

SESSION OF 2005

SUPPLEMENTAL NOTE ON SENATE BILL NO. 112

As Amended by Senate Committee on
Judiciary

Brief*

SB 112 would amend the law dealing with the priority of materialman's liens over other claims against the property under construction such as mortgages. The bill changes the date when materialman's liens would attach when more than one such lien is involved to the date of the earliest unsatisfied lien. If the earliest unsatisfied lien is satisfied in full, then the priority date for all materialman's liens would be the date of the next earliest unsatisfied lien.

The Senate Committee deleted a provision which would have required any materials or supplies be "visible" at the property site in order to establish the earliest date. The Committee also deleted a proposed notice requirement.

Background

The bill was supported by the Kansas Bankers Association, the Heartland Community Bankers Association, and a representative of the Denison bank.

The bill as introduced, was opposed by the Associated General Contractors of Kansas, the Kansas Ready Mix Concrete Association, Raw Construction Company, the Kansas Cement Council, and the Kansas Aggregate Producers Association.

Proponents said the bill was in response to a Court of Appeals case, *Mutual Savings Association v. Res/Com Prop* 32 K.A. 2d 48,

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

(2004). The Court held that the priority date for all contractors and subcontractors can be established by a contractor or subcontractor who has been paid in full.

A spokesperson for the Associated General Contractors of Kansas said a change in the law was not needed and that the real problem in the *Mutual Savings* case was a change in ownership which occurred after work had commenced but prior to the mortgage being filed.

The bill has no fiscal effect on the state.