

PROPERTY CODE

CHAPTER 56. LIENS AGAINST MINERAL PROPERTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 56.001. DEFINITIONS. In this chapter:

(1) "Mineral activities" means digging, drilling, torpedoing, operating, completing, maintaining, or repairing an oil, gas, or water well, an oil or gas pipeline, or a mine or quarry.

(2) "Mineral contractor" means a person who performs labor or furnishes or hauls material, machinery, or supplies used in mineral activities under an express or implied contract with a mineral property owner or with a trustee, agent, or receiver of a mineral property owner.

(3) "Mineral property owner" means an owner of land, an oil, gas, or other mineral leasehold, an oil or gas pipeline, or an oil or gas pipeline right-of-way.

(4) "Mineral subcontractor" means a person who:

(A) furnishes or hauls material, machinery, or supplies used in mineral activities under contract with a mineral contractor or with a subcontractor;

(B) performs labor used in mineral activities under contract with a mineral contractor; or

(C) performs labor used in mineral activities as an artisan or day laborer employed by a subcontractor.

Acts 1983, 68th Leg., p. 3565, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 56.002. LIEN. A mineral contractor or subcontractor has a lien to secure payment for labor or services related to the mineral activities.

Acts 1983, 68th Leg., p. 3566, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 56.003. PROPERTY SUBJECT TO LIEN. (a) The following property is subject to the lien:

(1) the material, machinery, and supplies furnished or hauled by the lien claimant;

(2) the land, leasehold, oil or gas well, water well, oil or gas pipeline and its right-of-way, and lease for oil and gas purposes for which the labor was performed or material, machinery, or supplies were furnished or hauled, and the buildings and appurtenances on this property;

(3) other material, machinery, and supplies used for mineral activities and owned by the owner of the property listed in Subdivision (2); and

(4) other wells and pipelines used in operations related to oil, gas, and minerals and located on property listed in Subdivision (2).

(b) A lien created by performing labor or furnishing or hauling material, machinery, or supplies for a leaseholder does not attach to the fee title to the property.

Acts 1983, 68th Leg., p. 3566, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 56.004. PRIORITY. (a) The lien does not affect an encumbrance that attached to land or a leasehold before the lien's inception.

(b) The lien on material, machinery, supplies, or a specific improvement takes priority over an earlier encumbrance on the land or leasehold on which the material, machinery, supplies, or improvement is placed or located.

Acts 1983, 68th Leg., p. 3567, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 56.005. ACCRUAL OF INDEBTEDNESS. (a) The indebtedness for labor performed by the day or week accrues at the end of each week during which the labor is performed.

(b) The indebtedness for material or services accrues on the date the material or services were last furnished. All material or services that a person furnishes for the same land, leasehold interest, oil or gas pipeline, or oil or gas pipeline right-of-way are considered to be furnished under a single contract unless more than six months elapse between the dates the material or services are furnished.

Acts 1983, 68th Leg., p. 3567, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 56.006. LIABILITY OF OWNER. An owner of land or a leasehold may not be subjected to liability under this chapter greater than the amount agreed to be paid in the contract for furnishing material or performing labor.

Acts 1983, 68th Leg., p. 3567, ch. 576, Sec. 1, eff. Jan. 1, 1984.

SUBCHAPTER B. SECURING LIEN

Sec. 56.021. SECURING LIEN. (a) Not later than six months after the day the indebtedness accrues, a person claiming the lien must file an affidavit with the county clerk of the county in which

the property is located.

(b) Not later than the 10th day before the day the affidavit is filed, a mineral subcontractor claiming the lien must serve on the property owner written notice that the lien is claimed.

Acts 1983, 68th Leg., p. 3567, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 56.022. CONTENTS OF AFFIDAVIT. (a) A lien claimant's affidavit must include:

(1) the name of the mineral property owner involved, if known;

(2) the name and mailing address of the claimant;

(3) the dates of performance or furnishing;

(4) a description of the land, leasehold interest, pipeline, or pipeline right-of-way involved; and

(5) an itemized list of amounts claimed.

(b) A mineral subcontractor's affidavit must in addition include:

(1) the name of the person for whom labor was performed or material was furnished or hauled; and

(2) a statement that the subcontractor timely served written notice that the lien is claimed on the property owner or the owner's agent, representative, or receiver.

Acts 1983, 68th Leg., p. 3568, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 56.023. CONTENTS OF MINERAL SUBCONTRACTOR'S NOTICE. A mineral subcontractor's notice to the property owner must include the amount of the lien, the name of the person indebted to the subcontractor, and a description of the land, leasehold interest, pipeline, or pipeline right-of-way involved.

Acts 1983, 68th Leg., p. 3568, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 56.024. FILING IN NEW COUNTY. (a) Not later than the 90th day after the day that property to which the lien has attached is removed from a county in which the lien affidavit covering the property has been filed, the lienholder may file with the clerk of the county to which the property has been moved an itemized inventory of the property showing the unpaid amount due.

(b) The lien attaches to all property subject to the lien located in a county in which an inventory is filed under this section.

(c) An inventory filed under this section is notice of the lien's existence.

Acts 1983, 68th Leg., p. 3568, ch. 576, Sec. 1, eff. Jan. 1, 1984.

#### SUBCHAPTER C. ENFORCEMENT

Sec. 56.041. ENFORCEMENT. (a) A claimant must enforce the lien within the same time and in the same manner as a mechanic's, contractor's, or materialman's lien under Chapter 53.

(b) A holder of a prior encumbrance on land or a leasehold is not a necessary party to a suit to foreclose the lien.

Acts 1983, 68th Leg., p. 3569, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 56.042. SALE OR REMOVAL OF PROPERTY. (a) A mineral property owner, contractor, subcontractor, or purchaser or an agent, trustee, or receiver of one of those persons may not sell property to which the lien has attached or remove it from the land on which it was to be used, unless the lienholder consents in writing.

(b) On a violation of this section, a lienholder is entitled to possession of the property regardless of where it is found, and the lienholder may have the property sold to satisfy the debt on which the lien is based regardless of whether the debt is due.

Acts 1983, 68th Leg., p. 3569, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 56.043. RETENTION OF PAYMENT. A property owner who is served with a mineral subcontractor's notice may withhold payment to the contractor in the amount claimed until the debt on which the lien is based is settled or determined to be not owed. The owner is not liable to the subcontractor for more than the amount that the owner owes the original contractor when the notice is received.

Acts 1983, 68th Leg., p. 3569, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 56.044. FORFEITURE OF LEASEHOLD. Forfeiture of a leasehold does not impair a lien on material, machinery, supplies, or an improvement located on the leasehold if:

(1) the lien attached to the property before the leasehold was forfeited;

(2) the property is not permanently attached to the land; and

(3) the lienholder pays the owner of the land the damages caused to the land by removal of the property.

Acts 1983, 68th Leg., p. 3569, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 56.045. EQUITABLE OR CONTINGENT INTEREST. Failure of an equitable interest to become legal title or nonfulfillment of a condition subsequent on which a legal interest is contingent does not impair a lien on material, machinery, supplies, or an improvement located on the land covered by the equitable interest if the lien attached to the material, machinery, supplies, or improvement before the failure.  
Acts 1983, 68th Leg., p. 3570, ch. 576, Sec. 1, eff. Jan. 1, 1984.