

Introduced: 3/9/71
Referred: Commerce

1 IN THE SENATE

BY GROH

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SENATE BILL NO. 151

2
3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to mechanics' and materialmen's liens
7 and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 34.35.060(a) is repealed and re-enacted to read:

10 (a) The liens created by secs. 50 - 120 of this chapter upon
11 land and buildings or other improvements constructed or located upon
12 the land when altered or repaired are preferred to a lien, mortgage
13 or other encumbrance which may attach after the time of the commence-
14 ment of the performance of the labor or the furnishing of materials
15 for which the right of a lien is given by another section of this
16 chapter, and are also preferred to a lien, mortgage or encumbrance
17 which may have attached before commencement of the performance of
18 the labor or the furnishing of materials but of which the lien claimant
19 has no actual knowledge or was not recorded so as to constitute
20 constructive notice to the lien claimant under secs. 50 - 120 of this
21 chapter. Nothing in this chapter prohibits a lien claimant from
22 waiving his lien or subordinating it to other liens, mortgages or
23 encumbrances by instrument in writing executed by the lien claimant
24 under secs. 50 - 120 of this chapter.

25 * Sec. 2. AS 34.35.060(b) is repealed.

26 * Sec. 3. AS 34.35.070 is amended by adding new subsections to read:

27 (d) The owner of land which may be subject to a lien created
28 under secs. 50 - 120 of this chapter may, within 10 days after com-
29 pletion of a building or other improvement, record a notice of

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1 completion of the building or other improvement. If the notice is
2 recorded, in order to claim the benefit of secs. 50 - 120 of this
3 chapter, every original contractor must, within 60 days after the
4 notice of completion has been recorded, record his claim of lien.
5 A person, other than the original contractor, claiming the benefits
6 of secs. 50 - 120 of this chapter must, within 30 days after the
7 notice of completion has been recorded, record his claim of lien.
8 The notice of completion provided for in this section must be filed
9 in the office of the recorder of the district in which the property
10 is situated, must be signed and verified by the owner or his agent,
11 and must set out the following:

- 12 (1) the date of completion of the building or other improve-
13 ment, or of a particular portion of the building or other improvement;
- 14 (2) the name and address of the owner;
- 15 (3) the nature of the interest or estate of the owner;
- 16 (4) sufficient legal description of the property; and
- 17 (5) the name of the original contractor, if any.

18 (e) If, after the commencement of a building or other improvement,
19 there is a cessation of labor for a continuous period of 60 days, all
20 persons claiming the benefit of secs. 50 - 120 of this chapter must,
21 within 90 days from the expiration of the 60-day period, record their
22 claims of lien. After cessation of labor for a continuous period of
23 30 days or more, if the owner records a notice of cessation under
24 this subsection, every original contractor must, within 60 days after
25 the recording date of the notice, and other persons claiming the
26 benefit of secs. 50 - 120 of this chapter must, within 30 days after
27 the date of recording of the notice, record their claim of lien.
28 The notice of cessation provided for in this section must be filed
29 in the office of the recorder of the district in which the property

1 is situated, must be signed and verified by the owner or his agent,
2 and must set out the following:

- 3 (1) the date when cessation from labor began;
- 4 (2) a statement that the cessation from labor is presently
5 in effect;
- 6 (3) the name and address of the owner;
- 7 (4) the nature of the interest or estate of the owner;
- 8 (5) sufficient legal description of the property; and
- 9 (6) the name of the original contractor, if any.

10 * Sec. 4. AS 34.35 is amended by adding a new section to read:

11 Sec. 34.35.072. BOND. If the owner of the property sought to
12 be charged with a claim of lien under secs. 50 - 120 of this chapter,
13 or a contractor or subcontractor disputes the correctness or validity
14 of the claim of lien brought under secs. 50 - 120 of this chapter,
15 he may record either before or after the commencement of an action
16 to enforce the claim of lien, in the office of the recorder in which
17 district the claim of lien was recorded, a bond executed by a person
18 authorized to issue surety bonds in this state, in the penal sum
19 equal to one and one-half times the amount of the claim of lien,
20 which bond shall guarantee the payment of the sum which the lien
21 claimant may recover on the claim, together with the lien claimant's
22 reasonable cost of suit in the action, if he recovers on the claim
23 of lien. If the owner records a bond under this section, the real
24 property described in the bond is freed from the effect of a claim
25 of lien under secs. 50 - 120 of this chapter and an action brought
26 to foreclose the claim of lien. The principal on the bond may be
27 the owner of the property, the contractor or a subcontractor who is
28 affected by the claim of lien.

29 * Sec. 5. AS 34.35.120 is amended by adding a new paragraph to read:

1 (3) "owner" means the person who causes the building,
2 improvement or structure to be constructed, altered or repaired,
3 whether his interest or estate is in fee, as vendee under a contract
4 of purchase, as lessee, or other interest or estate less than fee
5 and includes his successor in interest.

6 * Sec. 6. This Act takes effect on the day after its passage and approv-
7 al or on the day it becomes law without approval.