Local Mandate Fiscal Impact Estimate Kentucky Legislative Research Commission 2016 Regular Session

Part I: Measure Information

Bill Request #: 1965	
Bill #: HB 442 GA	
Bill Subject/Title: _	AN ACT relating to liens on real property.
Sponsor: Representative Kevin Sinnette	
Unit of Government:	CityXCountyXUrban-CountyXCharter CountyXConsolidated LocalXGovernment
Office(s) Impacted:	County Clerk
Requirement: X	Mandatory Optional
Effect on Powers & Duties:	Modifies ExistingX Adds New Eliminates Existing
Part II: Purpose and Mechanics	

HB 422 GA amends KRS 382.365 to allow attorneys to file affidavits which provide evidence of release of a lien encumbering real property with county clerks and provide lienholders a remedy if a false affidavit is filed.

HB 422 GA provides that a lien on real property, including mechanics' and materialman's liens, may be released by either

- the lienholder in the county clerk's office where the lien is recorded or
- by affidavit, in writing, executed in the presence of two witnesses in the county clerk's office where the lien is recorded. The affidavit shall state that the lien has been paid in full to the final lienholder or final assignee. The attorney shall send notice of the recording of the affidavit to the lienholder, and upon receipt of the notice, the lienholder shall be released from the obligation of releasing the lien.

HB 422 GA also provides that if an attorney files a false affidavit, the lienholder may file an action in either District or Circuit Court against the owner of the real property or any party acquiring an interest in the real property. Any judgement rendered in favor of the lienholder shall include reasonable attorney's fees and court cost.

HB 422 GA retains the major provisions of the measure as introduced and makes the following changes in the bill:

Required wording and format for the affidavit is provided.

Part III: Fiscal Explanation, Bill Provisions, and Estimated Cost

The fiscal impact of HB GA to local governments is expected to be nil to minimal.

HB 422 GA essentially provides another avenue for releasing a lien. The current procedure is simply being replaced when necessary by a near-similar procedure. Instead of the lienholder releasing the lien, an affidavit with two witnesses will suffice. A document is required to be recorded in both instances.

Data Source(s): LRC Staff

Preparer: Wendell F. Butler Reviewer: JWN Date: 3/15/16