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IN THE SENATE

BY SENATORS OWEN,
HOPSON AND MCNABB

SENATE BILL NO. 282

IN THE LEGISLATURE OF THE STATE OF ALASKA

SECOND LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act creating a lien in favor of an employee when an employer fails to make payments to an employee benefit fund; and providing for an effective date."

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

Section 1. Art. 2 of Ch. 2, Tit. 43, ACLA 1949 is amended by adding a new section to read:

43-2-14. EMPLOYEE BENEFIT FUND: LIEN IN FAVOR OF EMPLOYEE: ENFORCEMENT. (A) When an employer has agreed with an employee or group of employees to make payments to a medical, health, hospital, welfare or pension fund or such other fund for the benefit of the employees, or has entered into a collective bargaining agreement providing for the payments; but fails to make the payments when due, a lien is created in favor of each affected employee on the earnings of his employer and all property used in the operation of his employer's business to the extent of the money, plus any penalties due to be paid on the employee's behalf to qualify him for participation in the fund and for any expenses incurred by him for which he would have been entitled to reimbursement under the fund if the required payments had been made.

(B) 1. The lien claimant, his representative or the

1 trustee of the fund on behalf of the claimant, shall file
2 a notice of claim within sixty days after the employer's
3 payment is due with the recorder of the judicial district
4 in which the employer's place of business is located or in
5 which the claimant resides. The notice contains:

6 a. The name of employee;

7 b. The name of the employer and the name of
8 the person employing the claimant, if known;

9 c. A statement of the pertinent terms and
10 conditions of the employee benefit plan;

11 d. The date when the payments are due and
12 were to have been paid; and

13 e. A statement of the demand including the
14 amounts due to the claimant if any expenses have been
15 incurred.

16 2. The notice of claim shall be served on the
17 employer in the same manner as a summons and complaint in
18 civil actions or mailed to him by registered mail.

19 (C) The lien is enforced within the same time and in
20 the same manner as a mechanics' lien is foreclosed if the
21 lien is on real property, or as a chattel lien is enforced
22 if the lien is on personal property. The court may allow,
23 as part of the costs of the action, the filing and record-
24 ing fees for the notice of claim, reasonable attorney's
25 fees, and court costs.

26 (D) The lien created under subsec. (a) of this section
27 is preferred and superior to any encumbrance which may at-
28 tach after the employer's payments became due and is also
29 preferred and superior to any encumbrance which may have

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attached previously, but which was not filed or recorded,
and of which the lien claimant had no notice.

Sec. 2. This Act takes effect on the day after its passage
and approval or on the day it becomes law without such approval.