

FIRST REGULAR SESSION

SENATE BILL NO. 47

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR KENNEDY.

Pre-filed December 1, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0185S.011

AN ACT

To repeal section 429.015, RSMo, and to enact in lieu thereof one new section relating to liens on real property by political subdivisions for abatement of dangerous buildings.

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

Section A. Section 429.015, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 429.015, to read as follows:

429.015. 1. Every [registered] **licensed** architect or corporation [registered] **licensed** to practice architecture, every [registered] **licensed** professional engineer or corporation [registered] **licensed** to practice professional engineering, every registered landscape architect or corporation registered to practice landscape architecture, and every [registered] **licensed** land surveyor or corporation [registered] **licensed** to practice land surveying, who does any landscape architectural, architectural, engineering, or land surveying work upon or performs any landscape architectural, architectural, engineering, or land surveying service directly connected with the erection or repair of any building or other improvement upon land [under or by virtue of] **pursuant to** any contract with the owner or lessee thereof, or such owner's or lessee's agent, trustee, contractor, or subcontractor, or without a contract if ordered by a city, town, village, or county having a charter form of government to abate the conditions that caused a structure on that property to be deemed a dangerous building under local ordinances pursuant to section 67.410, RSMo, upon complying with the provisions of this chapter, shall have for such person's landscape architectural, architectural, engineering, or land surveying work or service so done or performed, a lien upon the building or other improvements and upon the land belonging to the owner or lessee on which the building or improvements are situated, to the extent of one acre.If

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

the building or other improvement is upon any lot of land in any town, city, or village, then the lien shall be upon such building or other improvements, and the lot or land upon which the building or other improvements are situated, to secure the payment for the landscape architectural, architectural, engineering, or land surveying work or service so done or performed. For purposes of this section, a corporation engaged in the practice of architecture, engineering, landscape architecture, or land surveying, shall be deemed to be registered if the corporation itself is registered **[under] pursuant to** the laws of this state to practice architecture, engineering, or land surveying.

2. Every mechanic or other person who shall do or perform any work or labor upon or furnish any material or machinery for the digging of a well to obtain water **[under or by virtue of] pursuant to** any contract with the owner or lessee thereof, or such owner's or lessee's agent, trustee, contractor, or subcontractor, upon complying with the provisions of sections 429.010 to 429.340 shall have for such person's work or labor done, or materials or machinery furnished, a lien upon the land belonging to such owner or lessee on which the same are situated, to the extent of one acre, to secure the payment of such work or labor done, or materials or machinery furnished as aforesaid.

3. Every mechanic or other person who shall do or perform any work or labor upon, or furnish any material, fixtures, engine, boiler, or machinery, for the purpose of demolishing or razing a building or structure **[under or by virtue of] pursuant to** any contract with the owner or lessee thereof, or such owner's or lessee's agent, trustee, contractor, or subcontractor, or without a contract if ordered by a city, town, village, or county having a charter form of government to abate the conditions that caused a structure on that property to be deemed a dangerous building under local ordinances pursuant to section 67.410, RSMo, upon complying with the provisions of sections 429.010 to 429.340, shall have for such person's work or labor done, or materials, fixtures, engine, boiler, or machinery furnished, a lien upon the land belonging to such owner or lessee on which the same are situated, to the extent of one acre. If the building or buildings to be demolished or razed are upon any lot of land in any town, city or village, then the lien shall be upon the lot or lots or land upon which the building or other improvements are situated, to secure the payment for the labor and materials performed.

4. **If a city not within a county has, with or without a contract with the owner or lessee of the property or such owner's or lessee's agent, trustee, contractor, or subcontractor, ordered a mechanic or other person to perform the work described in subsection 3 of this section, and if such city has paid the mechanic or other person in full at any time within one hundred twenty days after the mechanic or other person has completed such work, then such city shall, upon complying with the provisions of sections 429.010 to 429.340, have a lien on the property in lieu of the lien that the mechanic or other person would have had pursuant to subsection 3 of this section.**

[4.] **5.** The provisions of sections 429.030 to 429.060 and sections 429.080 to 429.430 applicable to liens of mechanics and other persons shall apply to and govern the procedure with respect to the liens provided for in subsections 1, 2 [and], 3, **and 4** of this section.

[5.] **6.** Any design professional or corporation authorized to have lien rights [under] **pursuant to** subsection 1 of this section shall have a lien upon the building or other improvement and upon the land, whether or not actual construction of the planned work or improvement has commenced if:

(1) The owner or lessee thereof, or such owner's or lessee's agent or trustee, contracted for such professional services directly with the design professional or corporation asserting the lien; [and]

(2) The owner or lessee is the owner or lessee of such real property either at the time the contract is made or at the time the lien is filed; **and**

(3) The agreement is in writing.

[6.] **7.** Priority between a design professional or corporation lien claimant and any other mechanic's lien claimant shall be determined pursuant to the provisions of section 429.260 on a pro rata basis.

[7.] **8.** In any civil action, the owner or lessee may assert defenses which include that the actual construction of the planned work or improvement has not been performed in compliance with the professional services contract, is impracticable or is economically infeasible.

[8. The agreement is in writing.]

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