

IN THE SENATE

SENATE BILL NO. 1297

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO LIENS OF MECHANICS AND MATERIALMEN; AMENDING SECTION 45-521,
2 IDAHO CODE, TO REVISE PROVISIONS REGARDING THE RELEASE OF CERTAIN
3 LIENS; AMENDING SECTION 45-522, IDAHO CODE, TO REVISE PROVISIONS
4 REGARDING THE RELEASE OF LIENS ON REAL PROPERTY; AND DECLARING AN EMER-
5 GENCY AND PROVIDING AN EFFECTIVE DATE.
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 45-521, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 45-521. RELEASE OF LIEN ON REAL PROPERTY BY POSTING SURETY BOND --
11 HEARING ON PETITION -- CONTENTS AND EFFECT OF ORDER RELEASING LIEN. (1) Upon
12 the hearing, the court shall enter its order releasing the mechanic's lien
13 upon the petitioner's filing in open court the original bond, and introduc-
14 ing into evidence a receipt for payment of the premium.

15 (2) The entry of the order by the court must refer to the property which
16 is the subject of the lien and the lien itself, by instrument number, and must
17 recite that the lien is released of record ~~for all purposes~~ to the same extent
18 as if released of record by the lienor.

19 (3) Upon entry of the order, the lien is released of record ~~in its en-~~
20 ~~tirety and for all purposes~~ and the real property, the subject of the lien, is
21 released from the encumbrances of the lien.

22 (4) There is no appeal from the entry of an order pursuant to the provi-
23 sions of this section and upon entry the order is final for all purposes.

24 SECTION 2. That Section 45-522, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 45-522. RELEASE OF LIEN ON REAL PROPERTY BY POSTING SURETY BOND --
27 ACTION AGAINST DEBTOR AND SURETY -- PREFERENTIAL SETTINGS. (1) The lien
28 claimant is entitled to bring an action against the lien claimant's debtor
29 and to join therein the surety on the bond. The rights of the lien claimant
30 include under the bond are conditioned on the validity and enforceability
31 of the lien pursuant to this chapter, and the court may award to him in that
32 action up to the penal sum of the bond an amount that may consist of the fol-
33 lowing components:

- 34 (a) The amount found due to the lien claimant by the court;
35 (b) The cost of preparing and filing the lien claim, including attor-
36 ney's fees, if any;
37 (c) The costs of the proceedings;
38 (d) Attorney's fees for representation of the lien claimant in the pro-
39 ceedings; and

1 (e) Interest at the rate of seven percent (7%) per annum on the amount
2 found due to the lien claimant and from the date found by the court that
3 the sum was due and payable.

4 (2) Proceedings under subsection (1) of this section are entitled to
5 priority of hearing second only to criminal hearings. The plaintiff in the
6 action may serve upon the adverse party a "demand for thirty (30) day set-
7 ting" in the proper form, and file the demand with the clerk of the court.
8 Upon filing, the clerk of the court shall, before Friday next, vacate a case
9 or cases as necessary and set the lien claimant's case for hearing, on a day
10 or days certain, to be heard within thirty (30) days of the filing of the
11 "demand for thirty (30) day setting." Only one (1) such preferential set-
12 ting need be given by the court, unless the hearing date is vacated without
13 stipulation of counsel for the plaintiff in writing. If the hearing date is
14 vacated without that stipulation, upon service and filing of a "demand for
15 thirty (30) day setting," a new preferential setting must be given.

16 SECTION 3. An emergency existing therefor, which emergency is hereby
17 declared to exist, this act shall be in full force and effect on and after
18 July 1, 2024.