

SB

195

FISCAL NOTE

No. 2
 Bill Version: SB 195
 (S) Publish Date: 1-28-98

STATE OF ALASKA
 1998 LEGISLATIVE SESSION

Revision Date (Note if correction) _____ Dept. Affected Law
 Title An Act relating to common law liens, to remedies, BRU Criminal Division/Civil Division
costs, and fees imposed for the registration, filing or recording ... Component 1st-4th Jud Dist., OSPA; Collections
 Sponsor Senate Rules Committee & Support, Gov't Affairs, Special Lit.
 Requester Senate Labor and Commerce Committee Component Serial No. 2198-99, 2261, 79, 01, 03;

Expenditures/Revenues	(Thousands of Dollars)						2210, 2207, 2213
OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04	
Personal Services							
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SB 195 makes it easier, and faster, to remove a nonconsensual common law lien against the personal property of a public servant that was not filed accompanied by a specific court order. In addition, a person filing such a lien would be liable for actual and punitive damages, as well as cost and reasonable attorneys fees. Criminal penalties for offering a false instrument for recording are created by this bill.

If the nonconsensual lien was filed against the property of a public servant employed by the Executive or Judicial Branch based on their performance or nonperformance of their duties, the Department of Law would represent them. Unless someone were to file wholesale liens against many public servants at once, as has happened in Montana and Texas, the department believes the effect of the bill to be minimal and is not submitting a fiscal note with costs.

Prepared by Joan M. Kasson Phone 465-5370
 Division Attorney General's Office Date 1/26/98
 Approved by Commissioner Bruce M. Botelho, Attorney General Date 1/26/98
 Agency Department of Law

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FISCAL NOTE

No. 1

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL # Bill Version: SB 195
 (S) Publish Date: 1-28-98

Revision Date: 01/23/98 Dept. Affected: Alaska Court System
 Title: Common Law Liens BRU: Trial Courts
 Sponsor: Senate Rules by Request Component: _____
 Requestor: Senate L&C COMPONENT SERIAL NO. 788

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL						

Estimate of any current year (FY 98) cost: \$ None

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Doug Wooliver, Administrative Attorney
 Agency: Alaska Court System

Approved by: Stephanie J. Cole, Administrative Director
 Agency: Alaska Court System

Phone: 264-8265
 Date: 01/23/98

Date: 01/23/98

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SB 195

Revision Date: 01/23/98 Dept. Affected: Alaska Court System
 Title: Common Law Liens BRU: Trial Courts
 Component: _____
 Sponsor: Senate Rules by Request
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Expenditures/Revenues		(Thousands of Dollars)				
OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

Fund Source		(Thousands of Dollars)				
1002 Federal Receipts						
1003 GF Match						
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1037 GF/Mental Health						
Other						
TOTAL						

Estimate of any current year (FY 98) cost: \$ None

Positions						
Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Doug Wooliver, Administrative Attorney
 Agency: Alaska Court System

Approved by: Stephanie J. Cole, Administrative Director
 Agency: Alaska Court System

Phone: 264-8265
 Date: 01/23/98

Date: 01/23/98

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HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 6, 1998

FURTHER REFERRALS:

Finance

Date of Committee Action: April 6, 1998

The JUDICIARY Committee considered:

HB 406

HOUSE BILL NO. 406

SUBSISTENCE USES OF FISH AND GAME

"An Act relating to subsistence uses of fish and game."

recommends it be replaced with the following committee substitute CS HB 406 (JUD) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) H JUD CMTE
(Indeterminable)

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>		<input checked="" type="checkbox"/>		
<i>[Signature]</i>				<input checked="" type="checkbox"/>
<i>[Signature]</i>				<input checked="" type="checkbox"/>
<i>Brian S. Fortey</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>Jeanette James</i>			<input checked="" type="checkbox"/>	

Vice CHAIR'S SIGNATURE *[Signature]*

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 4, 1998

FURTHER REFERRALS:

Date of Committee Action: 4/3/98

The JUDICIARY Committee considered:

SB 195

SENATE BILL NO. 195

COMMON LAW LIENS

"An Act relating to common law liens, to remedies, costs, and fees imposed for the registration, filing, or recording of certain nonconsensual common law liens, and to penalties for recording common law liens."

recommends it be replaced with the following committee substitute _____ the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) LAW _____ zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Alan Kately</i>	✓			
<i>Kevin S. Porter</i>	✓			
<i>Janet James</i>	✓			
<i>Chris B...</i>	✓			
<i>Joseph ...</i>	✓			

