



Ninety-Eighth Legislature - First Session - 2003
Committee Statement
LB 495

Hearing Date: February 28, 2003
Committee On: Judiciary

Introducer(s): (Quandahl)
Title: Prohibit nonconsensual common-law liens

Roll Call Vote – Final Committee Action:

- Advanced to General File
 - X Advanced to General File with Amendments
 - Indefinitely Postponed
-

Vote Results:

7	Yes	Senators Brashear, Foley, Mines, Mossey, Quandahl, Pedersen, Tyson
	No	
	Present, not voting	
1	Absent	Senator Chambers

Proponents:

Senator Mark Quandahl
Senator James Cavanaugh
Greg Lemon
Ron Sedlacek

Bill Mueller
Bob Wolfson

Opponents:

Paul Rosberg

Neutral:

Donna Kozak

Representing:

Introducer
Nebraska District Court Judges Association
Secretary of State
Nebraska Bankers Association
Nebraska Chamber of Commerce
Nebraska State Bar Association
ADC

Representing:

self

Representing:

self

Summary of purpose and/or changes:

Legislative Bill 495 would prohibit non-consensual common-law liens. A nonconsensual common-law lien is defined as a document that purports to assert a lien against real or personal property and:

-is not expressly provided by statute;

- does not depend on the consent of the owner of such property, and;
- is not an equitable or constructive lien imposed by a court.

The bill provides that any person who files a nonconsensual lien shall be liable to the owner of such property for actual damages or \$1,000, whichever is greater, in addition to costs and reasonable attorney's fees.

The bill further provides that the Secretary of State, county clerk, register of deeds, or clerk of any court shall refuse to accept for filing any nonconsensual common-law lien and a court may order any such recorded lien stricken from the record. The bill provides that if an owner must pursue a court order, there shall be no filing fee for such.

Explanation of amendments, if any:

The committee amendment (AM 0659) deletes the provision that would have allowed the owner of property to recover \$1,000 as an alternative recovery for his or her actual loss. The effect of such amendment is to allow the owner to recover damages for his or her actual damages, plus costs and reasonable attorney fees, caused by the person who filed a nonconsensual common-law lien.

Senator Kermit A. Brashear, Chairperson