

ASSEMBLY BILL NO. 317—ASSEMBLYMAN BROWN
(BY REQUEST)

MARCH 14, 2003

Referred to Committee on Judiciary

SUMMARY—Revises provision pertaining to amount recoverable
by contractor upon notice of lien. (BDR 9-1132)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to liens; revising the provision pertaining to the
amount recoverable by a contractor upon a notice of lien;
and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 108.235 is hereby amended to read as follows:
2 108.235 1. ~~[The contractor shall be entitled to recover, upon~~
3 ~~a lien recorded by him, only such]~~ *A prime contractor:*
4 (a) *Upon a notice of lien, may recover the lienable* amount as
5 may be due to him ~~[according to the terms of his contract, after~~
6 ~~deducting all claims of other parties], plus all amounts that may be~~
7 ~~awarded to him by the court pursuant to NRS 108.237; and~~
8 (b) *Upon receipt of the amount described in paragraph (a),*
9 *shall pay all liens* for *the* work ~~[done and material furnished,]~~ ,
10 *equipment or materials which were furnished to him* as provided
11 in NRS 108.221 to 108.246, inclusive.
12 2. In all cases where a *prime contractor has been paid for the*
13 *work, materials or equipment which are the subject of a notice of*
14 lien ~~[is]~~ recorded under NRS 108.221 to 108.246, inclusive, ~~[for~~
15 ~~work done or materials furnished to any contractor, he]~~ *the prime*
16 *contractor* shall defend *the owner in* any action brought thereupon
17 at his own expense. ~~[During the pendency of the action,]~~



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1 3. *Except as otherwise provided in this subsection, if a lien*
2 *claimant records a notice of lien for the work, equipment or*
3 *materials furnished to the prime contractor, the owner may*
4 *withhold from the prime contractor the amount of money for which*
5 ~~*[such] the lien claimant's notice of lien is [filed.] recorded. If the*~~
6 ~~*lien claimant's notice of lien resulted from the owner's failure to*~~
7 ~~*pay the prime contractor for the lien claimant's work, materials or*~~
8 ~~*equipment, the owner shall not withhold the amount set forth in*~~
9 ~~*the notice of lien from the prime contractor if the prime contractor*~~
10 ~~*tenders a release of the lien claimant's lien to the owner.*~~ In case of
11 judgment against the owner or his property ~~*[upon] which is the*~~
12 ~~*subject of*~~ the lien, the owner ~~*[shall be entitled to]*~~ *may* deduct, from
13 any amount due or to become due by him to the *prime* contractor,
14 the amount ~~*[of the judgment and costs. If the amount of the*~~
15 ~~*judgment and costs exceeds the amount due by him to the*~~
16 ~~*contractor, or if the owner has settled with the contractor, the owner*~~
17 ~~*shall be entitled to]*~~ *paid by the owner to the lien claimant for*
18 *which the prime contractor was liable and* recover back from the
19 *prime* contractor any amount so paid by the owner in excess of the
20 ~~*[contract price, and for which the contractor was originally the party*~~
21 ~~*liable.]*~~ *amount the court has found that the owner owes to the*
22 *prime contractor.*
23 4. *As used in this section, "prime contractor" means a person*
24 *who contracts with an owner of property to provide work,*
25 *materials or equipment to be used for the improvement of the*
26 *property or in the construction, alteration or repair of a work of*
27 *improvement.*
28 **Sec. 2.** This act becomes effective on July 1, 2003.

