

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 302

94TH GENERAL ASSEMBLY
2007

0848S.02T

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Section A. Sections 429.010, 429.080, and 429.603, RSMo, are repealed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, **or use any rental machinery or**
3 **equipment**, or furnish any material, fixtures, engine, boiler or machinery for
4 any building, erection or improvements upon land, or for repairing, grading,
5 excavating, or filling of the same, or furnish and plant trees, shrubs, bushes or
6 other plants or provides any type of landscaping goods or services or who installs
7 outdoor irrigation systems under or by virtue of any contract with the owner or
8 proprietor thereof, or his or her agent, trustee, contractor or subcontractor, or
9 without a contract if ordered by a city, town, village or county having a charter
10 form of government to abate the conditions that caused a structure on that
11 property to be deemed a dangerous building under local ordinances pursuant to
12 section 67.410, RSMo, upon complying with the provisions of sections 429.010 to
13 429.340, shall have for his or her work or labor done, machinery or equipment
14 rented or materials, fixtures, engine, boiler, machinery, trees, shrubs, bushes or
15 other plants furnished, or any type of landscaping goods or services provided, a
16 lien upon such building, erection or improvements, and upon the land belonging
17 to such owner or proprietor on which the same are situated, to the extent of three
18 acres; or if such building, erection or improvements be upon any lot of land in any
19 town, city or village, or if such building, erection or improvements be for

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

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

39 2. There shall be no lien involving the rental of machinery or equipment
40 unless:

41 (1) The improvements are made on commercial property;
42 (2) The amount of the claim exceeds five thousand dollars; and
43 (3) The party claiming the lien provides written notice within five
44 business days of the commencement of the use of the rental [property]
45 **machinery or equipment** to the property owner that rental machinery or
46 equipment is being used upon their property. Such notice shall identify the name
47 of the entity that rented the machinery or equipment, the machinery or
48 equipment being rented, and the rental rate. **Nothing contained in**
49 **subsection 2 of this section shall apply to persons who use rented**
50 **machinery or equipment in performing the work or labor described in**
51 **subsection 1 of this section.**

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, then**, within sixty days after
7 the date the last of the rental equipment or machinery was last removed from the

8 property, to file with the clerk of the circuit court of the proper county a just and
9 true account of the demand due him or them after all just credits have been
10 given, which is to be a lien upon such building or other improvements, and a true
11 description of the property, or so near as to identify the same, upon which the
12 lien is intended to apply, with the name of the owner or contractor, or both, if
13 known to the person filing the lien, which shall, in all cases, be verified by the
14 oath of himself or some 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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