



Sen. John G. Mulroe

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09800SB3023sam003

LRB098 17607 HEP 58255 a

1 AMENDMENT TO SENATE BILL 3023

2 AMENDMENT NO. _____. Amend Senate Bill 3023 on page 3, by
3 replacing lines 13 through 21 with the following:

4 "(d) An agreement to waive any right to enforce or claim
5 any lien under this Act, or an agreement to subordinate the
6 lien, where the agreement is in anticipation of and in
7 consideration for the awarding of a contract or subcontract,
8 either express or implied, to perform work or supply materials
9 for an improvement upon real property is against public policy
10 and unenforceable. This Section does not prohibit release of
11 lien under subsection (b) of Section 35 of this Act, nor does
12 it prohibit an agreement to subordinate a mechanics lien to a
13 mortgage lien that secures a construction loan if that
14 agreement is made after more than 50% of the loan has been
15 disbursed to fund improvements to the property ~~or prohibit~~
16 ~~subordination of the lien, except as provided in Section 21.~~";
17 and

1 on page 4, by replacing lines 19 through 26 with the following:

2 "(b) If the legal effect of a provision in any contract
3 between the owner and contractor or contractor and
4 subcontractor is that no lien or claim may be filed or
5 maintained ~~by any one and the waiver is not prohibited by this~~
6 ~~Act~~, or that such contractor's lien shall be subordinated to
7 the interests of any other party, and the provision is not
8 prohibited by this Act, such provision shall be binding if made
9 as part of an agreement not prohibited by this Act. ~~such~~
10 ~~provision shall be binding; but the only admissible evidence~~
11 ~~thereof as against a subcontractor or material supplier, shall~~
12 ~~be proof of actual notice thereof to him or her before his or~~
13 ~~her contract is entered into. Such subordination provision~~
14 ~~shall not be binding on the subcontractor unless set forth in~~
15 ~~its entirety in writing in the contract between the contractor~~
16 ~~and subcontractor or material supplier."; and~~

17 on page 5, by deleting lines 1 through 5; and

18 on page 8, by inserting immediately below line 13 the
19 following:

20 "Section 99. Effective date. This Act takes effect upon
21 becoming law."