

1 H BILL NO. 556
2 INTRODUCED BY Orkup

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE
5 PERFECTION OF MECHANIC'S LIENS ON REAL PROPERTY; REQUIRING
6 PRIOR CONSENT FROM THE PROPERTY OWNER TO PROVIDE LABOR OR
7 MATERIALS AND 30-DAY NOTICE OF INTENTION TO FILE LIEN;
8 AMENDING SECTION 45-502, R.C.M. 1947."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 45-502, R.C.M. 1947, is amended to
12 read as follows:

13 "45-502. How lien perfected. (1) Every person wishing
14 to avail himself of the benefits of this chapter must file
15 with the county clerk of the county in which the property or
16 premises mentioned in the preceding section is situated, and
17 within ninety days after the material or machinery aforesaid
18 has been furnished, or the work or labor performed, a just
19 and true account of the amount due him, after allowing all
20 credits, and containing a correct description of the
21 property to be charged with such lien, verified by
22 affidavit, but any error or mistake in the account or
23 description does not affect the validity of the lien, if the
24 property can be identified by the description; which paper
25 containing the account, description, and affidavit is deemed

1 the lien, and when there is an open account between the
2 parties for labor, material, or machinery, such lien may be
3 filed within ninety days after the date of the last item in
4 such account, and include all items and charges contained
5 therein, for material or machinery furnished for, or work
6 performed on, the property on which the lien is claimed.

7 (2) The time within which to perfect the lien by
8 filing of the notice of lien is shortened if the provisions
9 of section 3 [45-502.1] of this act complied with and a
10 notice of completion is timely filed, in which event such
11 notice of lien must be filed within sixty (60) days
12 immediately following the first publication of the notice of
13 completion.

14 (3) The following acts ~~of~~ or events constitute
15 "completion of any work or improvement" for the purpose of
16 filing a notice of completion:

17 (a) The written acceptance by the owner, his agent or
18 his representative of the building, improvement or
19 structure. The filing of a notice of completion shall not be
20 considered as an acceptance of the building, improvement, or
21 other structure.

22 (b) The cessation from labor for thirty (30) days upon
23 any building, improvement or structure, or the alteration,
24 addition to or repair thereof.

25 (4) It is unlawful for any person, persons, company,

1 or corporation to file a lien for labor performed or
 2 materials supplied at or on any building or land or
 3 equipment attached thereto unless the labor or materials
 4 were authorized by the owner prior to the furnishing of
 5 labor or supplying of materials to the property.

6 (5) It is unlawful for any person, persons, company,
 7 or corporation to file a lien against an owner of any real
 8 property for labor performed or materials supplied to or on
 9 any building, land, or equipment attached thereto when
 10 contracted for by a lessee, tenant, reater, or contract
 11 purchaser unless consent or permission in writing from the
 12 owner of record prior to furnishing the labor or materials
 13 was obtained.

14 (6) Prior to filing any lien, the person filing shall
 15 cause to be served upon the owner or contract purchaser of
 16 the property to be charged with the lien a notice of
 17 intention to file the lien. A true copy of the lien to be
 18 filed shall be attached to the notice and may be served
 19 personally upon the owner or contract purchaser or by
 20 mailing to him at his last known address or, if the address
 21 is unknown, then to the address of the property to be
 22 charged. The notice shall be made 30 days in advance of the
 23 proposed lien filing and must be given within the 90-day
 24 period designated in subsection (1). The 30-day notice of
 25 intention to file the lien, if made within the 90-day

1 period, extends the lien filing period to coincide with the
 2 expiration of the 30-day notice period.

3 (7) If upon being notified the owner or contract
 4 purchaser of the property to be charged believes the
 5 proposed lien is invalid, he may petition the district court
 6 for a prior determination of the validity of the proposed
 7 lien. The filing of the petition suspends the right to file
 8 a lien until the court determines its validity. If the lien
 9 is determined to be valid, it shall be accepted for filing.
 10 No lien may be determined to be valid unless the person
 11 claiming the lien affirmatively shows that the material or
 12 machinery furnished or work performed on the property was
 13 provided or done with the consent and knowledge of the owner
 14 or contract purchaser and that the person claiming the lien
 15 has complied by giving 30 days' notice prior to the
 16 expiration of the 90-day period. Nothing herein limits or
 17 precludes any other rights the parties may have in law or
 18 equity."

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