CHAIR'S SIGNATURE *[Signature]*

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SB 195

Revision Date (Note if correction) _____	Dept. Affected <u>Law</u>	
Title <u>An Act relating to common law liens, to remedies, costs, and fees imposed for the registration, filing or recording ...</u>	BRU	<u>Criminal Division/Civil Division</u>
Sponsor <u>Senate Rules Committee</u>	Component	<u>1st-4th Jud Dist., OSPA; Collections & Support, Gov't Affairs, Special Lit.</u>
Requester <u>Senate Labor and Commerce Committee</u>	Component Serial No.	<u>2198-99, 2261, 79, 01, 03;</u>

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Prepared by <u>Joan M. Kasson</u>	Phone <u>465-5370</u>
Division <u>Attorney General's Office</u>	Date <u>1/26/98</u>
Approved by Commissioner <u>Bruce M. Botelho</u> , Attorney General	Date <u>1/26/98</u>
Agency <u>Department of Law</u>	

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Juneau



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Senate Rules Committee

State Capitol
Juneau, AK 99801-1182
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Fax: (907) 465-3756
1-800-770-3822
(JANUARY - MAY)
INTERNET: //http://www.state.ak.us

716 West 4th, Suite 400
Anchorage, AK 99501
(907) 258-8180
Fax: (907) 258-4524

SPONSOR STATEMENT / SECTIONAL SB 195 - Common Law Liens

Senate Bill 195 addresses the emerging problem of misuse of nonconsensual common law liens, the so-called nuisance liens, being placed against public officials and others as a means of retribution. Some groups and individuals have been able to file or record such liens against the property of officials and citizens with whom they disagree, without the affected party realizing it until they attempt to sell the property or take out loans. Often, the release of these unwarranted liens costs considerable time and money.

Nonconsensual common law liens differ from mechanics' liens, material liens, and the like, in that they can be vague, have questionable legal standing, and are not connected to the property filed against. Mechanics' liens and the like are very specific to a piece of property, and directly relate to improvements on that property by virtue of the materials, labor or service provided.

Common law liens are much less specific claims. For example, some militia groups elsewhere in the U.S. have recorded this type of lien against judges when they perceived their constitutional rights to be violated. Common law liens have the effect of clouding title to property, and can make financial and title companies reluctant to ignore them, even though they are rarely valid. Nonconsensual common law liens may be applied against real or personal property.

Last year, several employees and elected officials of the Municipality of Anchorage had nuisance liens filed against their properties, resulting in considerable, unanticipated work and ex-

pense in the municipal attorney's office. In these cases, the public officials and employees were simply doing their jobs.

SB 195 provides for relief from these invalid lien filings, and has had no opposition during the public hearing process. It is a priority of the Alaska Court System, and carries two zero fiscal notes.

Section 1 of the bill makes it a misdemeanor offense to record a nonconsensual common law lien without the specific authorization of a court, or when not consented to by the owner of affected property.

Section 2 allows for an attorney of an affected official or person to submit a "notice of invalid lien," with a copy going to the person who recorded or filed the common law lien.

It also provides for an expedited court proceeding to have the invalid, nonconsensual common law lien released. If grounds are not demonstrated, or if the lien filer fails to appear, a release of the lien is done, and court and attorney fees ordered paid by the lien filer.

Section 2 also establishes liability on the part of those who file an invalid nonconsensual common law lien. It also provides for actual and punitive damages, and reasonable attorney fees to be paid by the filer.

Definitions are made for "filed," "nonconsensual common law lien," "public servant," "record," and "recorder."

Section 3 makes a compatibility amendment to allow for establishing a new crime as spelled out in Section 4.

Section 4 establishes a new crime in the second degree of offering a false instrument for recording. This is now a Class A misdemeanor.

Section 5 amends the liens chapter in Title 34 to conform to the above.

Alaska Court System

Doug Wooliver
Administrative Attorney

Telephone: (907) 264-8265
Facsimile: (907) 264-8291

SECTIONAL ANALYSIS OF SB 195

Section 1 is a conforming amendment to AS 09.38.500(9) (the definition section of the Alaska Exemptions Act) that adds a reference to common law liens within the definition of "lien." The new reference states that, to be valid, a common law lien must either be consented to by the owner or accompanied by a court order.

Section 2 adds article 2A to AS 9.45 (Actions Relating to Real Property). The new article is entitled "Actions Relating to Nonconsensual Common Law Liens" and contains 4 sections.

