

House Engrossed

State of Arizona
House of Representatives
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 46
HOUSE BILL 2287

AN ACT

AMENDING SECTIONS 33-421 AND 47-9411, ARIZONA REVISED STATUTES; AMENDING SECTION 47-9528, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 100, SECTION 3; RELATING TO NONCONSENSUAL LIENS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-421, Arizona Revised Statutes, is amended to
3 read:

4 33-421. Nonconsensual lien; marketability of title

5 A. A nonconsensual lien, other than a lien recorded by a governmental
6 entity or political subdivision or agency, a validly licensed utility or
7 water delivery company, a mechanics' lien claimant or an entity created under
8 covenants, conditions, restrictions or declarations affecting real property,
9 is not valid unless the lien is accompanied by an order or judgment from a
10 court of competent jurisdiction authorizing the filing of the lien and does
11 not have the force or effect of law.

12 B. IF A NONCONSENSUAL LIEN IS ACCEPTED FOR RECORDING AS DESCRIBED IN
13 SUBSECTION A, THE RECORDING OFFICER SHALL ACCEPT FOR RECORDING A NOTICE OF
14 INVALID LIEN THAT IS SIGNED AND SUBMITTED BY THE ATTORNEY GENERAL OR COUNTY
15 ATTORNEY. THE ATTORNEY GENERAL OR COUNTY ATTORNEY SHALL MAIL A COPY OF THE
16 NOTICE OF INVALID LIEN TO THE PERSON WHO IS DESIGNATED AS CREDITOR AND TO THE
17 PERSON WHO RECORDED THE NONCONSENSUAL LIEN AT THE ADDRESS OF EACH AS STATED
18 ON THE RECORDED DOCUMENT. THE PURPORTED LIEN IS CONCLUSIVELY PRESUMED TO BE
19 INVALID WHEN THE INVALID LIEN IS RECORDED.

20 ~~B.~~ C. A recording officer or a county is not liable for accepting for
21 recording a nonconsensual lien pursuant to subsection A OR A NOTICE OF
22 INVALID LIEN PURSUANT TO SUBSECTION B.

23 ~~C.~~ D. A nonconsensual lien that is recorded with the county recorder
24 and that is not recorded by an authorized entity pursuant to subsection A or
25 that is not ordered by the superior court does not affect the marketability
26 of title to the real property described in the nonconsensual lien.

27 Sec. 2. Section 47-9411, Arizona Revised Statutes, is amended to read:
28 47-9411. Nonconsensual lien

29 A. A nonconsensual lien, other than a lien filed by a governmental
30 entity or political subdivision or agency, a validly licensed utility or
31 water delivery company, a mechanics' lien claimant or an entity created under
32 covenants, conditions, restrictions or declarations affecting real property,
33 is not valid unless the lien is accompanied by an order or judgment from a
34 court of competent jurisdiction authorizing the filing of the lien and does
35 not have the force or effect of law.

36 B. IF A NONCONSENSUAL LIEN IS ACCEPTED FOR FILING AS DESCRIBED IN
37 SUBSECTION A, THE RECORDING OFFICER SHALL ACCEPT FOR FILING A NOTICE OF
38 INVALID LIEN THAT IS SIGNED AND SUBMITTED BY THE ATTORNEY GENERAL OR COUNTY
39 ATTORNEY. THE ATTORNEY GENERAL OR COUNTY ATTORNEY SHALL MAIL A COPY OF THE
40 NOTICE OF INVALID LIEN TO THE PERSON WHO IS DESIGNATED AS CREDITOR AND TO THE
41 PERSON WHO FILED THE NONCONSENSUAL LIEN AT THE ADDRESS OF EACH AS STATED ON
42 THE FILED DOCUMENT. THE PURPORTED LIEN IS CONCLUSIVELY PRESUMED TO BE
43 INVALID ON THE FILING OF THE INVALID LIEN.

1 B. C. The secretary of state, a recording officer or a county is not
2 liable for accepting a nonconsensual lien for filing pursuant to subsection
3 A OR A NOTICE OF INVALID LIEN PURSUANT TO SUBSECTION B.

