

**1999 HOUSE JUDICIARY**

**HB 1179**

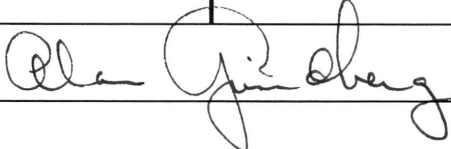
1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1179

House Judiciary Committee

Conference Committee

Hearing Date January 12, 1999

Tape Number	Side A	Side B	Meter #
2	X		38
Committee Clerk Signature 			

Minutes:

ALVIN JAEGER (SOS) Submitted prepared testimony, a copy of which is attached.

AL WOLFE (Self) The concept behind this bill is good. I would suggest that any lien filed should be required to have the section of the code authorizing the lien, and have the Register of Deeds notify the owner of the filing.

COMMITTEE ACTION January 18, 1999

REP. HAWKEN moved to amend the bill to correct the spelling of "statute". Rep. Gunter seconded and the motion was passed on a unanimous voice vote.

REP. MARAGOS moved that the committee recommend that the bill DO PASS. Rep. Klemin seconded and the motion was passed on a roll call vote of 13 ayes, 0 nays and 2 absent. Rep. Maragos was assigned to carry the bill on the floor.

Date: 4/13  
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1179

House JUDICIARY Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass as amended

Motion Made By Maragos Seconded By Klewin

Representatives	Yes	No	Representatives	Yes	No
REP. DEKREY			REP. SVEEN	✓	
REP. CLEARY	✓				
REP. DELMORE	✓				
REP. DISRUD	✓				
REP. FAIRFIELD	✓				
REP. GORDER	✓				
REP. GUNTER	✓				
REP. HAWKEN	✓				
REP. KELSH	✓				
REP. KLEMIN	✓				
REP. KOPPELMAN	✓				
REP. MAHONEY					
REP. MARAGOS	✓				
REP. MEYER	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Maragos

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)  
January 15, 1999 12:06 p.m.

Module No: HR-09-0692  
Carrier: Maragos  
Insert LC: 98231.0101 Title: .0200

**REPORT OF STANDING COMMITTEE**

**HB 1179: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1179 was placed on the Sixth order on the calendar.

Page 1, line 12, replace "statue" with "statute"

Renumber accordingly

**1999 SENATE JUDICIARY**

**HB 1179**

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1179

Senate Judiciary Committee

Conference Committee

Hearing Date March 2, 1999

Tape Number	Side A	Side B	Meter #
1		x	3700 - 4800
Committee Clerk Signature <i>Jackie Follman</i>			

Minutes:

HB1179 relates to the filing of noncensual common-law liens; and to provide a penalty.

SENATOR STENEHJEM opened the hearing on HB1179 at 11:00 A.M.

All were present except Senator C. Nelson.

AL JAEGER, Secretary of State, testified in support of HB1179. Testimony attached.

BETH BAHMSTARK, Attorney General's Office, testified to explain some of the filings.

SENATOR STENEHJEM CLOSED the hearing on HB1179.

SENATOR LYSON made a motion for DO PASS, SENATOR WATNE seconded. Motion carried. 4 - 0 - 2

SENATOR TRAYNOR will carry the bill.

Date: 3-2-99  
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1179

Senate Judiciary Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Senator Lyson Seconded By Senator Watne

Senators	Yes	No	Senators	Yes	No
Senator Wayne Stenehjem	X				
Senator Darlene Watne	X				
Senator Stanley Lyson	X				
Senator John Traynor	X				
Senator Dennis Bercier					
Senator Caroloyne Nelson					

Total (Yes) 4 No 0

Absent 2

Floor Assignment Senator Traynor

REPORT OF STANDING COMMITTEE (410)  
March 2, 1999 12:39 p.m.

Module No: SR-37-3842  
Carrier: Traynor  
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1179, as engrossed: Judiciary Committee (Sen. W. Stenehjem, Chairman)  
recommends **DO PASS** (4 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).  
Engrossed HB 1179 was placed on the Fourteenth order on the calendar.