- A) Section 09.45.161 states that if a nonconsensual common law lien is recorded or filed against the property of a public servant and is not accompanied by a court order, an attorney representing the public servant may submit for recording or filing a notice of invalid lien. A copy of the notice is sent to the person who recorded or filed the common law lien.
- B) Section 09.45.164 provides for an expedited court proceeding to have an invalid nonconsensual common law lien released. Under the provisions of this section, a person submits a request to the court containing an affidavit setting out the facts upon which the request is based. If the facts support the need for an expedited hearing, the court can order the person who recorded or filed the lien to appear at a hearing within 20 days. If the court finds that the lien is invalid, or if the person who recorded or filed the lien does not appear, the court can grant the order releasing the lien and order the lien claimant to pay the costs and actual reasonable attorney fees incurred by the party making the request.
- C) Section 09.45.167 states that a person who records or files an invalid nonconsensual common law lien is liable to the owner for actual and punitive damages as well as actual reasonable attorney fees. This section also provides for the liability of a person who is a grantee of an invalid nonconsensual common law lien if he or she refuses to release the lien when requested by the owner of the property affected.

- D) Section 09.45.169 provides definitions for "filed," "nonconsensual common law lien," "public servant," "record," and "recorder."

Section 3 amends AS 11.46.550 (offering a false instrument for recording) by making this current crime the crime of offering a false instrument for recording in the first degree. This section is a conforming amendment that is necessary for the creation of the new crime of "offering a false instrument for recording in the second degree" added by section 4 of the bill. Section 3 does not make any substantive changes.

Section 4 amends AS 11.46.550 by creating the new crime of offering a false instrument for recording in the second degree. This section makes it a class A misdemeanor to record or file an invalid common law lien against real or personal property.

Section 5 amends AS 34.35 (the liens chapter in title 34) by adding a new section entitled "Nonconsensual common law liens." This section prohibits the recording or filing of nonconsensual common law liens against real or personal property without an accompanying court order. This section also provides definitions for the terms "filed," "nonconsensual common law liens," "record," and "recorder."



*ALASKA COURT SYSTEM
State of Alaska
Office Of The Administrative Director*

820 West 4th Avenue
Anchorage, Alaska 99501
(907) 264-8265
FAX (907) 264-8291

Doug Wooliver
Administrative Attorney

February 26, 1998

Representative Norman Rokeberg, Chair
House Labor and Commerce Committee
Alaska State Legislature
State Capitol
Juneau, Alaska 99801

Dear Representative Rokeberg:

The Alaska Court System respectfully requests that SB 195 be scheduled for a Labor and Commerce Committee hearing at your earliest convenience.

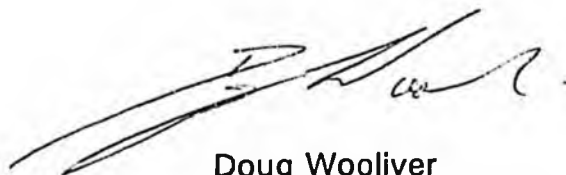
This bill seeks to address the growing problem of bogus common law liens being filed against the real and personal property of Alaskans. It has become common in recent years for patriot groups to record such liens against the property of public officials and private citizens with whom they disagree. The person generally finds out about the lien when he or she attempts to borrow against or sell property and discovers that he or she cannot do so until the lien has been released. This may take several months.

Until recently, this activity has not been of major concern in Alaska. Last year, however, a number of employees and elected officials of the Municipality of Anchorage discovered that nonconsensual common law liens had been recorded against their property. The long list of persons targeted by these liens included Mayor Rick Mystrom and the members of the Anchorage Assembly.

SB 195 amends the law to make nonconsensual common law liens invalid and makes it a misdemeanor to record or file them without specific authorization from a court. It streamlines the judicial process for releasing a lien and authorizes the attorney for a public servant to record a "notice of invalid lien" if such a lien is recorded against the property of a public servant. Finally, it provides for civil penalties against a person who records or benefits from a nonconsensual common law lien.

Thank you for your consideration of this bill. If I can be of any assistance or provide you with any additional information please let me know.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Wooliver', with a long horizontal flourish extending to the left.

Doug Wooliver
Administrative Attorney

HIGHLIGHTS - SB 195

The bill provides a way to prevent the recording or filing of nonconsensual common law liens as a form of harassment against public officials. Common law liens are the most legally nebulous form of lien, in that our courts have never specifically recognized their existence, and there is no precedent for the manner in which they are being used.

SB 195 does not eliminate this type of lien, but insists on a court order or the consent of the owner of affected property, should a party want to record or file one.

The bill does the following:

- + calls for owner consent or a court order prior to recording or filing against real or personal property
- + makes it a Class A misdemeanor to file an invalid non-consensual common law lien, punishable by up to a \$5,000 fine
- + allows an attorney for a public official to record or file a NOTICE OF INVALID LIEN
- + establishes an expedited court proceeding to have an invalid nonconsensual common law lien released
- + gives court authority to release an invalid lien
- + provides for recovery of court costs and attorney fees from wrongful filers, and establishes liability for actual and punitive damages

General backup on SB 195

Although common law liens are mentioned in statute, no Alaskan court has ever specifically recognized their existence. According to a 1980 Attorney General Opinion, the extensive statutory scheme that governs the recording of liens almost certainly preempts any common law rights that may have existed historically. 1980 Formal Op. Att'y Gen. 5.

