

SENATE BILL REPORT

SB 5204

As Reported By Senate Committee On:
Judiciary, February 23, 2005

Title: An act relating to chattel liens.

Brief Description: Modifying the chattel lien process.

Sponsors: Senators Brandland, Kastama, Sheldon, Rasmussen, Spanel, Hargrove and Shin.

Brief History:

Committee Activity: Judiciary: 2/1/05, 2/23/05 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5204 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Johnson, Ranking Minority Member; Carrell, Esser, Hargrove, McCaslin, Rasmussen and Thibaudeau.

Staff: Cindy Fazio (786-7405)

Background: The process for filing a lien on personal property generally follows the procedure for liens filed by mechanics and materialmen. A lien is created when labor is performed or material is provided in the construction, or repair, of the chattel at the request of the chattel owner and the owner fails to pay for the labor or materials. The notice of lien is filed with the county auditor in the county in which the chattel is kept. Chattel liens follow a prescribed priority to other liens, mortgages, or other encumbrances. Chattel liens can be enforced by a foreclosure procedure with specific requirements. There is a provision in the foreclosure law which allows the lien debtor to recover loss from the lien holder if the specific requirements of the foreclosure procedure are not followed.

Summary of Substitute Bill: When a lien has been placed on personal property, and the personal property owner feels the claim is frivolous, made without reasonable cause, or is excessive, the personal property owner may file an action in superior court requiring the lien claimant to appear before the court and answer the applicant's allegation. The court must determine if the lien is frivolous, reasonable, or excessive, and must remedy the claim accordingly by leaving the lien as it is, releasing the lien, or reducing it.

The personal property owner must provide notice of the action filed in superior court, to the lien claimant, by first class mail, registered or certified mail, or personal service.

Additionally, the Department of Licensing is prohibited from transferring title to a vehicle through the chattel lien process until it has documented that the lien has been filed with the county auditor, and that the lien claimant has notified the personal property owner of the lien.

During a foreclosure proceeding, the lien claimant must notify the lien debtor, by certified mail, of the time and place of any public sale or of the time after which any private sale or other intended disposition of the property is to be made. Also during the foreclosure proceeding, and before accepting an offer for purchase, the lien holder must notify the prospective purchaser of the existence of any prior lien or security interest, and the identity of the holder of that interest, if the lien holder knows that information, and if not known, must inform the prospective purchaser of that.

The purchaser of chattel through the foreclosure proceeding, takes the chattel subject to any security interest or lien that is superior to the lien subject of the foreclosure proceeding. The Department of Licensing title at transfer must reflect any prior security interest. If the title does not reflect that information, the holder of such prior security interest can direct the Department to issue a new title reflecting the prior security interest and showing the purchaser as the registered owner. The Department must notify the purchaser of the issuance of any replacement title.

Substitute Bill Compared to Original Bill: The original bill was not considered.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: By putting another step in the license titling process, abuses can be avoided. Titled security interests will not be affected but stronger language confirming that may be requested. This bill is the result of coordinated planning to put the new process in place.

Testimony Against: None.

Who Testified: PRO: Thalia Brown, Dept. of Licensing; Stacy Augustine, Washington Credit Union League; Thad Duvall, Chairman, Licensing, County Auditors' Assoc.