

ONE HUNDRED THIRD LEGISLATURE - FIRST SESSION - 2013
COMMITTEE STATEMENT
LB3

Hearing Date: Thursday January 24, 2013
Committee On: Judiciary
Introducer: Krist
One Liner: Change filing provisions relating to nonconsensual liens

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

| | | |
|----------------------------|---|--|
| Aye: | 7 | Senators Ashford, Christensen, Coash, Davis, Lathrop, McGill, Seiler |
| Nay: | | |
| Absent: | 1 | Senator Chambers |
| Present Not Voting: | | |

Proponents:
SEN. BOB KRIST
KAREN RAINWATER

Representing:
INTRODUCER
SELF

Opponents:
JOHN DAUM
WILLIAM MUELLER

Representing:
NE LAND TITLE ASSOCIATION
STATE BAR

Neutral:
BOB HALLSTROM
BETH BAZYN FERRELL

Representing:
NEBRASKA BANKERS
NACO

Summary of purpose and/or changes:

Legislative Bill 3 would require a stamped and addressed envelope to accompany the filing of a nonconsensual lien. Upon recording the nonconsensual lien, the county recording office must use the envelope to send a certified copy of the recorded lien to the owner of the real property. This provision does not apply to mortgages, deeds of trust or any encumbrances in which all parties involved have knowledge or should have knowledge of the encumbrances.

Explanation of amendments:

Committee Amendment AM 351 would replace the green copy of the bill. The amendment would create the crime of fraudulently filing a financial statement, lien or document as a Class IV felony (5 years or \$10,000). The crime is committed if a person submits for filing or recording in the public record: 1) a nonconsensual lien, 2) a financing statement not based on a bona fide security agreement or not authorized or authenticated by the alleged debtor or 3) a document containing false information in attempt to harass or obstruct.

The amendment would also provide that a nonconsensual lien is not binding or enforceable. If recorded, a nonconsensual lien would be void and unenforceable.

The amendment would create a process to notify the property owner if a nonconsensual lien is recorded. The claimant would cause the sheriff to serve a copy of the recorded lien on the owner of the property and the sheriff would file proof

of service with the register of deeds with no filing fee. The claimant must then file a judicial proceeding to enforce the nonconsensual lien within ten days after recording the lien or else the lien would lapse and be of no legal effect.

The amendment would add an emergency clause to the bill.

Brad Ashford, Chairperson