



TERRY E. BRANSTAD
GOVERNOR

OFFICE OF THE GOVERNOR

KIM REYNOLDS
LT. GOVERNOR

April 27, 2012

The Honorable Matt Schultz
Secretary of State of Iowa
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

House File 675, an Act concerning mechanics' liens including the establishment of a state construction registry for residential construction property, and including effect date and applicability provisions.

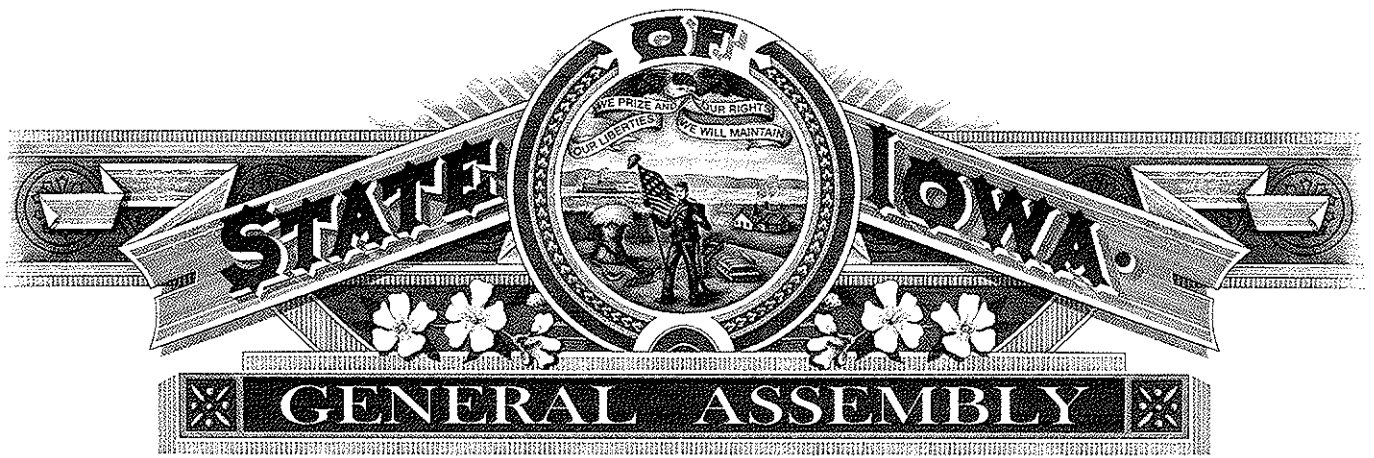
The above House File is hereby approved this date.

Sincerely,

A handwritten signature in black ink that reads "Terry E. Branstad".

Terry E. Branstad
Governor

cc: Secretary of the Senate
Clerk of the House



House File 675

AN ACT

CONCERNING MECHANICS' LIENS INCLUDING THE ESTABLISHMENT OF A STATE CONSTRUCTION REGISTRY FOR RESIDENTIAL CONSTRUCTION PROPERTY, AND INCLUDING EFFECTIVE DATE AND APPLICABILITY PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 207.23, subsection 1, Code 2011, is amended to read as follows:

1. Within six months after the completion of a project to restore, reclaim, abate, control, or prevent adverse effects of past coal mining practices on privately owned land, the division shall itemize the money expended on the project and may file a lien statement ~~in the manner provided in section 572.8~~ in the office of the district court clerk of each county in which a portion of the property affected by the project is located, together with a notarized appraisal by an independent appraiser of the value of the land before the restoration, reclamation, abatement, control, or prevention of adverse effects of past mining practices if the money so expended results in a significant increase in property value. A copy of the lien statement and the appraisal, if required, shall be served upon affected property owners in the manner provided for service of an original notice. The lien shall not exceed the amount determined by the appraiser to be the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of adverse effects of past coal mining practices. A lien shall not be filed in accordance with this subsection against the property

of a person who owned the surface prior to May 2, 1977, and who neither consented to, participated in, nor exercised control over the mining operation which necessitated the reclamation performed.

