

HB

253

Chair, Judiciary
Chair, Economic Development,
Trade & Tourism
Energy
Military & Veteran Affairs
Joint Armed Services

State Capitol, Room 118
Juneau, Alaska 99801-1182
Phone: (907) 465-3004
Fax: (907) 465-2070
Toll Free: (877) 465-3004

Alaska State Legislature House of Representatives



**Representative Jay Ramras
District 10**

Interim:
1292 Sadler Way, Suite 324
Fairbanks, Alaska 99701
Phone: (907) 452-1088
Fax: (907) 452-1146
Toll Free: (877) 465-3004

Sponsor Statement HB 253 – Mechanic/Materialmen Liens

Under current law, contractors, material suppliers, and service people who have not been paid by property owner for labor or goods have 90 days from the date of completion of the work, or from the date the service ceases, to file a lien on the property to secure payment of that debt. See AS 34.35.068 (a).

House Bill 253 merely extends the time within which to file a lien to 120 days. This extra time will give contractors, material suppliers, and service people an additional 30 days to work with property owners to secure payment or to negotiate a reasonable payment plan between a creditor and debtor. The need for this bill was brought to Representative Ramras' attention by small business owners who suggested that it usually takes two billing cycles to discover that a property owner may not pay his or her debt, and another billing cycle to see if a payment plan or other compromise is working as planned.

All contractors and suppliers are entitled to payment for services and goods delivered, yet recording a lien on property is a severe remedy that encumbers a property owner's interest and that can be costly for the contractor or supplier to execute. HB 253 affords more time for the parties to negotiate before this remedy is employed.

Representative_Jay_Ramras@legis.state.ak.us

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 253
 (H) Publish Date: 3/4/10

Identifier (file name): HB253-CED-COM-2-26-10 Dept. Affected: DCCED
 Title Mechanic/ Materialmen Liens RDU Executive Admin and Dev
 Component Commissioner's Office
 Sponsor Rep. Ramras
 Requester House Labor and Commerce Committee Component Number 1027

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
OPERATING EXPENDITURES								
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	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

This bill changes the amount of time a mechanic or contractor may record a lien on a property from 90 days to 120 days.

The department does not expect a fiscal impact as result of this legislation.

Prepared by: Tyson Fick, Legislative Liaison
 Division Commissioner's Office
 Approved by: Emil Notti, Commissioner
Department of Commerce, Community and Economic Development

Phone 465-2500
 Date/Time 2/26/10 12:00 AM
 Date 2/26/2010

Stack Company, Inc.
PO Box 61237
Fairbanks, Alaska 99706
907-451-4382 Fax 907-455-7293

February 19, 2010

Representative Jay Ramras
State of Alaska
House of Representatives

RE: HB 253

Dear Jay,

I would like you to please consider extending the time lapse allowed for filing a "mechanic lien" for outstanding accounts carried by businesses in the service industry in Alaska.

Contractors and Service companies have very few options at their disposal when dealing with "theft of service" customers. This would be one more tool we could possible use to collect on delinquent accounts in this time of economic stress.

Sincerely,

Sean J. Stack *sj*
President

February 17th, 2010

House Representative Jay Ramras
House District 10
Fairbanks, Alaska

Re: House Bill #253-Extension of Mechanic's Lien

Dear Mr. Ramras,

I wish to convey my enthusiastic support for House Bill #253, the bill extending by 30 days the amount of time allowed to file a Mechanic's Lien on a customer that has not paid their mechanical repair bill.

As a small plumbing and heating service owner, we at Mountain High Plumbing and Heating, are often left unpaid due to the short window of time allowed to file a lien against the property owner. The situation can arise where; because of the timing of our service at the beginning of the month, versus our end-of-the-month billing, almost thirty days can expire before our customers see their statement. While our customers are normally required to pay at the time of servicing, often times multi-day jobs or absent owners prevent us from collecting at the time of service. Because we realize many people feel they have thirty days from receipt of their *statement* to actually pay, now we easily have a scenario in which the work was performed at the beginning of one month, the statement sent at the end of that month, and the homeowner not even considering paying us until the end of the next month: we are now 60 days out from completion of the service.

If for some reason, either due to forgetfulness, unexpected bills that month, or a myriad of other reasons the customers do not send us the payment, now it gets put back in their queue, to be paid with the rest of their bills at the end of the next month. We are now 90 days out from the original service and unable to protect ourselves from possible non-payment. It happens that fast. We hear on a daily basis from someone who either forgot to send in their payment with the rest of last month's bills, or had unexpected expenditures leaving no additional monies to pay our bill; asking if we could wait till the next month when they get paid again.