(This bill does allow the recording of a common law lien that is either accompanied by a court order or consented to by the owner of the property. This option is left open to safeguard against inadvertently foreclosing a right to record a legitimate lien that is not otherwise specifically authorized by statute.)

It should be stressed that there is no historical precedent for the current manner in which common law liens are being used. According to the above referenced Attorney General Opinion, "[a] common law lien was simply a right to retain possession of personal property until a debt due on or secured by the property was paid, and the debt must have been incurred for services or work performed by the claimant on the property to which the lien attached." Id. At 2. Common law liens recorded as harassment tools, which are the focus of SB 195, are not connected in any way to the property recorded against and are not security for a debt owed. These liens were never historically recognized as "common law liens"; they are, and always have been, without any legal effect whatsoever.

Nevertheless, even bogus liens can cloud title because banks, title companies, and others are reluctant to ignore them without some specific authority to do so. SB 195 provides that authority by putting in statute a provision clearly stating that such liens are invalid unless accompanied by a court order or consented to by the owner of the property.

In addition to making it clear that common law liens are invalid, the bill contains expedited means for having a common law lien released if one is recorded. This will ensure that anyone reviewing the record will have notice that the lien is invalid without having to rely on his or her own judgement as to its legal status.

As a final tool to discourage the recording of these bogus liens, the bill subjects anyone who records them to criminal penalties and civil liability.

The reason the words "file" and "filed" are included in the bill is because people "record" liens on real property but "file" them on personal property through UCC filings. The language is intended to close a potential loophole that has become a problem in other states.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

MR. JIMMIE DREW LOCKHART, SR.)
)
 Plaintiff,)
)
 v.)
)
 THE MUNICIPALITY OF ANCHORAGE,)
 ET AL.)
)
 Defendants.)

FILED in the Trial Courts
 STATE OF ALASKA, THIRD DISTRICT
 Feb 14, 1997
 Clerk of the Trial Courts
 Der

Case No. 3AN 96-852 CI

CORRECTED ORDER AND RELEASE OF "REAL ESTATE LIENS"

Having held a hearing on the Motion for Preliminary Injunction, the Court hereby makes the following findings of fact:

1. Jimmie Drew Lockhart, Sr. has recorded multiple unjustified documents denominated "real estate liens." Some of these "real estate liens" have been filed against defendants in this action, and some have been filed against non-parties. These so-called "real estate liens" affect the real property described below.

2. These so-called "real estate liens" are not indicative of any debt.

The Court hereby makes the following conclusions of law:

1. The so-called "real estate liens" filed by Jimmie Drew Lockhart, Sr. against the real property described below are legally invalid.

2. These so-called "real estate liens" are causing irreparable harm to those persons whose properties are affected by the "real estate liens."

3. The potential injury to Jimmie Drew Lockhart, Sr. from ordering these so-called "real estate liens" released and declared null, void, invalid, and of no legal effect is slight in comparison

JAN '97

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 OF
 ANCHORAGE
 OFFICE OF THE
 MUNICIPAL ATTORNEY
 P.O. Box 196650
 Anchorage, Alaska
 99519-6650
 Telephone: 343-4545
 Facsimile: 343-4550

DL

to the harm suffered by those whose properties are affected by the so-called "real estate liens."

4. The Municipality of Anchorage has raised serious and substantial questions going to the merits of the case.

Having made these findings of fact and conclusions of law, **IT IS HEREBY ORDERED** that the "real estate liens" recorded in the Anchorage Recording District by Jimmie Drew Lockhart, Sr. affecting the following described real property are **NULL, VOID, INVALID, AND OF NO LEGAL EFFECT** and are **RELEASED**:

PROPERTY OWNER	LEGAL DESCRIPTION
Mary K. Hughes	Parcel No. 076-015-99-019-97 - Telequana Heights, Lot 1A, 2240 Kissee Ct., Book 2318, Page 0072. Date: 09/21/92. 2240 Kissee Ct., Anchorage, Alaska 99517-1003, filed in Book 02988, Page 806.
Mary K. Hughes	Parcel No. 005-014-53-000-97 - Alyeska North #1, Block 3, Lot 3B, Alyeska North 610, Book 2305, Page 0453. Date: 08/17/92. Plat 730010. 2240 Kissee Ct., Anchorage, Alaska 99517-1003, filed in Book 02988, Book 806.
Craig Campbell Anne Marie Campbell	Parcel No. 050-904-03-000-97 - Parkview Terrace, Block 2, Lot 3.18324 N. Parkview Terrace Loop, Eagle River, Alaska 99577-8525. Book 0946, Page 0109. Plat 820448, filed in Book 02986, Page 806.
Michael W. Kerr Barbara Kerr	Parcel No. 007-234-75-000-97 - Comm. Council Turnagain Homes, Block G 14, 2425 Saint Elias Drive, Anchorage, Alaska 99517-1250, filed in Book 02973, Page 201.
Michael W. Kerr Barbara Kerr	Parcel No. 012-203-28-000-97 - Comm. Council Scenic Park, Block 3, Lot 30, Chugach Foothills #5, 4324 Butte Circle, Anchorage, Alaska 99504-4701, filed in Book 02973, Book 201.

