

- SUBJECT:** Allowing contractual lien for surveying or engineering
- COMMITTEE:** Business and Industry — favorable, without amendment
- VOTE:** 7 ayes — Brimer, Brady, Corte, Crabb, Eiland, Rhodes, Solomons
0 nays
2 absent — Giddings, Janek
- SENATE VOTE:** On final passage, February 23 — voice vote
- WITNESSES:** None
- BACKGROUND:** Property Code sec. 53.021(c) provides that an architect, engineer, or surveyor who prepares a plat or plan in connection with proposed construction or repair of improvements on real property has a lien if the plan or plat was prepared under a recorded written contract and used in performing the construction.
- DIGEST:** SB 488 would specify that a statutory lien would not prevent a surveyor or engineer from acquiring, recording and enforcing a contractual lien on real property to secure payment for surveying or engineering services relating to real property.
- The bill would take effect September 1, 1995.
- SUPPORTERS SAY:** Although the law provides for a statutory lien for an engineer or surveyor if a plan or plat is actually used in performing construction, SB 488 would also allow a surveyor or engineer to create a lien on property by contract for plan or plat preparation regardless of whether the work is actually performed.
- Engineers and surveyors might spend hours on preparing a plan or plat and should be able to get compensation no matter whether the plan or plat was ever used. The law now does not speak to whether a purely contractual lien would be enforced, and this bill would clarify that a contractual lien would be enforceable.

OPPONENTS
SAY:

SB 488 might be inappropriate because Property Code sec. 53.021 seems to try to create the exclusive means of lien creation for this type of work. SB 488 might also create a title problem because if the plan or plat were not used to create a structure, a person buying the property might not be on notice to check for possible liens against the property.

OTHER
OPPONENTS
SAY:

It would be inequitable if architects, who benefit from statutory liens, were not also able to benefit from contractual liens on property.