Sec. 2. Section 572.1, Code 2011, is amended to read as follows:

572.1 Definitions and rules of construction.

For the purpose of this chapter:

1. "Administrator" means the secretary of state.

~~1-~~ 2. "Building" shall be construed as if followed by the words "erection, or other improvement upon land".

3. "General contractor" includes every person who does work or furnishes materials by contract, express or implied, with an owner. "General contractor" does not include a person who does work or furnishes materials on contract with an owner-builder.

~~2-~~ 4. "Labor" means labor completed by the claimant.

~~3-~~ 5. "Material" shall, in addition to its ordinary meaning, include includes machinery, tools, fixtures, trees, evergreens, vines, plants, shrubs, tubers, bulbs, hedges, bushes, sod, soil, dirt, mulch, peat, fertilizer, fence wire, fence material, fence posts, tile, and the use of forms, accessories, and equipment furnished by the claimant.

~~4-~~ 6. "Owner" means the record legal or equitable titleholder and every person for whose use or benefit any building, erection, or other improvement is made, having the capacity to contract, including guardians of record.

~~5-~~ "Owner-occupied dwelling" means the homestead of an owner, as defined in section 561.1, and without respect to the value limitations in section 561.3, and actually occupied by the owner or the spouse of the owner, or both. "Owner-occupied dwelling" includes a newly constructed dwelling to be occupied by the owner as a homestead, or a dwelling that is under construction and being built by or for an owner who will occupy the dwelling as a homestead.

7. "Owner-builder" means the legal or equitable titleholder of record who furnishes material for or performs labor upon a building, erection, or other improvement, or who contracts with a subcontractor to furnish material for or perform labor upon a building, erection, or other improvement and who offers or intends to offer to sell the owner-builder's property without occupying or using the structures, properties, developments, or improvements for a period of more than one year from the date the structure, property, development, or improvement is

substantially completed or abandoned.

8. "Residential construction" means construction on single-family or two-family dwellings occupied or used, or intended to be occupied or used, primarily for residential purposes, and includes real property pursuant to chapter 499B.

9. "State construction registry" means a centralized computer database maintained on the internet by the administrator that provides a central repository for the submission and management of preliminary notices, notices of commencement of work on residential construction properties, and mechanics' liens on all construction properties.

10. "State construction registry number" means a number provided by the administrator for all residential construction properties posted to the state construction registry.

6. 11. "Subcontractor" shall include includes every person furnishing material or performing labor upon any building, erection, or other improvement, except those having contracts directly with the owner. "Subcontractor" shall include those persons having contracts directly with an owner-builder.

Sec. 3. Section 572.2, Code 2011, is amended to read as follows:

572.2 Persons entitled to lien.

1. Every person who ~~shall furnish~~ furnishes any material or labor for, or ~~perform~~ performs any labor upon, any building or land for improvement, alteration, or repair thereof, including those engaged in the construction or repair of any work of internal or external improvement, and those engaged in grading, sodding, installing nursery stock, landscaping, sidewalk building, fencing on any land or lot, by virtue of any contract with the owner, owner-builder, general contractor, or subcontractor shall have a lien upon such building or improvement, and land belonging to the owner on which the same is situated or upon the land or lot so graded, landscaped, fenced, or otherwise improved, altered, or repaired, to secure payment for the material or labor furnished or labor performed.

2. If material is rented by a person to the owner, general contractor, or subcontractor, the person shall have a lien upon such building, improvement, or land to secure payment for the material rental. The lien is for the reasonable rental value during the period of actual use of the material and any reasonable periods of nonuse of the material taken into account in the rental agreement. The delivery of material to such building, improvement, or land, whether or not delivery is made

by the person, creates a presumption that the material was used in the course of alteration, construction, or repair of the building, improvement, or land. However, this presumption shall not pertain to recoveries sought under a surety bond.

3. An owner-builder is not entitled to a lien under this chapter as to work the owner-builder performs, or is contractually obligated to perform, prior to transferring title to the buyer.

