

By: Deshotel

H.B. No. 1860

A BILL TO BE ENTITLED

AN ACT

relating to a mechanic's, contractor's, or materialman's lien for
removables.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 53, Property Code, is
amended by adding Section 53.0011 to read as follows:

Sec. 53.0011. DEFINITION OF REMOVABLE. (a) In this
chapter, "removable" means material installed on land or on a
preexisting improvement on the land that can be removed after
installation without damage to the material, land, or preexisting
improvement.

(b) Examples of removables include decking materials,
counters, countertops, carpets, carpet pads, windows, doors,
shower doors, sinks, toilets, bath fixtures, bathtubs, whirlpools,
spa equipment, steam units, dry saunas, water heaters, safes,
plumbing valves, plumbing fixtures, window treatments, drapery,
pool equipment, air conditioning units, electrical control panels,
fireplace mantels, decorative columns, paneling, custom carved
moldings, elevators, elevator controls, light fixtures,
uninstalled exterior stones, wrought-iron fencing, landscape
plants, palm trees, and built-in appliances, including
dishwashers, ovens, ranges, and wine cooler units.

(c) Examples of materials that are not removables include
paint, lumber for framing a structure, concrete used in

1 foundations, parking areas or driveways, inground swimming pools,
2 tile floors, wiring, and rough-in plumbing.

3 SECTION 2. Subchapter B, Chapter 53, Property Code, is
4 amended by adding Section 53.027 to read as follows:

5 Sec. 53.027. REMOVABLES LIEN. A lien for a removable item
6 extends only to the item and does not extend to the land on which the
7 removable item is located or to other improvements on the land.

8 SECTION 3. Sections 53.054(a) and (c), Property Code, are
9 amended to read as follows:

10 (a) The affidavit must be signed by the person claiming the
11 lien or by another person on the claimant's behalf and must contain
12 substantially:

13 (1) a sworn statement of the amount of the claim;

14 (2) the name and last known address of the owner or
15 reputed owner;

16 (3) a ~~[general]~~ statement of the ~~[kind-of]~~ work done
17 and materials furnished by the claimant and, for a claimant other
18 than an original contractor, a statement of each month in which the
19 work was done and materials furnished for which payment is
20 requested;

21 (4) the name and last known address of the person by
22 whom the claimant was employed or to whom the claimant furnished the
23 materials or labor;

24 (5) the name and last known address of the original
25 contractor;

26 (6) a description, legally sufficient for
27 identification, of the property sought to be charged with the lien;

1 (7) the claimant's name, mailing address, and, if
2 different, physical address; and

3 (8) for a claimant other than an original contractor,
4 a statement identifying the date each notice of the claim was sent
5 to the owner and the method by which the notice was sent.

6 (c) The affidavit is not required to set forth individual
7 items of work done or material furnished or specially fabricated,
8 except the affidavit must distinguish between a claim for work done
9 and a claim for material furnished or specially fabricated, and a
10 claim for material must describe the category or type of material,
11 using terms listed in Section 53.0011(b) or (c) where appropriate,
12 in a manner that will distinguish between a permanent fixture and a
13 removable. The affidavit may use any abbreviations or symbols
14 customary in the trade.

15 SECTION 4. The change in law made by this Act applies only
16 to a lien relating to a contract entered into on or after the
17 effective date of this Act. A lien relating to a contract entered
18 into before the effective date of this Act is governed by the law in
19 effect on the date the contract was entered into, and that law is
20 continued in effect for that purpose.

21 SECTION 5. This Act takes effect January 1, 2012.