

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 302
94TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, March 15, 2007, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

0848S.02C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 429.010, 429.080, and 429.603, RSMo, and to enact in lieu thereof three new sections relating to statutory liens against real estate.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 429.010, 429.080, and 429.603, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as sections 429.010,
3 429.080, and 429.603, to read as follows:

429.010. 1. Any person who shall do or perform any work or labor upon
2 **land**, rent any machinery or equipment **to such persons doing or performing**
3 **such work or labor, or use rented machinery or equipment in**
4 **performing such work or labor**, or furnish any material, fixtures, engine,
5 boiler or machinery for any building, erection or improvements upon land, or for
6 repairing, grading, excavating, or filling of the same, or furnish and plant trees,
7 shrubs, bushes or other plants or provides any type of landscaping goods or
8 services or who installs outdoor irrigation systems under or by virtue of any
9 contract with the owner or proprietor thereof, or his or her agent, trustee,
10 contractor or subcontractor, **at whatever tier**, or without a contract if ordered
11 by a city, town, village or county having a charter form of government to abate
12 the conditions that caused a structure on that property to be deemed a dangerous
13 building under local ordinances pursuant to section 67.410, RSMo, upon
14 complying with the provisions of sections 429.010 to 429.340, shall have for his
15 or her work or labor done, machinery or equipment rented or materials, fixtures,
16 engine, boiler, machinery, trees, shrubs, bushes or other plants furnished, or any
17 type of landscaping goods or services provided, a lien upon such building, erection

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 or improvements, and upon the land belonging to such owner or proprietor on
19 which the same are situated, to the extent of three acres; or if such building,
20 erection or improvements be upon any lot of land in any town, city or village, or
21 if such building, erection or improvements be for manufacturing, industrial or
22 commercial purposes and not within any city, town or village, then such lien shall
23 be upon such building, erection or improvements, and the lot, tract or parcel of
24 land upon which the same are situated, and not limited to the extent of three
25 acres, to secure the payment of such work or labor done, machinery or equipment
26 rented, or materials, fixtures, engine, boiler, machinery, trees, shrubs, bushes or
27 other plants or any type of landscaping goods or services furnished, or outdoor
28 irrigation systems installed; except that if such building, erection or
29 improvements be not within the limits of any city, town or village, then such lien
30 shall be also upon the land to the extent necessary to provide a roadway for
31 ingress to and egress from the lot, tract or parcel of land upon which such
32 building, erection or improvements are situated, not to exceed forty feet in width,
33 to the nearest public road or highway. Such lien shall be enforceable only against
34 the property of the original purchaser of such plants unless the lien is filed
35 against the property prior to the conveyance of such property to a third
36 person. For claims involving the rental of machinery or equipment **to others**
37 **who perform work or labor upon land**, the lien shall be for the reasonable
38 rental value of the machinery or equipment during the period of actual use and
39 any periods of nonuse taken into account in the rental contract, while the
40 **machinery or** equipment is on the property in question.

41 **2.** There shall be no lien involving the rental of machinery or equipment
42 **to others who perform work or labor upon land** unless:

43 (1) The improvements are made on commercial property;

44 (2) The amount of the claim exceeds five thousand dollars; and

45 (3) The party claiming the lien provides written notice within five
46 business days of the commencement of the use of the rental [property]
47 **machinery or equipment** to the property owner that rental machinery or
48 equipment is being used upon their property. Such notice shall identify the name
49 of the entity that rented the machinery or equipment, the machinery or
50 equipment being rented, and the rental rate. **Nothing contained in this**
51 **subsection shall apply to persons who use rented machinery or**
52 **equipment in performing such work or labor.**

429.080. It shall be the duty of every original contractor, every

2 journeyman and day laborer, **including persons who use rented machinery**
3 **or equipment in performing such work or labor**, and every other person
4 seeking to obtain the benefit of the provisions of sections 429.010 to 429.340,
5 within six months after the indebtedness shall have accrued, or, with respect to
6 rental equipment or machinery **rented to others who perform work or labor**
7 **upon land, then**, within sixty days after the date the last of the rental
8 equipment or machinery was last removed from the property, to file with the
9 clerk of the circuit court of the proper county a just and true account of the
10 demand due him or them after all just credits have been given, which is to be a
11 lien upon such building or other improvements, and a true description of the
12 property, or so near as to identify the same, upon which the lien is intended to
13 apply, with the name of the owner or contractor, or both, if known to the person
14 filing the lien, which shall, in all cases, be verified by the oath of himself or some
15 credible person for him.

429.603. As used in sections 429.600 to 429.630, the following terms
2 mean:

3 (1) "Commercial real estate", any real estate other than real estate
4 containing one to four residential units[, real estate on which no buildings or
5 structures are located,] or real estate classified as agricultural and horticultural
6 property for assessment purposes as provided by section 137.016,
7 RSMo. **Commercial real estate shall include any unimproved real estate**
8 **of any zoning classification, other than agricultural or horticultural**
9 **real estate, being purchased for development or subdivision.** Commercial
10 real estate does not include single-family residential units including
11 condominiums, townhouses or homes in a subdivision when such real estate is
12 sold, leased or otherwise conveyed on a unit by unit basis even though the units
13 may be part of a larger building or parcel of real estate containing more than four
14 residential units;

15 (2) "Owner", the owner of record of commercial real estate;

16 (3) "Real estate broker" and "real estate salesperson", as such terms are
17 defined in section 339.010, RSMo;

18 (4) "State certified real estate appraiser", an appraiser as defined in
19 section 339.503, RSMo.

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