

ONE HUNDRED THIRD LEGISLATURE - FIRST SESSION - 2013
COMMITTEE STATEMENT
LB289

Hearing Date: Friday February 01, 2013
Committee On: Judiciary
Introducer: Lathrop
One Liner: Change provisions relating to duration of real estate improvement contract liens

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 7 Senators Ashford, Christensen, Coash, Davis, Lathrop, McGill, Seiler
Nay:
Absent:
Present Not Voting: 1 Senator Chambers

Proponents:
SEN. STEVE LATHROP
JOHN LUND
TRENTON MAGID
KENT THOMPSON

FRED HOPPE

Representing:
INTRODUCER
LUND COMPANY
WORLD GROUP COMMERCIAL REAL ESTATE
COLDWELL BANKER COMMERCIAL, THOMPSON
REALTY, NEBRASKA REALTOR'S ASSOCIATION
NEBRASKA REALTORS

Opponents:
JERRY STILLMOCK

Representing:
NE BANKERS ASSOCIATION

Neutral:

Representing:

Summary of purpose and/or changes:

Legislative Bill 289 would amend statute sections 52-130 and 52-140. The bill would expand the definition of real estate improvement contract to include services provided by a commercial real estate broker. The bill would also provide that a lien based on a contract with a commercial real estate broker continues for two years after the date the payment was due under the contract.

Explanation of amendments:

Committee Amendment AM 571 would strike the original sections and adopt the Commercial Real Estate Broker Lien Act. The Act would provide the following:

Section 1 creates the Commercial Real Estate Broker Lien Act.

Section 2 defines commercial real estate, commission, and commission agreement.

Section 3 does the following:

The broker shall have a lien on commercial real estate in the amount of commission due. The lien is only available to the broker named in the commission agreement. Such lien shall be attached when the broker is entitled to the commission,

the broker recodes notice of the lien, and prior to the actual conveyance. The lien attaches on the date of notice not back to the date of the agreement. In the case of a lease the notice of the lien must be recorded within 90 days of the tenant taking possession. Future commissions can become a recordable lien only after the commissions become due.

Section 4 requires that the broker shall, within 10 days of filing the lien, notify the record owner by mail.

Section 5 lays out the all the information the notice of lien must contain.

Section 6 establishes that a lien described in section 3 of the Act that has become enforceable shall remain enforceable for two years and that an owner or anyone with an interest in the property may give written demand to institute judicial proceedings within 30 days.

Section 7 addresses the priority of liens.

Section 8 would do the following:

The owner or tenant may have a recorded lien released at any time by placing the amount of the lien plus 15% in escrow. The lien then attaches to the escrow funds and not the property.

If a property is sold then the proceeds from that property shall be placed in escrow equal to an amount of 115% then the lien attaches to the escrow funds.

Brad Ashford, Chairperson