

Introduced: 2/21/73
Referred: Labor & Management
and Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE
BY REQUEST

CS

2 HOUSE BILL NO. 256

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH 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 AS 34.35.060 is repealed and re-enacted to read:

10 Sec. 34.35.060. LAND SUBJECT TO LIEN. The liens created by secs.
11 50 - 120 of this chapter upon land and buildings or other improvements
12 constructed or located upon the land when altered or repaired are
13 preferred to a lien, mortgage or other encumbrance which may attach
14 after the time of the commencement of the performance of the labor or
15 the furnishing of materials for which the right of a lien is given by
16 another section of this chapter, and are also preferred to a lien,
17 mortgage or encumbrance which may have attached before commencement of
18 the performance of the labor or the furnishing of materials but of
19 which the lien claimant has no actual knowledge and was not recorded
20 so as to constitute constructive notice to the lien claimant under
21 secs. 50 - 120 of this chapter. Nothing in this chapter prohibits a
22 lien claimant from waiving his lien or subordinating it to other liens,
23 mortgages or encumbrances by instrument in writing executed by the
24 lien claimant under secs. 50 - 120 of this chapter.

25 * Sec. 2. AS 34.35.070 is amended by adding new subsections to read:

26 (d) The owner of land which may be subject to a lien created
27 under secs. 50 - 120 of this chapter may, within 10 days after comple-
28 tion of a building or other improvement, record a notice of completion
29 of the building or other improvement. If the notice is recorded, in

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

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

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

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

8 * Sec. 3. AS 34.35 is amended by adding a new section to read:

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

26 * Sec. 4. AS 34.35.120 is amended by adding a new paragraph to read:

27 (3) "owner" means the person who causes the building,
28 improvement or structure to be constructed, altered or repaired,
29 whether his interest or estate is in fee, as vendee under a contract

1 of purchase, as lessee, or other interest or estate less than fee and
2 includes his successor in interest.

3 * Sec. 5. This Act takes effect on the day after its passage and approval
4 or on the day it becomes law without approval.
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