

1st Sub. H.B. 105

CONSTRUCTION FILING AMENDMENTS

HOUSE FLOOR AMENDMENTS

AMENDMENT 2

FEBRUARY 14, 2005 2:48 PM

Representative **Michael T. Morley** proposes the following amendments:

1. Page 2, Lines 46 through 48:

46 ▶ ~~{ provides that a qualified beneficiary may recover from the Residence Lien Recovery~~
47 ~~Fund only if the qualified beneficiary files an action within 180 days after a notice~~
48 ~~of claim is filed under Section 38-1-7 }~~ addresses requirements for a qualified beneficiary's recovery
from the Residence Lien Recovery Fund ; and

2. Page 10, Line 298:

298 cost of the division's oversight under Subsection (2)(b).

(5)(a) The database is classified as a public record under Title 63, Chapter 2, Government Records Access and Management Act, unless otherwise classified by the division.

(b) A request for information submitted to the designated agent is not subject to Title 63, Chapter 2, Government Records Access and Management Act.

(c) Information contained in a public record contained in the database shall be requested from the designated agent.

(d) The designated agent may charge a commercially reasonable fee allowed by the designated agent's contract with the division for providing information under Subsection (5)(c)r.

(e) Notwithstanding Title 63, Chapter 2, Government Records Access and Management Act, if information is available in a public record contained in the database, a person may not request the information from the division.

(f)(i) A person may request information that is not a public record contained in the database from the division in accordance with Title 63, Chapter 2, Government Records Access and Management Act.

(ii) The division shall inform the designated agent of how to direct inquiries made to the designated agent for information that is not a public record contained in the database.

3. Page 10, Line 299:

299 ~~{(5)}~~ (6) The following are not an adjudicative proceeding under Title 63, Chapter 46b.

4. Page 11, Line 305:

305 ~~{(6)}~~ (7) The division and the designated agent need not determine the timeliness of any

5. Page 11, Line 307:

307 ~~{(7)}~~ (8) (a) A person who is delinquent on the payment of a fee established under

6. Page 21, Line 638 through Page 22, Line 646:

638 (d) (i) unless precluded from doing so by the nonpaying party's bankruptcy filing within the
639 applicable time, the qualified beneficiary filed {~~-~~:
640 ~~(A) an action against the nonpaying party to recover monies owed to the qualified~~
641 ~~beneficiary within 180 days from the date the qualified beneficiary [last provided qualified~~
642 ~~services] filed a notice of claim under Section 38-1-7, unless precluded from doing so by the~~
643 ~~nonpaying party's bankruptcy filing within the 180 days [after completion of services] from the~~
644 ~~date the qualified beneficiary filed the notice of claim; and~~
645 ~~(B) a notice of commencement of action with the division within 30 days from the date~~
646 ~~the qualified beneficiary filed the civil action if a civil action was filed as required by~~
647 ~~Subsection (4)(d)(i)(A); } an action against the nonpaying party to recover monies owed to the
648 qualified beneficiary within the earlier of:
649 (A) 180 days from the date the qualified beneficiary filed a notice of claim under Section 38-1-7; or
650 (B) 270 days from the completion of the original contract pursuant to Subsection 38-1-7(1);~~

7. Page 22, Line 671 through Page 23, Line 679:

671 ~~{(6) If a qualified beneficiary fails to file the notice with the division required under~~
672 ~~Subsection (4)(d)(i)(B), the claim of the qualified beneficiary shall be paid:~~
673 ~~(a) if otherwise qualified under this chapter;~~
674 ~~(b) to the extent that the limit of Subsection 38-11-203(4)(a) has not been reached by~~
675 ~~payments from the fund to qualified beneficiaries who have complied with the notice~~
676 ~~requirements of Subsection (4)(d)(i)(B); and~~
677 ~~(c) in the order that the claims are filed by persons who fail to comply with Subsection~~
678 ~~(4)(d)(i)(B), not to exceed the limit of Subsection 38-11-203(4)(a). }~~
679 ~~{(7)}~~ (6) To recover from the fund a laborer shall:

8. Page 23, Line 683:

683 ~~{(8)}~~ (7) A fee determined by the division under Section 63-38-3.2 shall be deducted from

9. Page 23, Line 685:

685 ~~{(9)}~~ (8) The requirements of Subsections (4)(a) and (4)(b) may be satisfied if an owner or

10. Page 23, Line 696:

696 ~~{(10)}~~ (9) The director shall have equitable power to determine if the requirements of