Sec. 4. Section 572.8, Code 2011, is amended to read as follows:

572.8 Perfection of lien.

1. A person shall perfect a mechanic's lien by ~~filing with the clerk of the district court of the county in which the building, land, or improvement to be charged with the lien is situated~~ posting to the state construction registry internet website a verified statement of account of the demand due the person, after allowing all credits, setting forth:

a. The date when such material was first furnished or labor first performed, and the date on which the last of the material was furnished or the last of the labor was performed.

b. The legal description of the property to be charged with the lien.

c. The name and last known mailing address of the owner of the property.

d. The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.

e. The tax parcel identification number.

2. Upon ~~the filing~~ posting of the lien, the ~~clerk of court administrator~~ shall mail a copy of the lien to the owner. If the statement of the lien consists of more than one page, the ~~clerk~~ administrator may omit such pages as consist solely of an accounting of the material furnished or labor performed. In this case, the ~~clerk~~ administrator shall attach a notification that pages of accounting were omitted and may be inspected in ~~the clerk's office~~ on the state construction registry internet website.

3. A lien perfected under this section shall be limited to the county in which the building, land, or improvement to be charged with the lien is situated. The county identified on the state construction registry internet website at the time of posting the required notices pursuant to sections 572.13A and 572.13B shall be the only county in which the building, land,

or improvement may be charged with a mechanic's lien.

Sec. 5. Section 572.9, Code 2011, is amended to read as follows:

572.9 Time of ~~filing~~ lien posting.

The statement of account required by section 572.8 shall be ~~filed~~ posted by a ~~principal~~ general contractor or subcontractor within two years and ninety days after the date on which the last of the material was furnished or the last of the labor was performed.

Sec. 6. Section 572.10, Code 2011, is amended to read as follows:

572.10 Perfecting lien after lapse of ninety days.

A general contractor or a subcontractor may perfect a mechanic's lien pursuant to section 572.8 beyond ninety days after the date on which the last of the material was furnished or the last of the labor was performed by ~~filing a claim with the clerk of the district court~~ posting a lien to the state construction registry internet website and giving written notice thereof to the owner. Such notice may be served by any person in the manner original notices are required to be served. If the party to be served is out of the county wherein the property is situated, a return of that fact by the person charged with making such service shall constitute sufficient service from and after the time it was ~~filed with the clerk of the district court~~ posted to the state construction registry internet website.

Sec. 7. Section 572.11, Code 2011, is amended to read as follows:

572.11 Extent of lien ~~filed~~ posted after ninety days.

Liens perfected under section 572.10 shall be enforced against the property or upon the bond, if given, by the owner or by the owner-builder's buyer, only to the extent of the balance due from the owner to the general contractor or from the owner-builder's buyer to the owner-builder at the time of the service of such notice; but if the bond was given by the general contractor or owner-builder, or person contracting with the subcontractor filing the claim for a lien, such bond shall be enforced to the full extent of the amount found due the subcontractor.

Sec. 8. Section 572.13, Code Supplement 2011, is amended by striking the section and inserting in lieu thereof the following:

572.13 General contractor — owner notice — residential

construction.

1. A general contractor who has contracted or will contract with a subcontractor to provide labor or furnish material for the property shall provide the owner with the following owner notice in writing in boldface type of a minimum size of ten points:

"Persons or companies furnishing labor or materials for the improvement of real property may enforce a lien upon the improved property if they are not paid for their contributions, even if the parties have no direct contractual relationship with the owner. The state construction registry provides a listing of all persons or companies furnishing labor or materials who have posted a lien or who may post a lien upon the improved property."

2. The notice described in subsection 1 shall also contain the internet website address and toll-free telephone number of the state construction registry.

3. A general contractor who fails to provide notice pursuant to this section is not entitled to a lien and remedy provided by this chapter.

4. This section applies only to residential construction properties.

Sec. 9. NEW SECTION. 572.13A Notice of commencement of work — general contractor — owner-builder.

