

HOUSE BILL NO. 329

1/22 Introduced
1/22 Referred to Business & Labor
1/26 Rereferred to Judiciary
2/18 Hearing
2/21 Committee Report-Bill Pass As Amended
2/23 2nd Reading Pass As Amended
2/26 3rd Reading Pass

Transmitted to Seante

3/04 Referred to Judiciary
3/07 Hearing
3/07 Comm Report-Bill Concurred As Amended
3/07 Rereferred to Judiciary
3/26 Hearing
3/28 Tabled in Committee

1 HOUSE BILL NO. 329
2 INTRODUCED BY Harold Spert

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MECHANICS'
5 LIEN LAWS BY PROVIDING THAT A SUPPLIER MAY NOT HAVE A LIEN
6 ON PROPERTY UNLESS THE PROPERTY OWNER IS A PARTY TO THE
7 CONTRACT OR THE CONTRACTOR IS THE PROPERTY OWNER; PROVIDING
8 THAT A SUPPLIER MAY NOT HAVE A LIEN ON THE CONTRACTOR'S
9 PROPERTY AFTER TITLE TO THE PROPERTY HAS BEEN TRANSFERRED;
10 AND AMENDING SECTION 71-3-501, MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 71-3-501, MCA, is amended to read:

14 "71-3-501. Who may have lien -- privity or notice
15 required. (1) Every Except as provided in subsections (2)
16 and (3), every mechanic, miner, machinist, architect,
17 foreman, engineer, builder, lumberman, artisan, workman,
18 laborer, and any other person performing any work and labor
19 upon, or furnishing any material, machinery, or fixture for,
20 any building, structure, bridge, flume, canal, ditch,
21 aqueduct, mining claim, coal mine, quartz lode, tunnel, city
22 or town lot, farm, ranch, fence, railroad, telegraph,
23 telephone, electric light, gas, or waterworks or plant or
24 any improvements, upon complying with the provisions of this
25 part, for his work or labor done or material, machinery, or

1 fixtures furnished has a lien upon the property upon which
2 the work or labor is done or material is furnished.

3 (2) A person supplying material for improvements of
4 property to a contractor is not entitled to a lien upon the
5 property for which the material or labor is furnished
6 unless:

7 (a) the owner of the property is a party to the
8 contract pursuant to which the material is furnished to the
9 contractor; or

10 (b) the contractor is the owner of the property at the
11 time of the improvement.

12 (3) A person supplying material for property described
13 in subsection (2)(b) is not entitled to a lien under this
14 part unless it is perfected under 71-3-511 prior to transfer
15 of the property to a third party."

16 NEW SECTION. Section 2. Saving clause. This act does
17 not affect rights and duties that matured, penalties that
18 were incurred, or proceedings that were begun before the
19 effective date of this act.

-End-



RE-REFERRED AND APPROVED BY COMM. ON BUSINESS AND LABOR

HOUSE BILL NO. 329

INTRODUCED BY HANNAH, SPAETH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MECHANICS' LIEN LAWS BY PROVIDING THAT A SUPPLIER MAY NOT HAVE A LIEN ON PROPERTY UNLESS HE GIVES NOTICE OF THE BASIS FOR FILING A MECHANICS' LIEN TO THE PROPERTY OWNER IS-A-PARTY-TO-THE CONTRACT-OR-THE-CONTRACTOR-IS-THE-PROPERTY-OWNER; PROVIDING THAT A SUPPLIER MAY NOT HAVE A LIEN ON THE CONTRACTOR'S PROPERTY AFTER TITLE TO THE PROPERTY HAS BEEN TRANSFERRED; AND AMENDING SECTION 71-3-501, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 71-3-501, MCA, is amended to read:

"71-3-501. Who may have lien -- privity or notice required. (1) Every Except as provided in subsections (2) and (3), every mechanic, miner, machinist, architect, foreman, engineer, builder, lumberman, artisan, workman, laborer, and any other person performing any work and labor upon, or furnishing any material, machinery, or fixture for, any building, structure, bridge, flume, canal, ditch, aqueduct, mining claim, coal mine, quartz lode, tunnel, city or town lot, farm, ranch, fence, railroad, telegraph, telephone, electric light, gas, or waterworks or plant or

any improvements, upon complying with the provisions of this part, for his work or labor done or material, machinery, or fixtures furnished has a lien upon the property upon which the work or labor is done or material is furnished.

(2) A person supplying material for improvements of property to a contractor is not entitled to a lien upon the property for which the material or labor is furnished unless:

(a) the owner of the property is a party to the contract pursuant to which the material is furnished to the contractor; or

(b) the contractor is the owner of the property at the time of the improvement: (2) (A) EXCEPT WHEN MATERIALS ARE DELIVERED AT THE REQUEST OF THE OWNER, ANY PERSON SUPPLYING MATERIALS FOR USE IN CONSTRUCTING AN IMPROVEMENT TO PROPERTY, UNLESS HE IS ALSO PERFORMING LABOR ON THE IMPROVEMENT, MUST, WITHIN 10 DAYS AFTER THE FIRST DATE OF DELIVERY OF MATERIALS, GIVE THE OWNER OF THE PROPERTY WRITTEN NOTICE OF POTENTIAL LIEN LIABILITY. NO MECHANICS' LIEN FOR MATERIAL FURNISHED MAY BE ENFORCED UNLESS SUCH NOTICE IS GIVEN. NOTICE IS NOT REQUIRED FOR SUBSEQUENT DELIVERIES.

