

**MINUTES OF THE HOUSE
BUSINESS AND LABOR
STANDING COMMITTEE**

Room 405 State Capitol

January 21, 2004

Members Present: Rep. Katherine M. Bryson, Chair
Rep. Mike Morley, Vice Chair
Rep. J. Stuart Adams
Rep. Craig W. Buttars
Rep. David Clark
Rep. Stephen D. Clark
Rep. Carl W. Duckworth
Rep. Jim Dunnigan
Rep. Ben C. Ferry
Rep. Neil A Hansen
Rep. Todd E. Kiser
Rep. R. Curt Webb

Members absent: Rep. Jackie Biskupski

Staff Present: Mark Steinagel, Policy Analyst
Linda Error, Committee Secretary

note:: List of visitors and a copy of handouts are filed with committee minutes.

Rep. Morley called the meeting to order at 8:12 a.m.

MOTION: Rep Hansen moved to approve the minutes of the January 20, 2004 meeting. The motion passed unanimously with Rep. Buttars and Rep. Ferry absent for the vote.

H.B. 62 Lien Recovery Fund Amendments (Rep. R. C. Webb)

MOTION: Rep. Webb moved to amend the bill as follows:

1. *Page 2, Lines 45 through 46:*

45 **38-1-11. Enforcement -- Time for -- Lis pendens -- Action for debt not affected --**
46 **Instructions and form affidavit ~~[[and motion]]~~ .**

2. *Page 3, Line 87 through Page 4, Line 91:*

87 (d) Judicial determination of the rights and liabilities of the owner of the residence
88 under Title 38, Chapters 1 and 11, and Title 14, Chapter 2, shall be stayed until after the owner
89 has been given a reasonable period of time to establish compliance with Subsections
90 38-11-204(4)(a) and (4)(b) through an informal proceeding, as set forth in Title 63, Chapter 46b,

91 Administrative Procedures Act, at the Division of Occupational and Professional Licensing and
obtain a certificate of compliance or a denial of certificate of compliance, as defined in Section
38-11-102.

3. *Page 7, Lines 189 through 195:*

189 (3) The duties and responsibilities of the board shall be to:

190 (a) advise the division with respect to informal adjudication of [~~claims~~] any claim for
191 payment from the fund [~~by~~] and any request for a certificate of compliance received by the
192 division;

193 (b) act as the presiding officer, as defined by rule, in formal adjudicative proceedings
194 held before the division with respect to [~~claims~~] any claim made for payment from the fund ~~[[and~~
195 any request for a certificate of compliance received by the division]] ;

4. *Page 7, Line 213 through Page 8, Line 216:*

213 **38-11-106. State not liable.**

214 The state and the state's agencies, instrumentalities, and political subdivisions are not
215 liable for:

216 (1) issuance or ~~[[failure to issue]]~~ denial of any certificate of compliance;

5. *Page 9, Lines 253 through 255:*

253 **38-11-110. Issuance of certificates of compliance.**

254 The director shall have authority to issue or deny a certificate of compliance only after determining
through an informal proceeding, as set forth in Title 63, Chapter 46b, Administrative Procedures
Act,

255 that the owner is in compliance with Subsections 38-11-204(4)(a) and (4)(b).

The motion to amend passed unanimously with Rep. Buttars absent for the vote.

Rep. Webb explained the bill, assisted by Tony Patterson, Assistant Attorney General, Lien Recovery Fund, and Clare Jaussi, attorney.

Spoke against the bill: Doug Griffith, attorney, representing general contractors
Darrell Bostwick, attorney, representing construction industry

MOTION: Rep. Ferry moved to amend the bill. His proposed amendment was more than fifteen words. He withdrew the motion.

MOTION: Rep. D. Clark moved to proceed to the next item on the agenda. The motion passed unanimously.

H.B. 182 Construction Lien Amendments (Rep. S. Clark)

Rep. S. Clark explained the bill.

Spoke against the bill: Claire Jaussi, attorney
Taz Biesinger, Home Builder's Association
Doug Griffith, attorney

MOTION: Rep. S. Clark moved to pass the bill out favorably. The motion failed with Rep. Bryson, Rep. D. Clark, Rep. S. Clark, Rep. Ferry, and Rep. Morley voting in favor.

MOTION: Rep. Ferry moved to reconsider **H.B. 62**. The motion passed unanimously.

MOTION: Rep. Adams moved to amend the previously adopted amendment as follows:

1. Page 4, line 90 After "Act," insert "commenced within 30 days of the owner being served summons in the foreclosure action"

The motion passed unanimously.

MOTION: Rep. Adams moved to pass the bill out favorably. The motion passed unanimously.

H.B. 59 Lien for Homeowner Association Charges (Rep. S. Mascaro)

This bill was not considered in this meeting.

H.B. 202 Mail Order Tobacco Sales Amendments (Rep. E. Hutchings)

This bill was not considered in this meeting.

MOTION: Rep. Buttars moved to adjourn the meeting. The motion passed unanimously.

Rep. Morley adjourned the meeting at 9:45 a.m.