1. A general contractor or owner-builder who has contracted or will contract with a subcontractor to provide labor or furnish material for the property shall post a notice of commencement of work to the state construction registry internet website within ten days of commencement of work on the property. A notice of commencement of work is effective only as to any labor, service, equipment, or material furnished to the property subsequent to the posting of the notice of commencement of work. A notice of commencement of work shall include all of the following information:

a. The name and address of the owner.

b. The name, address, and telephone number of the general contractor or owner-builder.

c. The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.

d. The legal description of the property.

e. The date work commenced.

f. The tax parcel identification number.

g. Any other information prescribed by the administrator pursuant to rule.

2. If a general contractor or owner-builder fails to post the required notice of commencement of work to the state construction registry internet website pursuant to subsection 1, within ten days of commencement of the work on the property, a subcontractor may post the notice in conjunction with the filing of the required preliminary notice pursuant to section 572.13B. A notice of commencement of work must be posted to the state construction registry internet website before preliminary notices pursuant to section 572.13B may be posted.

3. *a.* At the time a notice of commencement of work is posted on the state construction registry internet website, the administrator shall assign a state construction registry number and send a copy of the owner notice described in section 572.13. The owner notice shall contain the following language:

Persons or companies furnishing labor or materials for the improvement of real property may enforce a lien upon the improved property if they are not paid for their contributions, even if the parties have no direct contractual relationship with the owner. The state construction registry provides a listing of all persons or companies furnishing labor or materials who have posted a lien or who may post a lien upon the improved property. If the person or company has posted its notice or lien to the state construction registry, you may be required to pay the person or company even if you have paid the general contractor the full amount due. Therefore, check the state construction registry internet website for information about the property including persons or companies furnishing labor or materials before paying your general contractor. In addition, when making payment to your general contractor, it is important to obtain lien waivers from your general contractor and from persons or companies registered as furnishing labor or materials to your property. The information in the state construction registry is posted on the internet website of the state construction registry.

b. Other relevant information may be included with the notice described in subsection 1 as prescribed by the administrator pursuant to rule.

c. The notice described in subsection 1 shall be sent to the owner's address. If the owner's address is different than the property address, a copy of the notice shall also be sent to the property address, addressed to the owner.

4. A general contractor who fails to provide notice pursuant to this section is not entitled to a lien and remedy provided by this chapter.

5. This section applies only to residential construction properties.

Sec. 10. NEW SECTION. 572.13B Preliminary notice — subcontractor — residential construction.

1. A subcontractor shall post a preliminary notice to the state construction registry internet website. A preliminary notice posted before the balance due is paid to the general contractor or the owner-builder is effective as to all labor, service, equipment, and material furnished to the property by the subcontractor. The preliminary notice shall contain all of the following information:

- a. The name of the owner.
- b. The state construction registry number.
- c. The name, address, and telephone number of the subcontractor furnishing the labor, service, equipment, or material.
- d. The name and address of the person who contracted with the claimant for the furnishing of the labor, service, equipment, or material.
- e. The name of the general contractor or owner-builder under which the claimant is performing or will perform the work.
- f. The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.
- g. The legal description of the property.
- h. The date the material or materials were first furnished or the labor was first performed.
- i. The tax parcel identification number.
- j. Any other information required by the administrator pursuant to rule.

2. At the time a preliminary notice is posted to the state construction registry, the administrator shall send notification to the owner, including the owner notice described in section 572.13, subsection 1, and shall docket the mailing of the notice on the state construction registry as prescribed by the administrator pursuant to rule. Notices under this section shall not be sent to owner-builders. Upon request, the administrator shall provide an affidavit of mailing at no cost for the notice required under this section.

3. a. A mechanic's lien perfected under this chapter

is enforceable only to the extent of the balance due the general contractor or the owner-builder at the time of the posting of the preliminary notice specified in subsection 1, and, except for residential construction property owned by an owner-builder, also is enforceable only to the extent of the balance due the general contractor at the time the owner actually receives the notice provided pursuant to subsection 2 or paragraph "b".

b. (1) In any action to enforce a mechanic's lien perfected under this chapter against the owner, the subcontractor bears the burden to prove by a preponderance of the evidence that the owner received notice pursuant to subsection 2. A subcontractor may satisfy the burden of proof by providing separate notice to an owner by including but not limited to any of the following means:

(a) By certified mail with return receipt.

