

# SENATE BILL No. 140

January 29, 2009, Introduced by Senators OLSHOVE, ANDERSON, CHERRY, CLARK-COLEMAN and GARCIA and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1980 PA 497, entitled  
"Construction lien act,"  
by amending section 107 (MCL 570.1107), as amended by 2006 PA 497.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 107. (1) Each contractor, subcontractor, supplier, or  
2 laborer who provides an improvement to real property has a  
3 construction lien upon the interest of the owner or lessee who  
4 contracted for the improvement to the real property, as described  
5 in the notice of commencement given under section 108 or 108a, the  
6 interest of an owner who has subordinated his or her interest to  
7 the mortgage for the improvement of the real property, and the  
8 interest of an owner who has required the improvement. A  
9 construction lien acquired pursuant to this act shall not exceed  
10 the amount of the lien claimant's contract less payments made on

1 the contract.

2 (2) A construction lien under this act attaches to the entire  
3 interest of the owner or lessee who contracted for the improvement,  
4 including any subsequently acquired legal or equitable interest.

5 (3) Each contractor, subcontractor, supplier, or laborer who  
6 provides an improvement to real property to which the person  
7 contracting for the improvement had no legal title has a  
8 construction lien upon the improvement for which the contractor,  
9 subcontractor, supplier, or laborer provided labor, material, or  
10 equipment. The forfeiture, surrender, or termination of any title  
11 or interest held by an owner or lessee who contracted for an  
12 improvement to the property, an owner who subordinated his or her  
13 interest to the mortgage for the improvement, or an owner who has  
14 required the improvement does not defeat the lien of the  
15 contractor, subcontractor, supplier, or laborer upon the  
16 improvement.

17 (4) If the rights of a person contracting for an improvement  
18 as a land contract vendee or a lessee are forfeited, surrendered,  
19 or otherwise terminated, any lien claimant who has provided a  
20 notice of furnishing or is excused from providing a notice of  
21 furnishing under section 108, 108a, or 109 and who performs the  
22 covenants contained in the land contract or lease within 30 days  
23 after receiving actual notice of the forfeiture, surrender, or  
24 termination is subrogated to the rights of the contracting vendee  
25 or lessee as those rights existed immediately before the  
26 forfeiture, surrender, or termination.

27 (5) For purposes of this act, if the real property is owned or

1 leased by more than 1 person, there is a rebuttable presumption  
2 that an improvement to real property under a contract with an owner  
3 or lessee was consented to by any other co-owner or co-lessee. If  
4 enforcement of a construction lien through foreclosure is sought  
5 and the court finds that the improvement was consented to by a co-  
6 owner or co-lessee who did not contract for the improvement, the  
7 court shall order the entire interest of that co-owner or co-  
8 lessee, including any subsequently acquired legal or equitable  
9 interest, to be subject to the construction lien. A deficiency  
10 judgment shall not be entered against a noncontracting owner, co-  
11 owner, lessee, or co-lessee.

12 (6) If the real property of an owner or lessee is subject to  
13 multiple construction liens, the sum of the construction liens  
14 shall not exceed the amount the owner or lessee agreed to pay the  
15 person with whom he or she contracted for the improvement as  
16 modified by all additions, deletions, and other amendments, less  
17 payments made by or on behalf of the owner or lessee, pursuant to  
18 either a contractor's sworn statement or a waiver of lien, in  
19 accordance with this act.

20 **(7) REAL PROPERTY OWNED OR LEASED BY A GOVERNMENTAL ENTITY OR**  
21 **AS TO WHICH A GOVERNMENTAL ENTITY CONTRACTS FOR AN IMPROVEMENT IS**  
22 **SUBJECT TO A CONSTRUCTION LIEN UNDER THIS ACT TO THE SAME EXTENT AS**  
23 **OTHER REAL PROPERTY.**

24 (8) ~~(7) After the effective date of the amendatory act that~~  
25 ~~added this subsection~~ **JANUARY 3, 2007**, a construction lien of a  
26 subcontractor or supplier for an improvement to a residential  
27 structure shall only include an amount for interest, including, but

1 not limited to, a time-price differential or a finance charge, if  
2 the amount is in accordance with the terms of the contract between  
3 the subcontractor or supplier and the contractor or subcontractor  
4 and does not include any interest that accrues after 90 days after  
5 the claim of lien is recorded.