



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 465 (Substitute S-2 as reported)
Sponsor: Senator Darwin L. Booher
Committee: Banking and Financial Institutions

CONTENT

The bill would amend the Construction Lien Act to establish procedures under which liens could be recorded by a design professional (a licensed or registered architect, professional engineer, or professional surveyor, or a legal entity authorized to practice any of those professions). The bill would do the following:

- Allow a design professional who entered into a written contract to provide professional services relating to the improvement of real property, to record a notice with the register of deeds at any time after the contract was executed.
- Allow a notice to be recorded regardless of whether the professional services or property improvement had been commenced or completed.
- Allow a person that furnished professional services under a written subcontract with a design professional who had recorded a notice, and whose engagement had been approved by a property owner, to record a notice for recording at any time after the subcontract was executed.
- Provide that if an actual physical improvement were made to the property after a notice was recorded, the notice would be effective only from the date of the first actual physical improvement.
- Require a register of deeds to endorse on the instrument the date of its recording and properly index the instrument, if a notice of professional services contract or subcontract were recorded.
- Specify that construction liens would have equal priority regardless of whether the lien arose at the time of first actual physical improvement or at the time a notice was recorded.
- Refer to when a "construction lien arises", instead of the "first actual physical improvement", in provisions that determine whether a construction lien has priority over other recorded interests.

The bill also would repeal Section 301 of the Act, which specifies whether the Act or Public Act 179 of 1891 is the controlling law for a construction lien. Section 301 also permits a contractor, subcontractor, supplier, or laborer to request a written statement as to the date of a property owner's first contract with a contractor on a project.

MCL 570.1104 et al.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would have no fiscal impact on State or local government. The cost to record any additional instruments should be offset by the additional recording fees charged by a register of deeds.

Date Completed: 5-2-18

Fiscal Analyst: Ryan Bergan

floor\sb465

Bill Analysis @ www.senate.michigan.gov/sfa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.