(b) By personal service in the manner original notices are required to be served.

(c) By actual notice with a signed receipt from the owner acknowledging notice.

(2) If the subcontractor provides an affidavit of mailing, the presumption is that the owner received the notice on the fourth day of business for the post office after the notice was sent and the burden of proof shifts from the subcontractor to the owner to refute the presumption.

4. A subcontractor who fails to post a preliminary notice pursuant to this section shall not be entitled to a lien and remedy provided under this chapter.

5. This section applies only to residential construction properties.

Sec. 11. Section 572.14, Code 2011, is amended by striking the section and inserting in lieu thereof the following:

572.14 Liability to subcontractor after payment to general contractor or owner-builder.

Except as provided in section 572.13B, payment to the general contractor or owner-builder of any part or all of the contract price of the building or improvement within ninety days after the date on which the last of the materials was furnished or the last of the labor was performed by a subcontractor, does not relieve the owner from liability to the subcontractor for the full value of any material furnished or labor performed upon the building, land, or improvement if the subcontractor posts a lien within ninety days after the date

on which the last of the materials was furnished or the last of the labor was performed.

Sec. 12. Section 572.15, Code 2011, is amended to read as follows:

572.15 Discharge of subcontractor's mechanic's lien — bond.

A mechanic's lien may be discharged at any time by ~~the owner, principal contractor, or intermediate subcontractor filing with the clerk of the district court of the county in which the property is located~~ submitting a bond to the administrator in twice the amount of the sum for which the claim for the lien is filed, with surety or sureties, to be approved by the ~~clerk~~ administrator, conditioned for the payment of any sum for which the claimant may obtain judgment upon the claim.

Sec. 13. Section 572.16, Code 2011, is amended to read as follows:

572.16 Rule of construction.

Nothing in this chapter shall be construed to require the owner to pay a greater amount or at an earlier date than is provided in the owner's contract with the ~~principal~~ general contractor, unless ~~said~~ the owner pays a part or all of the contract price to the ~~original~~ general contractor before the expiration of the ninety days allowed by law for the filing posting of a mechanic's lien by a subcontractor; provided that in the case of an ~~owner-occupied dwelling~~ residential construction, nothing in this chapter shall be construed to require the owner to pay a greater amount or at an earlier date than is provided in the owner's contract with the ~~principal~~ general contractor, unless the owner pays a part or all of the contract price to the ~~principal~~ general contractor after receipt of notice pursuant to section 572.14, subsection 2 the owner receives notice pursuant to section 572.13B, subsection 2 or subsection 3, paragraph "b".

Sec. 14. Section 572.17, Code 2011, is amended to read as follows:

572.17 Priority of mechanics' liens between mechanics.

Mechanics' liens shall have priority over each other in the order of the filing posting of the statements ~~or~~ of accounts as herein provided in section 572.8.

Sec. 15. Section 572.18, subsections 1 and 3, Code 2011, are amended to read as follows:

1. Mechanics' liens ~~filed~~ posted by a ~~principal~~ general contractor or subcontractor within ninety days after the date on which the last of the material was furnished or the last

of the claimant's labor was performed and for which notices were properly posted to the state construction registry internet website pursuant to sections 572.13A and 572.13B shall be superior to all other liens which may attach to or upon a building or improvement and to the land upon which it is situated, except liens of record prior to the time of the original commencement of the claimant's work or the claimant's improvements, except as provided in subsection 2.

3. The rights of purchasers, encumbrancers, and other persons who acquire interests in good faith, for a valuable consideration, and without notice of a lien perfected pursuant to this chapter, are superior to the claims of all general contractors or subcontractors who have perfected their liens more than ninety days after the date on which the last of the claimant's material was furnished or the last of the claimant's labor was performed.