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P.O. Box 196650
Anchorage, Alaska
99519-6650
Telephone: 343-4545
Facsimile: 343-4560

Mary Ann Moseley

Parcel No. 005-111-68-024-97 - College Alps, Tr. 2 College Alps Phase 3, P.O. Box 2111044, Anchorage, Alaska 99521-1044, Site #74, filed in Book 02973, Page 204.

Charles Jackson

Parcel No. 003-251-41-000-97 - Green Acres Subdivision, Block 8, Lots 5 and 6, P. 152, Grid 1733, 3722 Young Street, Anchorage, Alaska 99508-4528, filed in Book 02973, Page 197.

[DAVE] David L. Brennen

Parcel No. 006-282-46-000-97 - Colleegegate East #3, Block 8, Lot 11, 5938 Glenkerry Dr., Anchorage Alaska 99504-3243, Book 2678, Page 0690. Date: 07/11/94, Plat 720049, filed in Book 02986, Page 802.

Kevin G. Meyer
Mary Ann Meyer

Parcel No. 014-141-66-000-97 - Bulen Heights, Lot 5, Book 1088, Page 0645, Plat 830230, 7240 Bulen Drive, Anchorage, Alaska 99507-2879, filed in Book 02986, Page 808.

George P. [WURECH] (Wuerch)
Brenda B. [WURECH] (Wuerch)

Parcel No. 003-246-31-000-97 - Geneva Woods, Block 3, Lot 6, 1332 Crescent Dr., Anchorage, Alaska 99504, Book 1178, Page 0062. Date: 10/24/84, Plat 670065, filed in Book 02986, Page 796.

Mark P. Begich
Margaret J. Begich

Parcel No. 006-323-25-000-97 - Commercial Apartment Garden, T13N R3W, Sec. 22, Lot 46, W70' of S117'. 5205 E. 26th Ave., Anchorage, Alaska. Book 2016, Page 0149. Date: 04/03/90. P.O. Box 201627, Anchorage, Alaska 99520-1627, filed in Book 02986, Page 798.

Mark P. Begich
Margaret J. Begich

Parcel No. 006-323-24-000-97 - Commercial Apartment Garden, T13N Sec. 22, Lot 46 W85' of E260' of S117. 5215 (5211) E. 26th Ave., Book 2016, Page 0149. Date: 04/03/90. Russian Jack PA, filed in Book 02986, Page 798.

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Mark P. Begich
Margaret J. Begich

Parcel No. 006-313-25-000-97 - Commercial Apartment Garden, T13N R3W, Sec. 22, Lot 30, E2E2. 5233 E. 21st Ave., Anchorage, Alaska 99520-1627. P.O. Box 201627, Anchorage, Alaska 99520-1627. Book 2246, Page 0474. Date: 03/06/92, filed in Book 02986, Page 798.

Patrick E. Von Gemmingen
Fay I. Von Gemmingen

Parcel No. 001-224-04-000-97 - Hunnington (Huntington) Park #2, Lot 13, Block 4, Plat 68-12, 2132 Arlington Dr., Site 1305 W. 27th Anchorage, Alaska 99517-1367. Date 04/15/91 filed in Book 02986, Page 0800.

Charles P. [WHOLFORTH]
(Wohlforth)
Barbara E. [WHOLFORTH]
(Wohlforth)

Parcel No. 002-041-18-000-97 - North Addition, Lot 1, Block N, Plat NA4, 828 Erickson Street, Anchorage, Alaska 99502-1138, Book 02986, Page 0804.

Timothy G. Middleton
Joyce F. Middleton

Parcel No. 001-052-55-000-97 - Site 717 "M" Street, Anchorage, Alaska 99501-3307 Lot 10A, Block 85, Plat Nos. 80-45 and 67-30, Book 02986, Page 0810.

Timothy G. Middleton
Joyce F. Middleton

Parcel No. 001-161-45-034-97 - Petersons, Blk. 3, Lt 3 B. Woronzof # 700, 717 "M" Street, Anchorage, Alaska 99501-3307, Book 2539, Page 0721.

