

Reprinted 4/87

FILED MAR 16 1987

SENATE FILE 423
BY COMMITTEE ON JUDICIARY
(formerly SSB 117)
Approved (p. 719)

Passed Senate, Date 4-2-87 (p. 1057) Passed House, Date _____
Vote: Ayes 46 Nays 0 Vote: Ayes _____ Nays _____
Approved _____
Motion to reconsider w/r 4/6

A BILL FOR

1 An Act relating to the subcontractor's right to file a mechanic's
2 lien against the property for which labor is performed or
3 material is furnished.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
SENATE FILE 423

S-3267

1 Amend Senate File 423 as follows:
2 1. Page 3, line 26 by inserting after the word
3 "amount" the following: "not less than the amount
4 necessary to satisfy the nonpayment for which notice
5 has been given under this section,".

S-3267
Filed March 25, 1987
Adopted 4/3 (p. 1057)

BY RICHARD VARN

SENATE FILE 423

S-3297

1 Amend Senate File 423 as follows:
2 1. Page 1, line 19, by striking the word "sixty"
3 and inserting the following: "ninety".

S-3297
Filed March 26, 1987
4/2 3/27 (p. 948)

BY RICHARD VARN

SENATE FILE 423

S-3299

1 Amend Senate File 423 as follows:
2 1. Page 1, line 19, by striking the word "sixty"
3 and inserting in lieu thereof the words "sixty
4 ninety".

S-3299
Filed March 26, 1987
Adopted 3/27 (p. 948)

BY RICHARD VARN

1 Section 1. Section 572.9, Code 1987, is amended to read as
2 follows:

3 572.9 TIME OF FILING.

4 The statement or account required by section 572.8 shall be
5 filed by a principal contractor or subcontractor within ninety
6 days, ~~and by a subcontractor within sixty days,~~ from the date
7 on which the last of the material was furnished or the last of
8 the labor was performed. A failure to file the same statement
9 or account within ~~said periods shall~~ the ninety-day period
10 does not defeat the lien, except as otherwise provided in this
11 chapter.

12 Sec. 2. Section 572.13, Code 1987, is amended to read as
13 follows:

14 572.13 LIABILITY OF OWNER TO ORIGINAL CONTRACTOR.

15 1. ~~No~~ An owner of any a building, land, or improvement
16 upon which a mechanic's lien of a subcontractor may be filed,
17 ~~shall be~~ is not required to pay the original contractor for
18 compensation for work done or material furnished for ~~said the~~
19 building, land, or improvement until the expiration of sixty
20 days from the completion of ~~said the~~ building, or improvement
21 unless the original contractor ~~shall furnish~~ furnishes to the
22 owner one of the following:

23 ± a. Receipts and waivers of claims for mechanics' liens,
24 signed by all persons who furnished any material or performed
25 any labor for ~~said the~~ building, land, or improvement, ~~or.~~

26 2 b. A good and sufficient bond to be approved by ~~said the~~
27 owner, conditioned that ~~said the~~ owner shall be held harmless
28 from any loss which the owner may sustain by reason of the
29 filing of mechanics' liens by subcontractors.

30 2. An original contractor who enters into a contract for
31 an owner-occupied dwelling and who has contracted or will
32 contract with a subcontractor to provide labor or furnish
33 material for the dwelling shall include the following notice
34 in any written contract with the owner and shall provide the
35 owner with a copy of the written contract:

1 "Persons or companies furnishing labor or materials for the
2 improvement of real property may enforce a lien upon the
3 improved property if they are not paid for their
4 contributions, even if the parties have no direct contractual
5 relationship with the owner."

6 If no written contract is entered into between the original
7 contractor and the dwelling owner, the original contractor
8 shall, within ten days of commencement of work on the
9 dwelling, provide written notice to the dwelling owner stating
10 the name and address of all subcontractors that the contractor
11 intends to use for the construction and, that the
12 subcontractors or suppliers may have lien rights in the event
13 they are not paid for their labor or material used on this
14 site; and the notice shall be updated as additional
15 subcontractors and suppliers are used from the names disclosed
16 on earlier notices.

