

BY SENATORS OWEN,
HOPSON AND MCNABB

1 IN THE SENATE

2 SENATE BILL NO. 282

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SECOND LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

13 43-2-14. EMPLOYEE BENEFIT FUND: LIEN IN FAVOR OF
14 EMPLOYEE: ENFORCEMENT. (A) When an employer has agreed
15 with an employee or group of employees to make payments to
16 a medical, health, hospital, welfare or pension fund or such
17 other fund for the benefit of the employees, or has entered
18 into a collective bargaining agreement providing for the
19 payments; but fails to make the payments when due, a lien
20 is created in favor of each affected employee on the earnings
21 of his employer and on all property of his employer used in
22 the operation of his employer's business to the extent of the
23 money, plus any penalties due to be paid on the employee's
24 behalf to qualify him for participation in the fund and for
25 any expenses incurred by him for which he would have been
26 entitled to reimbursement under the fund if the required
27 payments had been made.

28 (B) 1. The lien claimant, his representative or the
29 trustee of the fund on behalf of the claimant, shall file

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

5 a. The name of employee;

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

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

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

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

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

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

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

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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.