Rick Mystrom
Mary Mystrom

Lot 4, Block 32B, Plat C-78B
Lot 3B, Block 13, Plat 73-229
Lot 14, Block 1, Plat 72-69
Lot 3, Block 32B, Plat C-78AB
Lot 4, Block 32B, Plat C-78AB
Lot 12, Block 21, Plat 66-167
Lot 23, Block 3, Plat 83-419
Lot 22, Block 3, Plat 83-419
Lot 12, Block 21, Plat 66-167
Lot 2, Block 6, Plat P-580
Lot 6, Block 4, Plat 83-235

Lot 6, Block 4, Plat 83-235
Lot 24, Block 3, Plat 83-419
Lot 14A, Plat P-67G
Lot 2, Block 29A, Plat C-76
Lot 8A, Block 1, Plat 69-90

All filed in Book 02987, Page 0361.

Daniel W. Kendall
Dittbrender
Robert Dyal
Ellen Dyal

Parcel No. 851-383-83-889-97 - SE 30 T15N R1W, Wilbur NE4SW4SW4, filed in Book 02973, Page 0199. Located in Eagle River, Alaska 99577.

**MUNICIPALITY
OF
ANCHORAGE**
OFFICE OF THE
MUNICIPAL ATTORNEY
P.O. Box 196650
Anchorage, Alaska
99519-6650
Telephone: 343-4545
Facsimile: 343-4550

John W. Groh, Jr.
John W. Groh, Jr.
(Cliff John Groh)

Parcel No. 011-101-43-000-97 - Brentwood, Lot 9, Block 4,
Plat 65-44, Site: 7908 Brentwood Dr., P.O. Box 100734,
Anchorage, Alaska 99510-0734. Book 02988, Page 0808.

DATED at Anchorage, Alaska, this 14th day of ~~January~~ ^{February}, 1997.

Robert A. Michalski
JUDGE OF THE SUPERIOR COURT

Certificate of Service

I hereby certify that I mailed a true and correct copy of the foregoing to: Jimmie Drew Lockhart, 3727 Randolph St., Anchorage, AK 99503 on this 2nd day of January, 1997.

Marilyn Bennett
Marilyn Bennett

I certify that on 2-19-97
a copy of the above was mailed to each
of the following at their addresses of
record: J. Lockhart MA - Groh
J. Lockhart, pro per
J. Newby
Secretary/Deputy/Clerk

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[37083-1]

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

MR. JIMMIE DREW LOCKHART, SR.,)
)
 Plaintiff,)
)
 v.)
)
 THE MUNICIPALITY OF ANCHORAGE,)
 et al.)
 Defendants.)

Case No. 3AN 96-852 CI

MEMORANDUM IN SUPPORT OF TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION

Plaintiff Jimmie Drew Lockhart, Sr. (Lockhart) is engaged in a calculated campaign to injure officials and employees of the Municipality of Anchorage by filing liens against real estate owned by those individual officials and employees. Preliminary injunctions are made to stop abuses like those perpetuated by Lockhart, and defendants meet the three-part test for preliminary injunctions. Defendants ask that the court: order the liens expunged; order Lockhart to stop filing liens; and order the Recorder to refuse to record any liens by Lockhart without a court order authorizing such liens.

A party is entitled to a preliminary injunction if: (1) the moving party is faced with irreparable harm; (2) the opposing party is adequately protected; and (3) the moving party raises serious and substantial questions going to the merits of the case. State v. Kluti Kaah Native Village, 831 P.2d 1270, 1273 (Alaska 1992). Defendants meet all three prongs.

The increasing number of liens on the real property of Municipal officials and employees puts the Municipality in an intolerable position. These officials and employees may find it difficult to sell their homes and may find their credit ratings damaged merely for doing their jobs. Others

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may suffer similar harm merely because they hold posts which Lockhart imagines gives them the power to conspire against him. This injury is irreparable. See id. at 1273 n. 5.

Expunging these unjustified liens and ordering Lockhart to stop filing such liens will in no way remove any legitimate protections from Lockhart. He would remain completely free to litigate his positions in accordance with the law.

Michael Kerr's affidavit establishes there are serious and substantial questions going to the merits of the case. Indeed, the Municipality has prevailed entirely in the current code enforcement case. Moreover, Lockhart's liens are defective on their face because they do not fit in any of the categories for pre-judgment liens on real property set out in AS 34.35.

Lockhart's liens are an abuse of process. The Municipality respectfully requests that the court remove them forthwith and stop him from filing any more.

DATED this 23rd day of October, 1996.

MARY K. HUGHES
Municipal Attorney

By: C. J. Groh
Cliff John Groh
Assistant Municipal Attorney

Certificate of Service

I hereby certify that I mailed a true and correct copy of the foregoing to: Jimmy Lockhart, 3727 Randolph St., Anchorage, AK 99508 on the 23rd day of October, 1996.