Sec. 16. Section 572.22, Code 2011, is amended to read as follows:

572.22 Record of claim.

The ~~clerk of the court~~ administrator shall endorse upon every claim for a mechanic's lien ~~filed in the clerk's office~~ posted to the state construction registry internet website the date and hour of filing posting ~~and make an abstract thereof in the mechanic's lien book kept for that purpose.~~ Said book ~~Each claim~~ shall be properly indexed and shall contain the following items ~~concerning each claim:~~

1. The name of the person by whom ~~filed~~ posted.
2. The date and hour of filing posting.
3. The amount thereof.
4. The name of the person against whom ~~filed~~ posted.
5. The legal description of the property to be charged ~~therewith.~~
6. The tax parcel identification number of the property to be charged.
7. The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.

Sec. 17. Section 572.23, Code 2011, is amended to read as follows:

572.23 Acknowledgment of satisfaction of claim.

1. When a mechanic's lien is satisfied by payment of the claim, the claimant shall acknowledge satisfaction thereof ~~upon the mechanic's lien book, or otherwise in writing,~~ and, if the

claimant neglects to do so for thirty days after demand in writing is personally served upon the claimant, the claimant shall forfeit and pay twenty-five dollars to the owner ~~or~~, general contractor, or owner-builder and be liable to any person injured to the extent of the injury.

2. If ~~acknowledgment of satisfaction is not filed~~ acknowledged within thirty days after service of the demand in writing, the party serving the demand or causing the demand to be served may file for record with the ~~clerk of the district court~~ administrator a copy of the demand with proofs of service attached and endorsed and, in case of service by publication, a personal affidavit that personal service could not be made within this state. Upon completion of the requirements of this subsection, the record shall be constructive notice to all parties of the due forfeiture and cancellation of the lien. Upon the filing of the demand with the required attachments, the ~~clerk of the district court~~ administrator shall mail a ~~file-stamped~~ date-stamped copy of the demand to both parties.

Sec. 18. Section 572.24, subsection 2, Code 2011, is amended to read as follows:

2. An action to challenge a mechanic's lien may be commenced in the district court or small claims court if the amount of the lien is within jurisdictional limits. Any permissible claim or counterclaim meeting subject matter and jurisdictional requirements may be joined with the action. The court shall make written findings regarding the lawful amount and the validity of the mechanic's lien. In addition to any other appropriate order, the court may enter judgment on a permissibly joined claim or counterclaim. If the court determines that the mechanic's lien is invalid, valid for a lesser amount, frivolous, fraudulent, forfeited, expired, or for any other reason unenforceable, the clerk of the district court shall ~~make an entry of record to the mechanic's lien book~~ submit the ruling to the administrator who shall make a posting to the state construction registry internet website regarding the proper amount of the lien or, if warranted, canceling the lien.

Sec. 19. Section 572.28, subsection 2, Code 2011, is amended to read as follows:

2. If an action is not filed within thirty days after demand to commence action is served, the party serving the demand or causing the demand to be served may ~~file for record~~ post with the ~~clerk of the district court~~ administrator a copy

of the demand with proofs of service attached and endorsed and, in case of service by publication, a personal affidavit that personal service could not be made within this state. Upon completion of the requirements of this subsection, the record shall be constructive notice to all parties of the due forfeiture and cancellation of the lien. Upon the ~~filing~~ posting of the demand with the required attachments, the ~~clerk of the district court~~ administrator shall mail a ~~file-stamped~~ date-stamped copy of the demand to both parties.

Sec. 20. Section 572.30, Code 2011, is amended to read as follows:

572.30 Action by subcontractor or owner against general contractor or owner-builder.

Unless otherwise agreed, a ~~principal~~ general contractor or owner-builder who engages a subcontractor to supply labor or materials or both for improvements, alterations or repairs to a specific ~~owner-occupied dwelling~~ residential construction property shall pay the subcontractor in full for all labor and materials supplied within thirty days after the date the ~~principal~~ general contractor or owner-builder receives full payment from the owner. If a ~~principal~~ general contractor or owner-builder fails without due cause to pay a subcontractor as required by this section, the subcontractor, or the owner by subrogation, may commence an action against the general contractor or owner-builder to recover the amount due. Prior to commencing an action to recover the amount due, a subcontractor, or the owner by subrogation, shall give notice of nonpayment of the cost of labor or materials to the ~~principal~~ general contractor or owner-builder paid for the improvement. Notice of nonpayment must be in writing, delivered in a reasonable manner, and in terms that reasonably identify the real estate improved and the nonpayment complained of. In an action to recover the amount due a subcontractor, or the owner by subrogation, under this section, the court in addition to actual damages, shall award a successful plaintiff exemplary damages against the general contractor or owner-builder in an amount not less than one percent and not exceeding fifteen percent of the amount due the subcontractor, or the owner by subrogation, for the labor and materials supplied, unless the ~~principal~~ general contractor or owner-builder does one or both of the following, in which case no exemplary damages shall be awarded:

