

1 SB389
2 138627-1
3 By Senator Ross
4 RFD: Judiciary
5 First Read: 15-MAR-12

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8 SYNOPSIS: Under existing law, mechanics, persons,
9 firms, and corporations that furnish labor material
10 for any building or improvement on land have a lien
11 in such building or land.

12 This bill would require mechanics, persons,
13 firms, and corporations that furnish labor or
14 material for any building or improvement on land to
15 obtain a judicial decree that payment has not been
16 received for the service that he or she has
17 rendered before a lien may be declared on the
18 building or land of the person to whom the labor or
19 material was furnished.

20
21 A BILL
22 TO BE ENTITLED
23 AN ACT
24

25 To amend Section 35-11-210, Code of Alabama 1975,
26 relating to mechanics' liens on buildings or improvements on
27 land; to require mechanics, persons, firms, and corporations

1 that furnish labor or material for any building or improvement
2 on land to obtain a judicial decree that payment has not been
3 received for the service that he or she has rendered before a
4 lien may be declared on the building or land of the person to
5 whom the labor or material was furnished.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Section 35-11-210, Code of Alabama 1975,
8 is amended to read as follows:

9 "§35-11-210.

10 "Every mechanic, person, firm, or corporation who
11 shall do or perform any work, or labor upon, or furnish any
12 material, fixture, engine, boiler, waste disposal services and
13 equipment, or machinery for any building or improvement on
14 land, or for repairing, altering, or beautifying the same,
15 under or by virtue of any contract with the owner or
16 proprietor thereof, or his or her agent, architect, trustee,
17 contractor, or subcontractor, upon complying with the
18 provisions of this division and who has obtained a judicial
19 decree that payment has not been received for the service that
20 he or she has rendered, shall have a lien therefor on such
21 building or improvements and on the land on which the same is
22 situated, to the extent in ownership of all the right, title,
23 and interest therein of the owner or proprietor, and to the
24 extent in area of the entire lot or parcel of land in a city
25 or town; or, if not in a city or town, of one acre in addition
26 to the land upon which the building or improvement is
27 situated; or, if employees of the contractor or persons

1 furnishing material to him or her, the lien shall extend only
2 to the amount of any unpaid balance due the contractor by the
3 owner or proprietor, and the employees and materialmen shall
4 also have a lien on the unpaid balance. But if the person,
5 firm, or corporation, before furnishing any material, shall
6 notify the owner or his or her agent in writing that certain
7 specified material will be furnished by him or her to the
8 contractor or subcontractor for use in the building or
9 improvements on the land of the owner or proprietor at certain
10 specified prices, unless the owner or proprietor or his or her
11 agent objects thereto, the furnisher of the material shall
12 have a lien for the full price thereof as specified in the
13 notice to the owner or proprietor without regard to whether or
14 not the amount of the claim for the material so furnished
15 exceeds the unpaid balance due the contractor, unless on the
16 notice herein provided for being given, the owner or
17 proprietor or his or her agent shall notify the furnisher in
18 writing before the material is used, that he or she will not
19 be responsible for the price thereof. The notice may be given
20 in the following form, which shall be sufficient:

21 ""To _____, owner or proprietor:

22 ""Take notice, that the undersigned is about to
23 furnish _____, your contractor or subcontractor, certain
24 material for the construction, or for the repairing, altering,
25 or beautifying of a building or buildings, or improvement or
26 improvements, on the following described property:

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and there will become due to the undersigned on account thereof the price of the material, for the payment of which the undersigned will claim a lien.""

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.