FINAL BILL REPORT

SB 5630

C 19 L 95
Synopsis as Enacted

Brief Description: Limiting nonconsensual common law liens.

Sponsors: Senators Cantu and Haugen; by request of Attorney General.

Senate Committee on Law & Justice
House Committee on Law & Justice

Background: Existing law provides that liens against real and personal property that are not provided by statute, imposed by a court, or agreed to by the parties generally are not recognized or enforceable. Such liens are often referred to as nonconsensual common law liens. Recording officers are not required to accept or disclose such liens.

Nonconsensual common law liens are often filed against the property of elected officials and public employees by persons who do not agree with the manner in which the officials or employees are performing their duties. For example, liens have been filed against judges because of adverse court rulings, and against legislators for "failing to uphold their oath of office."

The Attorney General's office, in consultation with other governmental entities, is proposing that the statute be modified to provide an easier method of removing the liens and allowing government entities to recover the cost of dealing with these types of liens.

Summary: The nonconsensual common law lien statute is revised to clarify the invalidity of such liens, and to make it easier for public officials and employees to remove nonenforceable liens from their property.

A person subject to a common law lien may petition a superior court to direct the person filing the lien to appear in court to determine the validity of such a lien. If the person fails to appear, the court may release the lien and require the payment of costs and attorneys' fees. If a hearing is held on the validity of the lien, the prevailing party is entitled to costs and attorneys' fees.

The attorney for a person subject to a lien is authorized to file with the recording officer a notice of invalid lien.

Votes on Final Passage:

Senate	47	1
House	91	5

Effective: July 23, 1995