1. Establishes that all proceeds received from the person

making the payment have been applied to the cost of labor or material furnished for the improvement.

2. Within fifteen days after receiving notice of nonpayment the ~~principal~~ general contractor or owner-builder gives a bond or makes a deposit with the ~~clerk of the district court administrator~~, in an amount not less than the amount necessary to satisfy the nonpayment for which notice has been given under this section, and in a form approved by a judge of the district court, to hold harmless the owner or person having the improvement made from any claim for payment of anyone furnishing labor or material for the improvement, other than the ~~principal~~ general contractor or owner-builder.

Sec. 21. Section 572.31, Code 2011, is amended to read as follows:

572.31 Cooperative and condominium housing.

A lien arising under this chapter as a result of the construction of an apartment house or apartment building which is owned on a cooperative basis under chapter 499A, or which is submitted to a horizontal property regime under chapter 499B, is not enforceable, notwithstanding any contrary provision of this chapter, as against the interests of an owner in ~~an owner-occupied dwelling~~ a unit contained in the apartment house or apartment building acquired in good faith and for valuable consideration, unless a lien statement specifically describing the ~~dwelling~~ unit is filed under section 572.8 within the applicable time period specified in section 572.9, but determined from the date on which the last of the material was supplied or the last of the labor was performed in the construction of that ~~dwelling~~ unit.

Sec. 22. Section 572.32, Code 2011, is amended to read as follows:

572.32 Attorney fees — remedies.

1. In a court action to enforce a mechanic's lien, ~~if the plaintiff furnished labor or materials directly to the defendant~~, a prevailing plaintiff may be awarded reasonable attorney fees.

2. In a court action to challenge a mechanic's lien ~~filed posted on an owner-occupied dwelling~~ a residential construction property, if the person challenging the lien prevails, the court may award reasonable attorney fees and actual damages. If the court determines that the mechanic's lien was ~~filed posted~~ in bad faith or the supporting affidavit was materially false, the court shall award the owner reasonable attorney fees

plus an amount not less than five hundred dollars or the amount of the lien, whichever is less.

Sec. 23. Section 572.33, Code 2011, is amended to read as follows:

572.33 Requirement of notification for commercial construction.

1. The notification requirements in this section apply only to commercial construction.

~~1.~~ 2. A person furnishing labor or materials to a subcontractor shall not be entitled to a lien under this chapter unless the person furnishing labor or materials does all of the following:

a. Notifies the ~~principal~~ general contractor or owner-builder in writing with a one-time notice containing the name, mailing address, and telephone number of the person furnishing the labor or materials, and the name of the subcontractor to whom the labor or materials were furnished, within thirty days of first furnishing labor or materials for which a lien claim may be made. Additional labor or materials furnished by the same person to the same subcontractor for use in the same construction project shall be covered by this notice.

b. Supports the lien claim with a certified statement that the ~~principal~~ general contractor or owner-builder was notified in writing with a one-time notice containing the name, mailing address, and telephone number of the person furnishing the labor or materials, and the name of the subcontractor to whom the labor or materials were furnished, within thirty days after the labor or materials were first furnished, pursuant to paragraph "a".

~~2. This section shall not apply to a mechanic's lien on single-family or two-family dwellings occupied or used or intended to be occupied or used for residential purposes.~~

3. Notwithstanding other provisions of this chapter, a principal general contractor or owner-builder shall not be prohibited from requesting information from a subcontractor or a person furnishing labor or materials to a subcontractor regarding payments made or payments to be made to a person furnishing labor or materials to a subcontractor.