Maig Bennett

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OF
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REAL ESTATE LIEN

Mr. Jimmie Drew Lockhart Sr.,
Et Al,

Claimant,

vs.

Kevin G. and Mary Ann Meyer,
Respondant(s).

Please take notice, That the above CLAIMANT, Mr. Jimmie Drew Lockhart Sr., et al, Hereby attaches a claim of lien against the real property more particulary described as follows:

ANCHORAGE RECORDING DISTRICT

1. Partial: 014-141-66-000-97. Card 01 of 01. Bulen Heights, LT 5. Book: 1088. Page: 0645. Date: 00/00/00. Plat: 830230. Plat: 830230. 7240 Bulen Dr., Anchorage, Alaska 99507-2879. Site: 7240 Bulen Dr.

This lien is placed against the Municipality of Anchorage, Kevin G. and Mary Ann Meyer, et al. Whom jointly conspired with labors, office staff, lawyers, and servants to obstruct the administration of justice, By alleging false jurisdiction and allegations, while other employees trespassed upon Lockharts' real property without prior written or verbal consented notice(s) making photo pictures of said real prorerty, also including streets and alley photos as well to be used as their evidence of their un-constitutional kangaroo styled court hearings against the Lockharts' more particular Mr. Jimmie Drew Lockhart Sr., et al., without a trial by jury of his peers. The SUPRA, named respondant parties used their ingenious malversation doctrine acts without the show of recipocity or (treaty) treaise agreements between the parties, furthermore, such M.O.A, doings are proof of it's personal ignoring the Alaska Superior Court jurisdiction, See case No: 3AN 96-852 Civil, by continuance harrassing, and stalking the Lockharts' said real properties where the black parties resides there upon the inquestioned real property.

Page -1-

Exhibit E

Page 11 of 16 Pages

Case # 3AN 96-853 CI

This lien is for monetary damages in the amount of Two hundred fifty (\$ 250.000.00) thousand dollars per above set out piece of real property for punitive damages and causing the Lockharts,' et al., mental anguish and suffering, fearing the police, and brutally in the episode intra alia.

Moreover, the M.O.A. and parties doings reflects practicing racial prejudice against blacks as a whole and especially against the Lockharts', by making false un-reliable, liable and slanderous statements against the said real properties, etc.

I Mr. Jimmie Drew Lockhart Sr., being duly sworn, depose and state; I am personally aware of the facts, and the said facts are true and correct to the best of my ability, belief and aknowledgement.

By Jimmie D. Lockhart Sr.
CLAIMANT

SUBSCRIBED AND SWORN to before me the undersigned on this 15th day of October 1996, at Anchorage, Alaska.



Victoria Valere
NOTARY PUBLIC in and for the state of Alaska

My commission expires 6/22/99

Please return to:
Mr. Jimmie Drew Lockhart Sr.
3723 Randolph street
Anchorage, Alaska 99508
Phone (907) 563-1807 (message)

96 050402
ANCHORAGE REC. 18 CC
DISTRICT
REQUESTED BY J. D. Lockhart Sr.
'96 OCT 15 PM 12 08.

BILL: SB 195

SHORT TITLE: COMMON LAW LIENS

BILL VERSION:

SPONSOR(S): RULES BY REQUEST

CURRENT STATUS: (H) L&C
THEN JUD

STATUS DATE: 02/25/98

TITLE: "An Act relating to common law liens, to remedies, costs, and fees imposed for the registration, filing, or recording of certain nonconsensual common law liens, and to penalties for recording common law liens."

05/06/97	1717	(S)	READ THE FIRST TIME - REFERRAL(S)
05/06/97	1717	(S)	L&C, JUD
01/28/98	2328	(S)	L&C RPT 3DP
01/28/98	2328	(S)	DP: LEMAN, KELLY, MACKIE
01/28/98	2328	(S)	ZERO FISCAL NOTES (COURT, LAW)
02/17/98	2542	(S)	JUD RPT 2DP 2NR
02/17/98	2542	(S)	DP: TAYLOR, MILLER NR: PARNELL, PEARCE
02/17/98	2542	(S)	PREVIOUS ZERO FNS (COURT, LAW)
02/24/98	2630	(S)	RULES TO CALENDAR 2/24/98
02/24/98	2631	(S)	READ THE SECOND TIME
02/24/98	2631	(S)	ADVANCED TO THIRD READING UNAN CONSENT
02/24/98	2631	(S)	READ THE THIRD TIME SB 195
02/24/98	2632	(S)	PASSED Y20 N-
02/24/98	2636	(S)	TRANSMITTED TO (H)
02/25/98		(H)	READ THE FIRST TIME - REFERRAL(S)
02/25/98		(H)	L&C, JUDICIARY