17 An original contractor who fails to provide notice under
18 this section is not entitled to the lien and remedy provided
19 by this chapter as they pertain to any labor performed or
20 material furnished by a subcontractor not included in the
21 notice.

22 Sec. 3. Section 572.30, Code 1987, is amended to read as
23 follows:

24 572.30 ACTION BY SUBCONTRACTOR OR OWNER AGAINST
25 CONTRACTOR.

26 Unless otherwise agreed, a principal contractor who engages
27 a subcontractor to supply labor or materials or both for
28 improvements, alterations or repairs to a specific owner-
29 occupied dwelling shall pay the subcontractor in full for all
30 labor and materials supplied within thirty days after the date
31 the principal contractor receives full payment from the owner.
32 If a principal contractor fails without due cause to pay a
33 subcontractor as required by this section, the subcontractor,
34 or the owner by subrogation, may commence an action against
35 the contractor to recover the amount due ~~and the court may~~ in

1 ~~addition-to-actual-damages,-award-exemplary-damages-against~~
2 ~~the-contractor-in-an-amount-not-exceeding-fifty-percent-of-the~~
3 ~~amount-due-the-subcontractor,-or-the-owner-by-subrogation,-for~~
4 ~~the-labor-and-materials-supplied. Prior to commencing an~~
5 ~~action to recover the amount due, a subcontractor, or the~~
6 ~~owner by subrogation, shall give notice of nonpayment of the~~
7 ~~cost of labor or materials to the principal contractor paid~~
8 ~~for the improvement. Notice of nonpayment must be in writing,~~
9 ~~delivered in a reasonable manner, and in terms that reasonably~~
10 ~~identify the real estate improved and the nonpayment~~
11 ~~complained of. In an action to recover the amount due a~~
12 ~~subcontractor, or the owner by subrogation, under this~~
13 ~~section, the court in addition to actual damages, shall award~~
14 ~~a successful plaintiff exemplary damages against the~~
15 ~~contractor in an amount not less than one percent and not~~
16 ~~exceeding fifteen percent of the amount due the subcontractor,~~
17 ~~or the owner by subrogation, for the labor and materials~~
18 ~~supplied, unless the principal contractor does one or both of~~
19 ~~the following, in which case no exemplary damages shall be~~
20 ~~awarded:~~

21 1. Establishes that all proceeds received from the person
22 making the payment have been applied to the cost of labor or
23 material furnished for the improvement.

24 2. Within fifteen days after receiving notice of
25 nonpayment the principal contractor gives a bond or makes a
26 deposit with the clerk of the district court, in an amount and
27 form approved by a judge of the district court, to hold
28 harmless the owner or person having the improvement made from
29 any claim for payment of anyone furnishing labor or material
30 for the improvement, other than the principal contractor.

31 EXPLANATION

32 This bill amends provisions related to the filing of
33 mechanic's liens permitting a subcontractor to file a
34 mechanic's lien directly against the property for which labor
35 is provided or material is furnished and alters notice and

1 exemplary damage provisions. Additional provisions require
2 original contractors to give owners notice of a
3 subcontractor's right to enforce a lien against the property.

4 Section 1 extends the time of filing of a mechanic's lien
5 for a subcontractor from sixty days to ninety days.

6 Section 2 requires an original contractor to provide
7 written notice to an owner of the right of a subcontractor to
8 enforce a lien upon the improved land if the subcontractor is
9 not paid for its contribution. An original contractor who
10 fails to provide notice to an owner will no longer have the
11 lien remedy as to any labor provided or material furnished by
12 a subcontractor not included in the notice.

13 Section 3 removes a limitation that labor be provided or
14 materials furnished to a specific owner-occupied dwelling,
15 before a subcontractor may utilize the relief procedure
16 provided by section 570.30 and reduces possible exemplary
17 damages to fifteen percent of the amount due, but conditions
18 the procedure on the principal contractor's failure to take
19 certain actions.