(B) THE NOTICE SHALL STATE, IN SUBSTANCE:

(1) THAT THE SUPPLIER HAS COMMENCED TO DELIVER SUCH MATERIALS FOR USE OF THE PROPERTY;



1 (II) THE NAME OF THE PERSON ORDERING SUCH MATERIALS;

2 (III) THAT A LIEN MAY BE CLAIMED FOR ALL MATERIALS
3 FURNISHED AFTER THE FIRST DATE OF DELIVERY OF MATERIALS
4 REFERRED TO IN SUBSECTION (2)(A);

5 (IV) THAT PAYMENT BY THE OWNER OR HIS LENDER TO THE
6 CONTRACTOR DOES NOT REMOVE THE RIGHT OF THE PERSON
7 FURNISHING MATERIALS TO CLAIM A LIEN UNLESS THE PERSON
8 GIVING THE NOTICE IS, IN FACT, PAID; AND

9 (V) THAT FURTHER NOTICE TO THE OWNER OF THIS OR ANY
10 SUBSEQUENT DELIVERY IS NECESSARY.

11 (3) A person supplying material for property described
12 in subsection (2)(b) is not entitled to a lien under this
13 part unless it is perfected under 71-3-511 prior to transfer
14 of the property to a third party."

15 NEW SECTION. Section 2. Saving clause. This act does
16 not affect rights and duties that matured, penalties that
17 were incurred, or proceedings that were begun before the
18 effective date of this act.

19 NEW SECTION. SECTION 3. EFFECTIVE DATE. THIS ACT IS
20 EFFECTIVE JULY 1, 1987.

-End-

HOUSE BILL NO. 329

INTRODUCED BY HANNAH, SPAETH

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MECHANICS' LIEN LAWS BY PROVIDING THAT A SUPPLIER MAY NOT HAVE A LIEN ON PROPERTY UNLESS HE GIVES NOTICE OF THE BASIS FOR FILING A MECHANICS' LIEN TO THE PROPERTY OWNER IS-A-PARTY-TO-THE CONTRACT-OR-THE-CONTRACTOR-IS-THE-PROPERTY-OWNER; PROVIDING THAT A SUPPLIER MAY NOT HAVE A LIEN ON THE CONTRACTOR'S PROPERTY AFTER TITLE TO THE PROPERTY HAS BEEN TRANSFERRED; AND AMENDING SECTION 71-3-501, MCA; AND PROVIDING AN EFFECTIVE DATE."

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any improvements, upon complying with the provisions of this part, for his work or labor done or material, machinery, or fixtures furnished has a lien upon the property upon which the work or labor is done or material is furnished.

~~(2) A person supplying material for improvements of property to a contractor is not entitled to a lien upon the property for which the material or labor is furnished unless:~~

~~(a) the owner of the property is a party to the contract pursuant to which the material is furnished to the contractor; or~~

~~(b) the contractor is the owner of the property at the time of the improvement;~~ (2) (A) EXCEPT WHEN MATERIALS ARE DELIVERED AT THE REQUEST OF THE OWNER, ANY PERSON SUPPLYING MATERIALS FOR USE IN CONSTRUCTING AN IMPROVEMENT TO PROPERTY, UNLESS HE IS ALSO PERFORMING LABOR ON THE IMPROVEMENT, MUST, WITHIN 10 DAYS AFTER THE FIRST DATE OF DELIVERY OF MATERIALS, GIVE THE OWNER OF THE PROPERTY WRITTEN NOTICE OF POTENTIAL LIEN LIABILITY. NO MECHANICS' LIEN FOR MATERIAL FURNISHED MAY BE ENFORCED UNLESS SUCH NOTICE IS GIVEN. NOTICE IS NOT REQUIRED FOR SUBSEQUENT DELIVERIES.

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10 ANY SUBSEQUENT DELIVERY IS ~~NECESSARY~~ UNNECESSARY.

11 (3) A person supplying material for property described
12 in subsection (2)(b) is not entitled to a lien under this
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17 were incurred, or proceedings that were begun before the
18 effective date of this act.

19 NEW SECTION. SECTION 3. EFFECTIVE DATE. THIS ACT IS
20 EFFECTIVE JULY 1, 1987.

-End-

STANDING COMMITTEE REPORT

SENATE

March 7 19 85

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE BILL No. 329

third reading copy (blue)
color

(Senator Towe)

REVISION OF MECHANICS' LIEN LAW RELATING TO SUPPLIERS AND SUBCONTRACTORS

Respectfully report as follows: That HOUSE BILL No. 329

be amended as follows:

1. Title, lines 8 through 10.
Following: "OWNER;" on line 8
Strike: remainder of line 8 through line 10 in their entirety
2. Page 3, lines 11 through 14.
Strike: subsection (3) in its entirety

AND AS AMENDED

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

Senator Joe Mazurek

Chairman.