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BILL ANALYSIS



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Senate Bill 1313 (Substitute S-2 as reported)
Sponsor: Senator Randy Richardville
Committee: Economic Development and Regulatory Reform

CONTENT

The bill would create the "Commercial Real Estate Broker's Lien Act" to do all of the following:

- Specify circumstances under which a commercial real estate broker's lien would attach to commercial real estate (described below).
- Require a claim of lien to be recorded before conveyance unless the broker's commission was due in installments and at least one was due after conveyance.
- Provide for the recording and attachment of a lien in the case of a lease agreement, a broker's acting as a buyer's agent, or a commission owed on a purchase option.
- Specify information that would have to be included in a claim of lien.
- Provide that a prior-recorded lien or mortgage would have priority over a commercial real estate broker's lien.
- Require the establishment of an escrow account if a lien recorded under the proposed Act would prevent a closing transaction.
- Authorize a person claiming a commercial real estate broker's lien to bring an action to enforce it in circuit court.
- Allow an owner of commercial real estate to serve on a lien holder a demand to enforce the lien or answer a claim; and provide that the lien would be extinguished if the lien holder did not respond within 30 days.
- Specify that a lien under the Act would be available only to a licensed real estate broker.

A commercial real estate broker's lien would attach to commercial real estate in favor of a real estate broker if all of the following circumstances existed:

- The real estate broker had a written commission agreement.
- The broker was entitled to a commission under that agreement.
- The broker recorded a claim of lien before the actual conveyance of the commercial real estate.

The proposed Act would apply to a written commission agreement signed after the bill's effective date.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 9-30-08

Fiscal Analyst: Stephanie Yu