

H.B. 32

LIEN AMENDMENTS

SENATE FLOOR AMENDMENTS

AMENDMENT 2

FEBRUARY 6, 2004 8:38 AM

Senator **Jenkins** proposes the following amendments:

1. *Page 1, Lines 16 through 17:*

16 [[~~→amends the definition of resident construction for purposes of the preliminary~~
17 ~~notices;~~]]

2. *Page 2, Lines 35 through 50*
Senate Committee Amendments
1-28-2004:

35 (1) (a) A person claiming benefits under this chapter shall file for record with the county
36 recorder of the county in which the property, or some part of the property, is situated, a written
37 notice to hold and claim a lien within 90 days from the date~~[-(a)-the person last performed~~
38 ~~labor or service or last furnished equipment or material on a project or improvement for a~~
39 residence as defined in Section 38-11-102; or (b)] of final completion of [an] the original
40 contract [not involving a residence as defined in Section 38-11-102] **§ UNDER WHICH THE**
40a **CLAIMANT CLAIMS A LIEN UNDER THIS CHAPTER** § . For purposes of this
41 Subsection (1), final completion of the original contract means:
42 [[~~(a)~~]] (i) **§ IF AS A RESULT OF WORK PERFORMED UNDER THE ORIGINAL CONTRACT**
42a **A**
42b **PERMANENT CERTIFICATE OF OCCUPANCY IS REQUIRED FOR SUCH WORK,** § the date of issuance
43 of a permanent certificate of occupancy by the local
43 government entity having jurisdiction over the construction project;
44 [[~~(b)~~]] (ii) if no certificate of occupancy is required **§ [for the construction project]** § by
44 the local
45 government entity having jurisdiction over the construction project. **§ BUT AS A RESULT OF THE**
45a **WORK PERFORMED UNDER THE ORIGINAL CONTRACT AN INSPECTION IS REQUIRED FOR SUCH**
45b **WORK,** § the date of the final
46 inspection **§ FOR SUCH WORK** § by the local government entity having jurisdiction over the
46a construction project; or
47 [[~~(c)~~]] (iii) if **§ WITH REGARD TO WORK PERFORMED UNDER THE ORIGINAL**
47a **CONTRACT** § no
47a certificate of occupancy **§ [is required]** § and no final inspection **§ [is conducted]** **ARE**

47b REQUIRED § by the
48 local government entity having jurisdiction over the construction project, the date on which
49 there remains no substantial work to be completed to finish § [the] SUCH § work on the
49a § [-construction
50 project] ORIGINAL CONTRACT § : =

(b) Notwithstanding Section 38-1-2, where a subcontractor performs substantial work after the applicable dates established by Subsection (1)(a)(i) and (ii), that subcontractor's subcontract shall be considered an original contract for the sole purpose of determining:

(i) the subcontractor's time frame to file a notice of intent to hold and claim a lien under Subsection (1); and

(ii) the original contractor's time frame to file a notice of intent to hold and claim a lien under Subsection (1) for that subcontractor's work.

(c) For purposes of this section, the term "substantial work" does not include:

(i) repair work;

(ii) warranty work; or

(iii) work for which the project owner is not holding payment to ensure completion of that work.