

Regular Session, 2012

HOUSE BILL NO. 941

BY REPRESENTATIVE ABRAMSON

PRIVILEGES/LIENS: Provides with respect to the Private Works Act

1 AN ACT

2 To amend and reenact R.S. 9:4821 and to enact R.S. 9:4820(D), relative to the Private
3 Works Act; to provide for effective dates of privileges; to provide for priority of
4 privileges; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 9:4821 is amended and reenacted and R.S. 9:4820(D) is hereby
7 enacted to read as follows:

8 §4820. Privileges; effective date

9 * * *

10 D. A person acquiring or intending to acquire a mortgage, privilege, or other
11 right under Subsection C of this Section shall have priority in accordance with R.S.
12 9:4821, regardless of whether work has begun or materials were delivered to the job
13 site after the effective date and time of the affidavit, but prior to the recordation of
14 the mortgage, privilege, or other right, provided that the document creating the right
15 was filed before or within four business days of the filing of the affidavit.

16 §4821. Ranking of privileges

17 A. The privileges granted by R.S. 9:4801 and 4802 rank among themselves
18 and as to other mortgages and privileges in the following order of priority:

19 (1) Privileges for ad valorem taxes or local assessments for public
20 improvements against the property, liens and privileges granted in favor of parishes

1 for reasonable charges imposed on the property under R.S. 33:1236, liens and
2 privileges granted in favor of municipalities for reasonable charges imposed on
3 property under R.S. 33:4752, 4753, 4754, 4766, 5062, and 5062.1, and liens and
4 privileges granted in favor of a parish or municipality for reasonable charges
5 imposed on the property under R.S. 13:2575 are first in rank and concurrent
6 regardless of the dates of recordation or notation of such liens and privileges in any
7 public record, public office, or public document.

8 (2) Privileges granted by R.S. 9:4801(2) and R.S. 9:4802(A)(2) rank next
9 and equally with each other.

10 (3) Bona fide mortgages or vendor's privileges that are effective as to third
11 persons before the privileges granted by this Part are effective rank next and in
12 accordance with their respective rank as to each other.

13 (4) Privileges granted by R.S. 9:4801(3), R.S. 9:4801(4) and by R.S.
14 9:4802(A)(1), R.S. 9:4802(A)(3), and R.S. 9:4802(A)(4) rank next and equally with
15 each other.

16 (5) Privileges granted by R.S. 9:4801(1) and R.S. 9:4801(5) rank next and
17 equally with each other.

18 (6) Other mortgages or privileges rank next and in accordance with their
19 respective rank as to each other.

20 B. A person acquiring or intending to acquire a mortgage, privilege, or other
21 right under R.S. 9:4820(D) shall have priority in accordance with the provisions of
22 this Section, regardless of whether work has begun or materials were delivered to the
23 job site after the effective date and time of the affidavit, but prior to the recordation
24 of the mortgage, privilege, or other right, provided that the document creating the
25 right was filed before or within four business days of the filing of the affidavit.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Abramson

HB No. 941

Abstract: Gives priority to a privilege filed within four days of an affidavit regardless of whether work has begun or materials have been delivered to the work site after the effective date and time of the affidavit but before the filing of the document creating the right.

Present law provides that a person acquiring a mortgage, privilege, or other right may rely on the affidavit of certain persons involved in the modification of an immovable that states at a specified time work had not been commenced nor materials placed at the site, provided the affidavit is filed within four days after execution of the affidavit with the document creating the right filed within four business days of the filing of the affidavit.

Proposed law retains present law and provides that priority be given to a privilege acquired through reliance on an affidavit executed by certain persons involved in the modification of an immovable if the document creating the right is filed before or within four days of the effective date of the affidavit.

(Amends R.S. 9:4821; Adds R.S. 9:4820(D))