

Introduced: 2/28/77
Referred: Commerce

1 IN THE HOUSE

BY URION

2 *CS* HOUSE BILL NO. 282

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH 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 AS 34.35.060 is repealed and re-enacted to read: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. PRIORITIES. (a) A lien created by secs. 50 - 120
11 of this chapter in favor of a person who actually performs labor upon a
12 building or other improvement in its original construction and who is
13 not a "contractor" as defined in AS 08.18.171 is preferred to a lien,
14 mortgage, or other encumbrance upon the land, regardless of when the
15 lien, mortgage, or other encumbrance attached to the land.

16 (b) In the enforcement of a lien described in (a) of this section,
17 the building or other improvement may be sold separately from the land.
18 When sold separately, the building or other improvement may be removed
19 by the purchaser within a reasonable time after the sale, not to exceed
20 30 days, upon the payment to the owner of the land of a reasonable rent
21 for its use from the date of its purchase to the time of removal. If
22 removal is prevented by legal proceedings, the 30 days does not begin to
23 run until the final determination of the proceedings in the court of
24 first resort, or in the appellate court if appeal is taken.

25 (c) A lien created by secs. 50 - 120 of this chapter in favor of a
26 person other than one described in (a) of this section is preferred

27 (1) to a lien, mortgage, or other encumbrance which attached
28 to the land before commencement of the performance of the service or the
29 furnishing of materials if

1 (A) the lien claimant had no actual knowledge of the
2 lien, mortgage, or other encumbrance at the time of commencement of
3 the performance of the service or the furnishing of materials; and

4 (B) the lien, mortgage, or other encumbrance was unre-
5 corded at the time of commencement of the performance of the service
6 or the furnishing of materials;

7 (2) to a lien, mortgage, or other encumbrance which attaches
8 to the land after the commencement of the performance of the service or
9 the furnishing of materials.

10 (d) In the enforcement of a lien described in (c) of this section,
11 the building or other improvement may not be sold separately from the
land.

(e) As used in this section,

14 (1) "commencement of the furnishing of materials" refers to
15 the time materials for the building, improvement, alteration, or repair
16 are first furnished and placed upon, and not merely adjacent to, the
17 land;

18 (2) "land" means land subject to lien under sec. 55(a) of
19 this chapter.

20 * Sec. 2. AS 34.35 is amended by adding a new section to read:

21 Sec. 34.35.062. WAIVER OR VOLUNTARY SUBORDINATION OF LIEN. Not-
22 withstanding sec. 495 of this chapter, a person in whose favor a lien is
23 created by secs. 50 - 120 of this chapter may agree to waive his right
24 to acquire the lien or may agree to subordinate the lien to other liens,
25 mortgages, or encumbrances, but only by a written instrument signed by
26 him.

27 * Sec. 3. This Act is inapplicable to any lien which attaches before the
28 effective date of this Act.

29 * Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-

1 070(c).

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