

Senate Study Bill 1109

Bill Text

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1 1 Section 1. Section [575.1](#), Code 1999, is amended to read as
1 2 follows:

1 3 575.1 NONSTATUTORY LIENS.

1 4 1. A person claiming a common law lien, an equitable
1 5 servitude lien, or a lien of similar nature which is other
1 6 than a statutory lien, shall first give notice to any legal
1 7 and equitable owners and persons in possession of the real or
1 8 personal property against which the lien is sought.

1 9 a. If the lien is filed by an owner of the real or
1 10 personal property, notice shall first be given to any person
1 11 with a lien or other interest in the property.

1 12 b. The notice shall be given pursuant to the Iowa rules of
1 13 civil procedure.

1 14 2. Prior to the filing of the lien in any office of record
1 15 in the county where the real or personal property is located,
1 16 the following shall occur:

1 17 a. The clerk of the district court shall confirm that all
1 18 notices required pursuant to subsection 1 have been given.

1 19 b. The district court in such county shall hold a hearing
1 20 to determine the validity of the lien.

1 21 (1) Pendency of such a proceeding shall not be indexed
1 22 under section 617.10 and shall not constitute lis pendens or
1 23 constructive notice to third persons under sections 617.11
1 24 through 617.15.

1 25 (2) A bona fide purchaser takes title to the real or
1 26 personal property free of any claims arising from such
1 27 proceeding unless proper filing is made in the office of the
1 28 county recorder as provided in this section.

1 29 (3) The person claiming the lien is required to prove the
1 30 validity of the lien by a preponderance of the evidence.

1 31 (4) If the court determines the person claiming the lien
1 32 has willfully and maliciously proceeded, a judgment may be
1 33 entered against the person claiming the lien in favor of any
1 34 resisting party for reasonable damages, including actual
1 35 damages, costs, and reasonable attorneys' fees incurred by the
2 1 resisting party.

2 2 3. A lien, as described in this section, shall not be
2 3 filed in any office of record other than as provided in this
2 4 section and if such lien is filed other than as provided in
2 5 this section, the lien shall be null and void and of no force
2 6 or effect.

2 7 4. If, after hearing the district court enters an order
2 8 determining the lien to be valid, the person claiming the lien
2 9 shall file a certified copy of the order in the office of the
2 10 county recorder where the real or personal property is
2 11 located.

2 12 5. An appeal from the district court arising from such
2 13 proceeding is by certiorari.

2 14 EXPLANATION

2 15 This bill requires, before the clerk of the district court
2 16 permits the filing of a nonstatutory lien under Code section
2 17 575.1, that the clerk confirm that the required notices have
2 18 been given to the necessary parties.

2 19 LSB 1156DP 78