Sec. 24. NEW SECTION. 572.33A Liability of owner to general contractor — commercial construction.

An owner of a building, land, or improvement upon which a mechanic's lien of a subcontractor may be filed, is not

required to pay the general contractor for compensation for work done or material furnished for the building, land, or improvement until the expiration of ninety days after the completion of the building or improvement unless the general contractor furnishes to the owner one of the following:

1. Receipts and waivers of claims for mechanics' liens, signed by all persons who furnished material or performed labor for the building, land, or improvement.

2. A good and sufficient bond to be approved by the owner, conditioned that the owner shall be held harmless from any loss which the owner may sustain by reason of the filing of mechanics' liens by subcontractors.

Sec. 25. NEW SECTION. 572.34 State construction registry — residential construction.

1. A state construction registry is created and shall be administered by the administrator. The administrator shall adopt rules pursuant to chapter 17A for the creation and administration of the registry.

2. The state construction registry shall be accessible to the general public through the administrator's internet website.

3. The registry shall be indexed by owner name, general contractor name, state construction registry number, property address, legal description, tax parcel identification number, and any other identifier considered appropriate as determined by the administrator pursuant to rule.

4. A general contractor, owner-builder, or subcontractor who posts fictitious, forged, or false information to the state construction registry shall be subject to a penalty as determined by the administrator by rule in addition to all other penalties and remedies available under applicable law.

5. A person may post a correction statement with respect to a record indexed in the state construction registry internet website if the person believes the record is inaccurate or wrongfully posted.

6. The administrator shall charge and collect fees as established by rule necessary for the administration and maintenance of the registry and the registry's internet website. The administrator shall not charge a filing fee for a preliminary notice required pursuant to this chapter that exceeds the cost of sending such notice by certified mail with restricted delivery and return receipt. The administrator shall not charge a filing fee for a mechanics' lien that

exceeds forty dollars.

7. Notices may be posted to the state construction registry electronically on the administrator's internet website, or may be sent to the administrator for posting by United States mail or facsimile transmission, or other alternate method as provided by the administrator pursuant to rule. Notices received by United States mail or facsimile transmission shall be posted by the administrator to the state construction registry within three business days of receipt.

8. Mechanics' liens may be posted to the state construction registry electronically on the administrator's internet website or may be sent to the administrator for posting by United States mail. Liens received by United States mail shall be posted by the administrator to the state construction registry within three business days of receipt.

9. The administrator shall send a receipt acknowledging a notice or lien submitted by United States mail or facsimile transmission, as provided by the administrator by rule.

10. Information collected by and furnished to the administrator in conjunction with the submission and posting of notices pursuant to sections 572.13A and 572.13B shall be used by the administrator solely for the purposes of the state construction registry.

11. Registration under chapter 91C shall not be required in order to post a notice or a lien under this chapter.

12. The administrator shall make, or cause to be made, preservation duplicates of state construction registry records, including records stored in a computer database. Any preservation duplicate record shall be accurate, complete, and clear, and shall be made, preserved, and made accessible to the public by means designated by the administrator by rule.

Sec. 26. Section 602.8102, subsection 82, Code 2011, is amended to read as follows:

82. Carry out duties relating to liens as provided in chapters 249A, ~~572~~ 574, 580, 582, and 584.

Sec. 27. EFFECTIVE DATE. This Act takes effect January 1, 2013.

Sec. 28. APPLICABILITY.

1. Mechanics' liens filed prior to the effective date of this Act shall remain with the clerk of the district court of the county in which the building, land, or improvement charged with the lien is situated.

2. The notice provisions contained in this Act apply only

to material furnished or labor performed after the effective date of this Act.



KRAIG PAULSEN

Speaker of the House



JOHN P. KIBBIE

President of the Senate

I hereby certify that this bill originated in the House and is known as House File 675, Eighty-fourth General Assembly.



W. CHARLES SMITHSON

Chief Clerk of the House

Approved April 27, 2012



TERRY E. BRANSTAD

Governor