**1999 TESTIMONY**

**HB 1179**



**SECRETARY OF STATE**  
STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 108  
BISMARCK ND 58505-0500

January 12, 1999

**TO:** Representative DeKrey and Members of the House Judiciary Committee  
**FR:** Al Jaeger, Secretary of State  
**RE:** **HB 1179 – Nonconsensual Common-law liens**

Although there haven't been many, there have been nonconsensual liens filed in North Dakota. Quite often these liens are filed against public officials. Unfortunately, there are no provisions presently in state law that grants a filing officer the authority to refuse such a filing. Therefore, it becomes necessary for those subjected to these liens to secure the services of an attorney, incur unnecessary costs in initiating court action to have the liens removed. Therefore, the Secretary of State's office and its legal counsel believe it would be timely and wise to enact legislation regarding such liens. Such legislation has already been passed in many other states.

The purpose of this bill is to provide procedures, penalties, recourse, remedies, and liability if a nonconsensual lien is filed. When drafting this bill, the Secretary of State's office and its legal counsel reviewed existing law in several states and picked and chose what we believed would work the best for North Dakota.

Section 35-35-01 defines the various terms. In particular, the meaning of what is a nonconsensual common law lien.

Section 35-35-02 provides that a person filing a nonconsensual common-law lien is guilty of a class B misdemeanor.

Section 35-35-03 provides that a filing officer may reject such a filing and if a filing has inadvertently been accepted provide procedures on how a "notice of invalid lien" is handled.

Section 35-04-04 provides for the lien claimant to petition the court if they believe a filing officer has incorrectly declared their filing to be a nonconsensual lien. It also provides remedies and damages if the court finds that the filing was an unlawful nonconsensual lien.

Section 35-35-05 provides a means by which a person subject to a nonconsensual lien can petition the court to declare the filing void. It also provides remedies and damages to the person subjected to the lien if the court finds that the filing was an unlawful nonconsensual lien.

Section 35-35-06 provides that the person filing a nonconsensual lien is liable for actual damages or \$1,000, whichever is greater, plus costs and reasonable attorney's fees.



## SECRETARY OF STATE

STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 108  
BISMARCK ND 58505-0500

March 2, 1999

**TO:** Senator Stenehjem and Members – Senate Judiciary Committee

**FR:** Al Jaeger, Secretary of State

**RE:** **HB 1179 – Nonconsensual Common-law liens**

Although there haven't been many, there have been nonconsensual liens filed in North Dakota. Quite often these liens are filed against public officials. Unfortunately, there are no provisions presently in state law that grants a filing officer the authority to refuse such a filing. Therefore, it becomes necessary for those subjected to these liens to secure the services of an attorney, incur unnecessary costs in initiating court action to have the liens removed. Therefore, the Secretary of State's office and its legal counsel believe it would be timely and wise to enact legislation regarding such liens. Such legislation has already been passed in many other states.

The purpose of this bill is to provide procedures, penalties, recourse, remedies, and liability if a nonconsensual lien is filed. When drafting this bill, the Secretary of State's office and its legal counsel reviewed existing law in several states and picked and chose what we believed would work the best for North Dakota.

Section 35-35-01 defines the various terms. In particular, the meaning of what is a nonconsensual common law lien.

Section 35-35-02 provides that a person filing a nonconsensual common-law lien is guilty of a class B misdemeanor.

Section 35-35-03 provides that a filing officer may reject such a filing and if a filing has inadvertently been accepted provide procedures on how a "notice of invalid lien" is handled.

Section 35-04-04 provides for the lien claimant to petition the court if they believe a filing officer has incorrectly declared their filing to be a nonconsensual lien. It also provides remedies and damages if the court finds that the filing was an unlawful nonconsensual lien.

Section 35-35-05 provides a means by which a person subject to a nonconsensual lien can petition the court to declare the filing void. It also provides remedies and damages to the person subjected to the lien if the court finds that the filing was an unlawful nonconsensual lien.

Section 35-35-06 provides that the person filing a nonconsensual lien is liable for actual damages or \$1,000, whichever is greater, plus costs and reasonable attorney's fees.