

1 HJR495
2 161374-1
3 By Representative Black
4 RFD:
5 First Read: 02-APR-14

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8 ESTABLISHING THE INTERIM STUDY COMMISSION ON
9 MECHANICS LIEN.

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11 WHEREAS, Alabama's current mechanics' and
12 materialmen's lien statutes were adopted in the late 1800's and
13 have remained substantially unchanged except for an amendment
14 in 1933 and an amendment in 1990; and

15 WHEREAS, current law provides a right to assert a
16 mechanics' or materialmen's lien upon the commencement of work
17 or delivery of materials to the real property on which
18 improvements are being made; and

19 WHEREAS, improvements can come in many forms,
20 including providing supplies, labor, waste removal,
21 architectural services, engineering services, and other acts
22 or labor that adds value to the property; and

23 WHEREAS, current law provides that a mechanics' lien
24 as to land and buildings or improvements on the land or
25 buildings shall have priority over all other liens,
26 conveyances and incumbrances created subsequent to the
27 commencement of work, the right to such a lien arising before

1 record notice of any such right is required under current law;
2 and

3 WHEREAS, current law exposes unsuspecting or
4 innocent parties, including, but not limited to, contractors,
5 subcontractors, suppliers of material and others providing
6 work or materials, as well as subsequent purchasers and
7 lenders, to unforeseen losses as a result of the right to the
8 lien arising at the time work commences or materials delivered
9 without any accompanying requirement to record in the real
10 property records notice that work has commenced, leaving
11 unresolved issues of priority; and

12 WHEREAS, Alabama has experienced substantial growth
13 in the construction of commercial and residential buildings in
14 the one hundred-plus years since the mechanics' and
15 materialmen's lien statute was first adopted and in the
16 decades since it was last amended; and

17 WHEREAS, the commercial and residential construction
18 industries have experienced substantial growth in the one
19 hundred-plus years since the mechanics' and materialmen's lien
20 statute was first adopted and in the decades since it was last
21 amended and current law has not kept up with the growth; and

22 WHEREAS, it is prudent that an Interim Study
23 Commission on Mechanics' and Materialmen's Lien Law be formed
24 for the purpose of developing a comprehensive overhaul to the
25 current mechanics' and materialmen's lien law in this state;
26 now therefore,

1 BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH
2 HOUSES THEREOF CONCURRING, That the Interim Study Commission
3 on Mechanics Lien is created. The Commission shall be composed
4 of the following:

5 1. One state representative appointed by the Speaker
6 of the House of Representatives.

7 2. One state senator appointed by the President Pro
8 Tempore of the Alabama Senate.

9 3. One general contractor appointed by the Alabama
10 Association of General Contractors.

11 4. One banker appointed by the Alabama Bankers
12 Association.

13 5. One person engaged in the concrete by the Alabama
14 Concrete Industries Association.

15 6. One person appointed by the Alabama Law
16 Institute.

17 7. One person engaged in the business of title
18 insurance in the State of Alabama appointed by the Alabama
19 Land Title Association.

20 8. One realtor appointed by the Alabama Realtors
21 Association.

22 9. One builder or contractor appointed by the
23 Associated Builders and Contractors of Alabama.

24 10. One subcontractor appointed by the
25 Subcontractors Association of Alabama.

The membership of the commission shall be inclusive and reflect the racial, gender, geographic, urban and rural, and economic diversity of the state.

The task force shall be convened by the Speaker of the House with 60 days after the enactment of this resolution. The chair and vice chair of the commission shall be elected at the first meeting by the members of the commission, and the members of the commission shall set its regular meeting dates. The commission shall study all facets of the existing law as it relates to mechanics liens on real property and review all proposed or to be proposed legislation.

Upon the request of the chair, the Secretary of the Senate and the Clerk of the House of Representatives shall provide necessary clerical assistance for the work of the commission. The commission shall report its findings, conclusions, and recommendations to the Legislature not later than the fifth legislative day of the 2015 Regular Session, whereupon the commission shall stand dissolved and discharged of any further duties and liabilities. Each legislative member of the commission shall be entitled to his or her compensation, per diem, and travel expenses for each day he or she attends a meeting of the commission, as provided by law.

Upon requisitions signed by the chair of the commission, these payments shall be paid out of any funds appropriated to the use of the Legislature by means of warrants drawn by the Comptroller on the State Treasury. Notwithstanding the foregoing, no commission member who is a

1 member of the Legislature shall receive additional legislative
2 compensation or per diem when the Legislature is in session or
3 if the member is being paid any other payments on the same
4 dates for attendance on other state business. The total
5 expenditures of the commission shall not exceed one thousand
6 dollars (\$1,000).