4 Sec. 3. Section 47-9528, Arizona Revised Statutes, as amended by Laws
5 2000, chapter 100, section 3, is amended to read:

6 47-9528. Nonconsensual lien

7 A. A nonconsensual lien, other than a lien filed by a governmental
8 entity or political subdivision or agency, a validly licensed utility or
9 water delivery company, a mechanics' lien claimant or an entity created under
10 covenants, conditions, restrictions or declarations affecting real property,
11 is not valid unless the lien is accompanied by an order or judgment from a
12 court of competent jurisdiction authorizing the filing of the lien and does
13 not have the force or effect of law.

14 B. IF A NONCONSENSUAL LIEN IS ACCEPTED FOR FILING AS DESCRIBED IN
15 SUBSECTION A, THE RECORDING OFFICER SHALL ACCEPT FOR FILING A NOTICE OF
16 INVALID LIEN THAT IS SIGNED AND SUBMITTED BY THE ATTORNEY GENERAL OR COUNTY
17 ATTORNEY. THE ATTORNEY GENERAL OR COUNTY ATTORNEY SHALL MAIL A COPY OF THE
18 NOTICE OF INVALID LIEN TO THE PERSON WHO IS DESIGNATED AS CREDITOR AND TO THE
19 PERSON WHO FILED THE NONCONSENSUAL LIEN AT THE ADDRESS OF EACH AS STATED ON
20 THE FILED DOCUMENT. THE PURPORTED LIEN IS CONCLUSIVELY PRESUMED TO BE
21 INVALID ON THE FILING OF THE INVALID LIEN.

22 B. C. The secretary of state, a recording officer or a county is not
23 liable for accepting a nonconsensual lien for filing pursuant to subsection
24 A OR A NOTICE OF INVALID LIEN PURSUANT TO SUBSECTION B.

25 Sec. 4. Retroactivity

26 Section 47-9528, Arizona Revised Statutes, as amended by Laws 2000,
27 chapter 100, section 3 and this act, applies retroactively to from and after
28 June 30, 2000.

APPROVED BY THE GOVERNOR APRIL 4, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 4, 2001.

Passed the House February 13, 2001,

Passed the Senate March 28, 2001,

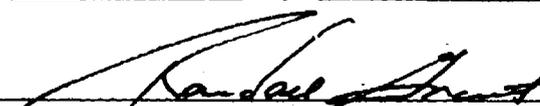
by the following vote: 57 Ayes,

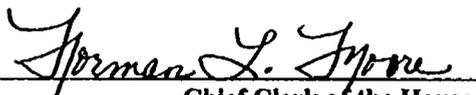
by the following vote: 29 Ayes,

0 Nays, 3 Not Voting

0 Nays, 1 Not Voting


Speaker of the House


President of the Senate


Chief Clerk of the House

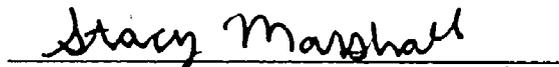

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

29 day of March, 2001,

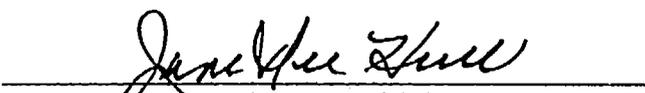
at 1:30 o'clock P M.


Secretary to the Governor

Approved this 4th day of

April, 2001,

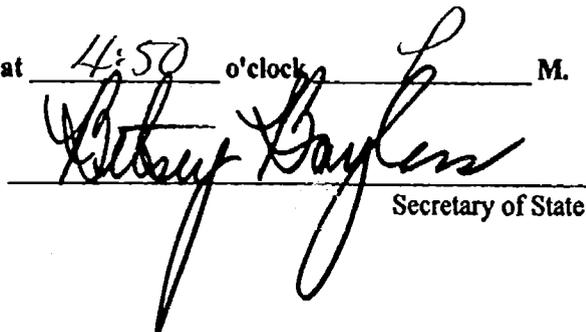
at 11:05 o'clock A M.


Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 4 day of April, 2001,

at 4:50 o'clock P M.


Secretary of State

H.B. 2287