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SENATE FILE 423

S-3319

1 Amend Senate File 423 as follows:

2 1. Page 1, by inserting after line 11 the
3 following:

4 "Sec. _____. Section 572.10, Code 1987, is amended
5 to read as follows:

6 572.10 PERFECTING SUBCONTRACTOR'S LIEN AFTER LAPSE
7 OF ~~SIXTY~~ NINETY DAYS.

8 After the lapse of the ~~sixty~~ ninety days prescribed
9 in section 572.9, a subcontractor may perfect a
10 mechanic's lien by filing a claim with the clerk of
11 the district court and giving written notice thereof
12 to the owner, the owner's agent, or trustee. Such
13 notice may be served by any person in the manner
14 original notices are required to be served. If the
15 party to be served, the party's agent, or trustee, is
16 out of the county wherein the property is situated, a
17 return of that fact by the person charged with making
18 such service shall constitute sufficient service from
19 and after the time it was filed with the clerk of the
20 district court.

21 Sec. _____. Section 572.11, Code 1987, is amended to
22 read as follows:

23 572.11 EXTENT OF LIEN FILED AFTER ~~SIXTY~~ NINETY
24 DAYS.

25 Liens perfected under section 572.10 shall be
26 enforced against the property or upon the bond, if
27 given, by the owner, as hereinafter provided, only to
28 the extent of the balance due from the owner to the
29 contractor at the time of the service of such notice;
30 but if the bond was given by the contractor, or person
31 contracting with the subcontractor filing the claim
32 for a lien, such bond shall be enforced to the full
33 extent of the amount found due the subcontractor.

34 Sec. _____. Section 572.12, Code 1987, is amended to
35 read as follows:

36 572.12 TIME OF FILING AGAINST RAILWAY.

37 Where a lien is claimed upon a railway, the
38 subcontractor shall have ~~sixty~~ ninety days from the
39 last day of the month in which such labor was done or
40 material furnished within which to file the claim
41 therefor."

42 2. Page 1, line 19, by striking the word "sixty"
43 and inserting the following: "~~sixty~~ ninety".

44 3. Page 2, by inserting after line 21 the
45 following:

46 "Sec. _____. Section 572.14, subsection 1, Code
47 1987, is amended as follows:

48 1. Except as provided in subsection 2, payment to
49 the original contractor by the owner of any part or
50 all of the contract price of the building or

1 improvement before the lapse of the sixty ninety days
2 allowed by law for the filing of a mechanic's lien by
3 a subcontractor, does not relieve the owner from
4 liability to the subcontractor for the full value of
5 any material furnished or labor performed upon the
6 building, land, or improvement if the subcontractor
7 files a lien within the time provided by law for its
8 filing.

9 Sec. _____. Section 572.16, Code 1987, is amended to
10 read as follows:

11 572.16 RULE OF CONSTRUCTION.

12 Nothing in this chapter shall be construed to
13 require the owner to pay a greater amount or at an
14 earlier date than is provided in the owner's contract
15 with the principal contractor, unless said owner pays
16 a part or all of the contract price to the original
17 contractor before the expiration of the sixty ninety
18 days allowed by law for the filing of a mechanic's
19 lien by a subcontractor; provided that in the case of
20 an owner-occupied dwelling, nothing in this chapter
21 shall be construed to require the owner to pay a
22 greater amount or at an earlier date than is provided
23 in the owner's contract with the principal contractor,
24 unless the owner pays a part or all of the contract
25 price to the principal contractor after receipt of
26 notice under section 572.14, subsection 2.

27 Sec. _____. Section 572.27, Code 1987, is amended to
28 read as follows:

29 572.27 LIMITATION ON ACTION.

30 An action to enforce a mechanic's lien may be
31 brought within two years from the expiration of the
32 ~~sixty-or ninety days, -as-the-case-may-be,~~ for filing
33 the claim as provided in this chapter and not
34 afterwards."