Alaska State Legislature

Sen. Tim Kelly, Chairman
Anchorage
Sen. Loren Leman, Vice-Chair
Anchorage
Sen. Robin Taylor
Wrangell
Sen. John Torgerson
Kasilof
Sen. Jim Duncan
Juneau



Official Business

Senate Rules Committee

State Capitol
Juneau, AK 99801-1182
(907) 465-3822
Fax: (907) 465-3756
1-800-770-3822
(JANUARY - MAY)
INTERNET: //http://www.state.ak.us

716 West 4th, Suite 400
Anchorage, AK 99501
(907) 258-8180
Fax: (907) 258-4524

M E M O R A N D U M

DATE: February 25, 1998

TO: Rp. Norman Rokeberg, Chairman
House Labor & Commerce Committee

FROM: Senator Tim Kelly, Chairman
Senate Rules Committee *TDK*
(TB)

SUBJ: Hearing On Senate Bill 195

Please consider scheduling a committee hearing on SB 195, the bill to address the emerging problem of invalid nonconsensual common law liens, the so-called nuisance liens, being filed against public officials and others as a means of political retribution.

This measure passed the senate yesterday with a unanimous vote, and carries two zero fiscal notes.

Support material is attached. If there are further questions, please contact Tim Benintendi of my office at 3770.

TDK/tb/m15

RS-25-00903:17 RC

AMENDMENT

OFFERED IN THE HOUSE

by Representative Berkowitz

TO: SB 195

- 1 Page 7, following line 4:
- 2 Insert "Sec. 6. This Act takes effect immediately under AS 01.10.070(c)."

THE ALASKA COURT SYSTEM

Doug Wooliver
Administrative Attorney

Telephone (907) 264-8265
Facsimile (907) 264-8291

Sponsor Statement SB 195

The Alaska Court System asks that the legislature consider SB 195. This bill addresses the growing problem of bogus common law liens being filed against the property of Alaskans. It has become common in recent years for patriot groups and others to record such liens against the property of public officials and private citizens with whom they disagree. The person generally finds out about the lien when he or she attempts to obtain a loan or sell property, and discovers that he or she cannot do so until the lien has been released. This may take many months.

Until recently, this activity has not been of major concern in Alaska. Last year, however, a number of employees and elected officials of the Municipality of Anchorage discovered that nonconsensual common law liens had been recorded against their property. The long list of persons who were targeted by these liens included Mayor Rick Mystrom, and the members of the Anchorage Assembly.

SB 195 makes it a misdemeanor to record a nonconsensual common law lien without the specific authorization of a court. It streamlines the judicial process for releasing a lien, and authorizes the attorney for a public servant to record a notice of invalid lien if such a lien is recorded against the property of a public servant. Finally, it provides for civil penalties against persons who record or benefit from nonconsensual common law liens.

The Alaska Court System requests your support for this bill.



ALASKA COURT SYSTEM
State of Alaska
Office Of The Administrative Director

820 West 4th Avenue
Anchorage, Alaska 99501
(907) 264-8285
FAX (907) 264-8291

Doug Wooliver
Administrative Attorney

March 2, 1998

Representative Joe Green, Chair
House Judiciary Committee
Alaska State Legislature
State Capitol
Juneau, Alaska 99801

Dear Representative Green:

The Alaska Court System respectfully requests that SB 195 be scheduled for a Judiciary Committee hearing at your earliest convenience.

This bill seeks to address the growing problem of bogus common law liens being filed against the real and personal property of Alaskans. It has become common in recent years for certain groups to record such liens against the property of public officials and private citizens with whom they disagree. The person generally finds out about the lien when he or she attempts to borrow against or sell property and discovers that he or she cannot do so until the lien has been released. This may take several months.

Until recently, this activity has not been of major concern in Alaska. Last year, however, a number of employees and elected officials of the Municipality of Anchorage discovered that nonconsensual common law liens had been recorded against their property. The long list of persons targeted by these liens included Mayor Rick Mystrom and the members of the Anchorage Assembly.

SB 195 amends the law to make nonconsensual common law liens invalid and makes it a misdemeanor to record or file them without specific authorization from a court. It streamlines the judicial process for releasing a lien and authorizes the attorney for a public servant to record a "notice of invalid lien" if such a lien is recorded against the property of a public servant. Finally, it provides for civil penalties against a person who records or benefits from a nonconsensual common law lien.

Thank you for your consideration of this bill. If I can be of any assistance or provide you with any additional information please let me know.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Doug Wooliver', written in a cursive style.

Doug Wooliver
Administrative Attorney