

CONSTRUCTION LIEN: RESIDENTIAL PROPERTY

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 487

Sponsor: Sen. Valde Garcia

House Committee: Regulatory Reform

Senate Committee: Economic Development and Regulatory Reform

Complete to 5-21-07

A SUMMARY OF SENATE BILL 487 AS PASSED BY THE SENATE 5-16-07

Currently, parties involved in a construction project must provide various notices, statements, and claims of liens. Procedures can vary depending on whether the project is for commercial property or residential. The bill would amend the Construction Lien Act to restrict the applicability of certain provisions to residential properties; specifically, provisions regarding a sworn statement provided by a contractor or subcontractor about an improvement to a structure and to a waiver of lien.

Senate Bill 487 would do the following:

- In a warning to an owner or lessee required to be included in a sworn statement, specify that the owner or lessee of the property *shall* not – rather than *may* not – rely on the sworn statement to avoid the claim of a subcontractor, supplier, or laborer who had provided a notice of furnishing to the designee or to the owner or lessee if the designee was not named or had died. (A sworn statement is a notarized document that lists every subcontractor, supplier, and laborer who provided labor and materials for the project. A subcontractor or supplier must provide a notice of furnishing after furnishing the first labor or material; a laborer must provide one when wages are due but not paid. The document must be given to the owner, lessee, or designee, and the contractor.)
- Restrict – to a construction project involving an improvement to a residential structure – the requirement that an owner or lessee provide notice of receipt of a sworn statement to each subcontractor, supplier, and laborer providing a notice of furnishing or named in the sworn statement. Upon request, the owner, lessee, or designee would have to give a copy of the sworn statement to each subcontractor, supplier, or laborer who *was entitled to notice* under these provisions.
- Restrict – to an improvement provided to a residential structure – the requirement that an owner, lessee, or designee not rely on a full or partial unconditional or conditional waiver of lien provided by a person other than the lien claimant named in the waiver if the lien claimant had filed, or was excused from filing, a notice of furnishing unless the owner, lessee, or designee had first verified the authenticity of the lien waiver with the lien claimant. The language contained in

the form for the various waivers (partial and full unconditional waivers, as well as partial and full conditional waivers) would be modified to reflect this change.

MCL 570.1110 and 570.1115

FISCAL IMPACT:

There is no fiscal impact on the State of Michigan or its local units of government.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Richard Child

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.