Because we are understanding and want to work with our customers, we will often acquiesce, because lets face it, who hasn't forgotten a bill at some time in the past? However, to do so puts us at great risk if in fact someone is using this as a ruse to avoid having their home or business liened. Sadly there are many people who have taken advantage of our generosity, knowing full well the laws governing this action. These people have literally accounted for tens of thousands of dollars in lost revenue by our company alone. All it takes is just one time of "forgiving" our customer, and we have

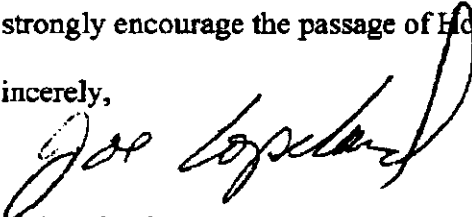
put ourselves in peril of not being able to attach their property. We, as entrepreneurs and job providers, should not be penalized for our generosity and willingness to work with our customers. I feel an additional 30 days in which to assess whether someone is sincere in their desire to pay or whether they are trying to avoid having their property attached would be a huge benefit to all mechanical repair shops. I feel the extra thirty days would allow us the small amount of extra time needed to fully assess the honest property owners, who may just be struggling that month, from out and out shysters who are using the current law to their advantage.

Realizing that a lien has a significant impact on one's credit rating, we do not take this action lightly. That is why we are often hesitant to file one on a customer who is literally begging us to not lien them, assuring us they will pay next month. Again, it is the repair shops who are now assuming the risk by allowing their customers to "slide" for just one month.

Because of the impact a lien can have on a customer's credit rating, I actually see House Bill 253 as a win-win scenario for both the mechanical service providers and their customers. The extra thirty day window will allow those honest customers the additional time needed to make good on their debt and not have their credit rating tarnished by a lien. We, the mechanical repair shops, can now allow them the extra time to make good on their debt and not be put at risk by doing so.

I strongly encourage the passage of House Bill #253.

Sincerely,



Joe Copeland
Mountain High Plumbing and Heating

February 19th, 2010

House Representative Jay Ramras
House District 10
Fairbanks, Alaska

Re: House Bill #253-Extension of Mechanic's Lien

Dear Mr. Ramras,

I wish to convey my enthusiastic support for House Bill #253, the bill extending by 30 days the amount of time allowed to file a Mechanic's Lien on a customer that has not paid their mechanical repair bill.

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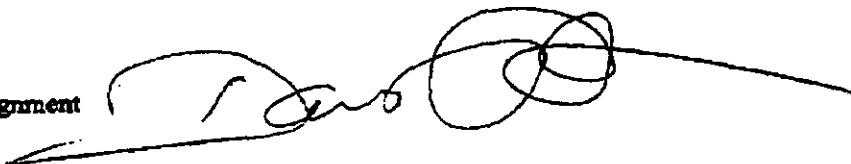
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I strongly encourage the passage of House Bill #253.

Sincerely,

Dan Boschert,
Ken's Fairbanks Alignment





North Pole Heating & Cooling, Inc.

P.O. BOX 58159
Fairbanks, AK 99711
PH: 488-2500 FAX: 488-0722

- ✓ Heating
- ✓ Plumbing
- ✓ Drain Cleaning
- ✓ Air-Conditioning
- ✓ Refrigeration
- ✓ Controls
- ✓ Duct Cleaning
- ✓ Steam Thawing

February 19, 2010

Jay Ramras
1292 Sadler Way, Suite 324
Fairbanks, AK 99701

Representative Ramras:

This letter is to show support for extending the time to file a mechanics' lien from ninety days to one hundred twenty days. We use mechanics' liens quite often to force payment from customers that would probably not pay otherwise. We have found mechanic's lien very helpful in collecting when small claims and garnishments have been to no avail. We have been able to collect for work done when the property is sold.

We have found ninety days to file a bit restrictive. We often miss the deadline because most commercial customers take up to ninety days, sometime as long as one hundred twenty days to pay. By the time the terms are past, it is already too late to file a lien. We have also found out that with many contractors we subcontract for, we can not get paid until the contractor has finished the job. Most of the time, we have already finished the subcontract portion more than ninety days before the contractor has finished the job.

