

1 HB451  
2 159306-6  
3 By Representative Long  
4 RFD: Financial Services  
5 First Read: 11-FEB-14



1           "(b) Enforcement of ~~such~~ the lien of a mechanic,  
2 materialman or other person created by section 35-11-210 (in  
3 this section, "mechanic or materialman lien") shall not affect  
4 any prior mortgage or other lien, and the purchaser in  
5 connection with the enforcement of such mechanic or  
6 materialman lien shall take the property subject to ~~such~~ the  
7 prior mortgages and other liens of which the purchaser has  
8 actual or constructive notice on the date of the purchase.

9           "(c) Foreclosure of any prior mortgage or other lien  
10 shall terminate and extinguish ~~such~~ the subordinate mechanic  
11 or materialman lien or other interest as to the land and the  
12 buildings and improvements thereon, whether or not at the time  
13 of ~~such~~ the foreclosure ~~such~~ the lien or interest has been  
14 perfected in accordance with the provisions of this division,  
15 and the mechanic, materialman or other person thereafter shall  
16 have, to the extent of his lawful claim under this division,  
17 the statutory right of redemption afforded under applicable  
18 redemption laws to a judgment creditor whose judgment was  
19 recorded on the date such work was commenced and ~~such~~ the  
20 rights in any excess proceeds received by the foreclosing  
21 lienholder as provided by law.

22           "~~(b)~~ (d) As to liens, mortgages or incumbrances  
23 created prior to the commencement of the work, the lien for  
24 ~~such~~ the work shall have priority only against the building or  
25 improvement, the product of ~~such~~ the work which is an  
26 entirety, separable from the land, building or improvement  
27 subject of the prior lien, mortgage or incumbrance, and which

1 can be removed therefrom without impairing the value or  
2 security of any prior lien, mortgage or incumbrance; and the  
3 person entitled to such lien may have it enforced, at any time  
4 prior to the foreclosure of ~~such~~ the prior lien, mortgage or  
5 incumbrance, by a sale of such buildings or improvement under  
6 the provisions of this division and the purchaser may, within  
7 a reasonable time thereafter, remove the same. If ~~such~~ the  
8 mechanic or materialman lien for such work is not enforced  
9 prior to ~~such~~ the foreclosure, the mechanic or materialman  
10 lien shall be terminated and extinguished and after such  
11 foreclosure, the mechanic, materialman or other person who  
12 held such mechanic or materialman lien thereafter shall have  
13 the statutory right of redemption and such rights in excess  
14 proceeds to the extent provided in subsection (a) above.

15 "~~(c)~~ (e) The provisions of this section clarify and  
16 confirm the intent of the legislature regarding existing law  
17 governing the matters contained in this section. The  
18 provisions of this section shall apply to all mortgages and  
19 other liens and to all liens of a mechanic, materialman or  
20 other person created by ~~section~~ Section 35-11-210 existing on  
21 ~~February 23, 1990~~ and those created or arising after February  
22 23, 1990."

23 Section 2. This act shall become effective on  
24 January 1, 2015, following its passage and approval by the  
25 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Financial Ser-  
vices..... . . . . 11-FEB-14

Read for the second time and placed  
on the calendar with 1 substitute  
and..... . . . . 13-MAR-14

Read for the third time and passed  
as amended..... . . . . 20-MAR-14

Yeas 97, Nays 0, Abstains 0

Jeff Woodard  
Clerk