35 4. By renumbering as necessary.

S-3319

Filed March 30, 1987

Adopted 4/2/87 (p. 1057)

BY RICHARD VARN

1 Section 1. Section 572.9, Code 1987, is amended to read as
2 follows:

3 572.9 TIME OF FILING.

4 The statement or account required by section 572.8 shall be
5 filed by a principal contractor or subcontractor within ninety
6 days, ~~and by a subcontractor within sixty days,~~ from the date
7 on which the last of the material was furnished or the last of
8 the labor was performed. A failure to file the same statement
9 or account within ~~said periods shall~~ the ninety-day period
10 does not defeat the lien, except as otherwise provided in this
11 chapter.

12 Sec. 2. Section 572.10, Code 1987, is amended to read as
13 follows:

14 572.10 PERFECTING SUBCONTRACTOR'S LIEN AFTER LAPSE OF
15 SIXTY NINETY DAYS.

16 After the lapse of the sixty ninety days prescribed in
17 section 572.9, a subcontractor may perfect a mechanic's lien
18 by filing a claim with the clerk of the district court and
19 giving written notice thereof to the owner, the owner's agent,
20 or trustee. Such notice may be served by any person in the
21 manner original notices are required to be served. If the
22 party to be served, the party's agent, or trustee, is out of
23 the county wherein the property is situated, a return of that
24 fact by the person charged with making such service shall
25 constitute sufficient service from and after the time it was
26 filed with the clerk of the district court.

27 Sec. 3. Section 572.11, Code 1987, is amended to read as
28 follows:

29 572.11 EXTENT OF LIEN FILED AFTER SIXTY NINETY DAYS.

30 Liens perfected under section 572.10 shall be enforced
31 against the property or upon the bond, if given, by the owner,
32 as hereinafter provided, only to the extent of the balance due
33 from the owner to the contractor at the time of the service of
34 such notice; but if the bond was given by the contractor, or
35 person contracting with the subcontractor filing the claim for

1 a lien, such bond shall be enforced to the full extent of the
2 amount found due the subcontractor.

3 Sec. 4. Section 572.12, Code 1987, is amended to read as
4 follows:

5 572.12 TIME OF FILING AGAINST RAILWAY.

6 Where a lien is claimed upon a railway, the subcontractor
7 shall have sixty ninety days from the last day of the month in
8 which such labor was done or material furnished within which
9 to file the claim therefor.

10 Sec. 5. Section 572.13, Code 1987, is amended to read as
11 follows:

12 572.13 LIABILITY OF OWNER TO ORIGINAL CONTRACTOR.

13 1. No An owner of any a building, land, or improvement
14 upon which a mechanic's lien of a subcontractor may be filed,
15 shall-be is not required to pay the original contractor for
16 compensation for work done or material furnished for said the
17 building, land, or improvement until the expiration of sixty
18 ninety days from the completion of said the building, or
19 improvement unless the original contractor shall-furnish
20 furnishes to the owner one of the following:

21 ‡ a. Receipts and waivers of claims for mechanics' liens,
22 signed by all persons who furnished any material or performed
23 any labor for said the building, land, or improvement, or.

24 ‡ b. A good and sufficient bond to be approved by said the
25 owner, conditioned that said the owner shall be held harmless
26 from any loss which the owner may sustain by reason of the
27 filing of mechanics' liens by subcontractors.

28 2. An original contractor who enters into a contract for
29 an owner-occupied dwelling and who has contracted or will
30 contract with a subcontractor to provide labor or furnish
31 material for the dwelling shall include the following notice
32 in any written contract with the owner and shall provide the
33 owner with a copy of the written contract:

34 "Persons or companies furnishing labor or materials for the
35 improvement of real property may enforce a lien upon the

1 improved property if they are not paid for their
2 contributions, even if the parties have no direct contractual
3 relationship with the owner."
4 If no written contract is entered into between the original
5 contractor and the dwelling owner, the original contractor
6 shall, within ten days of commencement of work on the
7 dwelling, provide written notice to the dwelling owner stating
8 the name and address of all subcontractors that the contractor
9 intends to use for the construction and, that the
10 subcontractors or suppliers may have lien rights in the event
11 they are not paid for their labor or material used on this
12 site; and the notice shall be updated as additional
13 subcontractors and suppliers are used from the names disclosed
14 on earlier notices.