We support a filing deadline of one hundred twenty days for filing a mechanics' lien and we encourage your support on it as well.

Sincerely,

A handwritten signature in cursive script that reads "Cindy Castoe". The signature is written in dark ink and is positioned above the printed name and title.

Cindy Castoe
Northern Lights Services

ALASKA BEST PLUMBING & HEATING, INC.

PO Box 58015

Fairbanks, Alaska 99711

Ph: (907) 455-6506 Fax: (907) 455-4871

E-Mail: akbest@alaska.com

Web Site: www.akbestph.com

Mechanical Administrators License M1041

Jay Ramas

Re: Mechanics Lien legislation

Mr. Ramas,

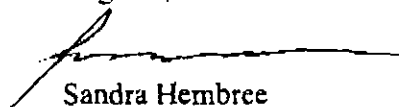
It has come to my attention that there will be a debate regarding legislation to extend the deadline to file a mechanics lien from 90 days to 120 days. As a mechanical contractor we have a vested interest in this legislation. I would ask you to review our point of view and take into consideration our comments during this debate.

This legislation would be beneficial to both our business and our customers in several respects.

1. Often times we are unable to meet the deadline due to billing delays and in these cases our accounts can and do become uncollectable.
2. In some cases we are forced to file a lien to protect our interest when a customer is unable to pay within 90 days. This increases the cost of doing business and reduces our job profitability as well as damages our customer's credit.
3. Filing a lien creates ill will between us and our customers, which in many instances is completely unnecessary.
4. Extending the deadline will allow us to extend credit to our customers, who in many cases need the extra time to pay their bills.

As a plumbing and heating company we often provide vital services to customers who are sometimes in financial situations that make it difficult for them to afford repairs on necessary items such as heat and running water. As a customer service oriented and community minded company we strive to do our best to assist those that need our services most. Being able to extend terms beyond 90 days would be greatly beneficial to both us and our customers. I sincerely hope that you will consider these issues when debating this legislation and seriously consider making the change for the benefit of all of those affected.

Regards,



Sandra Hembree
Vice President



HEAT-ME, INC.
dba Rocky's Heating Service
2441 Hill Road Unit C
Fairbanks, Alaska 99709

February 17th, 2010

House Representative Jay Ramras
House District 10
Fairbanks, Alaska

Re: House Bill #253-Extension of Mechanic's Lien

Dear Mr. Ramras,

I wish to convey my enthusiastic support for House Bill #253, the bill extending by 30 days the amount of time allowed to file a Mechanic's Lien on a customer that has not paid their mechanical repair bill.

As a small business owner employing 16 Fairbanks families, prompt payment is imperative in order to keep the doors of Rocky's Heating Service open. However, the situation can arise where; because of the timing of our service at the beginning of the month, versus our end-of-the-month billing, almost thirty days can expire before our customers see their statement. While our customers are normally required to pay at the time of servicing, often times multi-day jobs or absent owners prevent us from collecting at the time of service. Because we realize many people feel they have thirty days from receipt of their *statement* to actually pay, now we easily have a scenario in which the work was performed at the beginning of one month, the statement sent at the end of that month, and the homeowner not even considering paying us until the end of the next month: we are now 60 days out from completion of the service.

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Because we are understanding and want to work with our customers, we will often acquiesce, because lets face it, who hasn't forgotten a bill at some time in the past? However, to do so puts us at great risk if in fact someone is using this as a ruse to avoid having their home or business liened. Sadly there are many people who have taken advantage of our generosity, knowing full well the laws governing this action. These people have literally accounted for tens of thousands of dollars in lost revenue by our

Tel: 907-456-4120
Fax: 907-455-7341

company alone. All it takes is just one time of "forgiving" our customer, and we have put ourselves in peril of not being able to attach their property. We, as entrepreneurs and job providers, should not be penalized for our generosity and willingness to work with our customers. I feel an additional 30 days in which to assess whether someone is sincere in their desire to pay or whether they are trying to avoid having their property attached would be a huge benefit to all mechanical repair shops. I feel the extra thirty days would allow us the small amount of extra time needed to fully assess the honest property owners, who may just be struggling that month, from out and out shysters who are using the current law to their advantage.

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I strongly encourage the passage of House Bill #253.

Sincerely,

A handwritten signature in black ink that reads "Rocky Pavey". The signature is written in a cursive, somewhat stylized font.

Rocky Pavey, President
Rocky's Heating Service