should be allowed to stand. The bill should not be used as a means to deny security for payment of valid debts when the purpose is to afford notice to owners and title insurance companies. The attempt to reduce lien rights under the guise of notice is an act of overreaching.