

A BILL FOR

An Act to enable mechanics to acquire liens for the security of evidences of indebtedness which have been taken in return for furnishing materials or performing labor.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. All of the provisions of chapter four hundred fifty-
2 one (451) of the code, in so far as they are not inconsistent
3 with the present chapter, shall be applicable to the liens for
4 which provision is herein made.

5 "Evidences of Indebtedness" as used in this chapter shall
6 include unmatured as well as matured instruments.

1 Sec. 2. Every person who shall furnish any material or
2 perform any labor under conditions which entitle him to a
3 mechanic's lien may accept evidence of indebtedness, either
4 negotiable or nonnegotiable, for such material or labor and
5 acquire a lien to secure payment by complying with the terms
6 of this chapter, within the time in which he might perfect
7 his mechanic's lien.

1 Sec. 3. A lien acquired under the provisions of this
2 chapter shall attach to the same property in the same manner
3 as would a mechanic's lien perfected under the same
4 circumstances, and shall be accorded the same priorities as
5 would be accorded to a like mechanic's lien perfected at the
6 time of filing the affidavit hereinafter provided.

1 Sec. 4. Every holder of evidences of indebtedness secured
2 by a lien procured in accordance with the provisions of this
3 chapter shall share ratably in the security accorded by such
4 lien with the holders of all other evidences of indebtedness
5 secured by the same lien, without regard to the dates of
6 maturity of the several evidences of indebtedness.

1 Sec. 5. Every lien acquired under the provisions of this
2 chapter shall be a valid lien so long as any of the evidences
3 of indebtedness which it secures are enforceable obligations.

1 Sec. 6. In order to acquire a lien under the provisions
2 of this chapter it shall be necessary to file with the clerk
3 of the district court of the county in which the property to
4 be charged is situated an affidavit of the owner, which shall
5 contain the following:

- 6 1. A correct description of the property to be charged.
- 7 2. An acknowledgment of receipt of the materials of labor.
- 8 3. A description of the evidences of indebtedness secured,
9 setting forth the amounts and dates of maturity of each of them.

1 Sec. 7. Before accepting any such affidavit of filing, the
2 clerk shall examine each of the evidences of indebtedness to be
3 secured under the lien and determine that they are the evidences
4 of indebtedness described in the affidavit. Upon determining
5 that the evidences of indebtedness submitted to him are those
6 described in the affidavit, it shall be the duty of the clerk
7 to endorse a certificate on each individual evidence of
8 indebtedness that the same is one of a number (naming it) of

9 such evidences of indebtedness described in and secured by the
10 lien on the land described in such affidavit for lien made by
11 the owner (naming him), and that the same was delivered to the
12 clerk by said maker thereof, with the said affidavit for lien
13 as the valid obligation of the said owner and duly signed by
14 him; said certificates to be signed by the clerk in his official
15 capacity and with the seal of the court affixed thereto.

1 Sec. 8. The clerk of the district court shall keep an
2 accurate record of every lien procured under this act in a
3 suitable book properly indexed. The record of each lien shall
4 contain the following items:

5 1. A copy of the affidavit.

6 2. A list of the evidences of indebtedness secured by each
7 lien, which shall show the amount of each and the mark of
8 identification borne by each.

9 3. The date and the hour of filing.

10 4. The total amount of indebtedness secured.

1 Sec. 9. It shall be the duty of the clerk to record the
2 discharge of any evidences of indebtedness secured by any lien
3 acquired under the provisions of this chapter in the same book
4 and upon the same page wherein the lien is recorded, designat-
5 ing each instrument discharged by its mark of identifi-
6 cation. Possession of any of the secured evidences of indebted-
7 ness by the owner of the property shall, as to the clerk, be
8 conclusive evidence of their discharge.

1 Sec. 10. The discharge of any part of the secured debt by

2 payment or otherwise shall not operate as a release of any part
3 of the property embraced by the lien until the whole indebtedness
4 has been discharged. Provided, the parties may by agreement
5 release any part or all of the property, and their agreement of
6 release may be made a part of the record when signed by the
7 holders of the entire indebtedness.

1 Sec. 11. The recording of payment of all evidences of
2 indebtedness secured by a lien acquired under the provisions
3 of this chapter shall ipso facto discharge such a lien. The
4 recording of an acknowledgment of satisfaction executed by the
5 person or persons entitled to payment shall likewise discharge
6 the lien.

1 Sec. 12. The clerk of the district court shall be entitled
2 to collect a fee of two dollars (\$2.00) upon recording each
3 affidavit creating a lien. For identifying and listing
4 evidences of indebtedness, he shall be entitled to a fee of
5 ten cents for each evidence of indebtedness. For recording the
6 discharge of evidences of indebtedness, he shall be entitled to
7 a fee of ten cents for each evidence of indebtedness charged.
8 For recording a release of part or all of the property before
9 the discharge of all of the evidences of indebtedness, he shall be entitled
10 to a fee of one dollar (\$1.00). For recording an acknowledg-
11 ment of satisfaction of the debt secured, he shall be entitled
12 to a fee of one dollar and fifty cents (\$1.50).

1 Sec. 13. Liens acquired under the provisions of this
2 chapter may be foreclosed by the holder of any matured evidence

3 of indebtedness secured by the lien, notwithstanding the fact
4 that other evidences of indebtedness secured by the lien may
5 have not matured at the time of the foreclosure. The process
6 of foreclosure shall be the same as that by which mechanic's
7 liens are foreclosed.

1 Sec. 14. Nothing in this chapter is to be construed to
2 impose upon any owner an obligation to execute the affidavit
3 required by this chapter unless such owner has contracted to
4 do so.

1 Sec. 15. This act being deemed of immediate importance
2 shall be in full force and effect from and after its passage
3 and publication in the Mason City Globe Gazette, a newspaper
4 published at Mason City, Iowa, and the Clear Lake Mirror, a
5 newspaper published at Clear Lake, Iowa.