15 An original contractor who fails to provide notice under
16 this section is not entitled to the lien and remedy provided
17 by this chapter as they pertain to any labor performed or
18 material furnished by a subcontractor not included in the
19 notice.

20 Sec. 6. Section 572.14, subsection 1, Code 1987, is
21 amended as follows:

22 1. Except as provided in subsection 2, payment to the
23 original contractor by the owner of any part or all of the
24 contract price of the building or improvement before the lapse
25 of the sixty ninety days allowed by law for the filing of a
26 mechanic's lien by a subcontractor, does not relieve the owner
27 from liability to the subcontractor for the full value of any
28 material furnished or labor performed upon the building, land,
29 or improvement if the subcontractor files a lien within the
30 time provided by law for its filing.

31 Sec. 7. Section 572.16, Code 1987, is amended to read as
32 follows:

33 572.16 RULE OF CONSTRUCTION.

34 Nothing in this chapter shall be construed to require the
35 owner to pay a greater amount or at an earlier date than is

1 provided in the owner's contract with the principal
2 contractor, unless said owner pays a part or all of the
3 contract price to the original contractor before the
4 expiration of the sixty ninety days allowed by law for the
5 filing of a mechanic's lien by a subcontractor; provided that
6 in the case of an owner-occupied dwelling, nothing in this
7 chapter shall be construed to require the owner to pay a
8 greater amount or at an earlier date than is provided in the
9 owner's contract with the principal contractor, unless the
10 owner pays a part or all of the contract price to the
11 principal contractor after receipt of notice under section
12 572.14, subsection 2.

13 Sec. 8. Section 572.27, Code 1987, is amended to read as
14 follows:

15 572.27 LIMITATION ON ACTION.

16 An action to enforce a mechanic's lien may be brought
17 within two years from the expiration of the sixty-or ninety
18 days, -as-the-case-may-be, for filing the claim as provided in
19 this chapter and not afterwards.

20 Sec. 9. Section 572.30, Code 1987, is amended to read as
21 follows:

22 572.30 ACTION BY SUBCONTRACTOR OR OWNER AGAINST
23 CONTRACTOR.

24 Unless otherwise agreed, a principal contractor who engages
25 a subcontractor to supply labor or materials or both for
26 improvements, alterations or repairs to a specific owner-
27 occupied dwelling shall pay the subcontractor in full for all
28 labor and materials supplied within thirty days after the date
29 the principal contractor receives full payment from the owner.
30 If a principal contractor fails without due cause to pay a
31 subcontractor as required by this section, the subcontractor,
32 or the owner by subrogation, may commence an action against
33 the contractor to recover the amount due and-the-court-may,-in
34 addition-to-actual-damages,-award-exemplary-damages-against
35 the-contractor-in-an-amount-not-exceeding-fifty-percent-of-the

1 ~~amount due the subcontractor, or the owner by subrogation, for~~
2 ~~the labor and materials supplied.~~ Prior to commencing an
3 action to recover the amount due, a subcontractor, or the
4 owner by subrogation, shall give notice of nonpayment of the
5 cost of labor or materials to the principal contractor paid
6 for the improvement. Notice of nonpayment must be in writing,
7 delivered in a reasonable manner, and in terms that reasonably
8 identify the real estate improved and the nonpayment
9 complained of. In an action to recover the amount due a
10 subcontractor, or the owner by subrogation, under this
11 section, the court in addition to actual damages, shall award
12 a successful plaintiff exemplary damages against the
13 contractor in an amount not less than one percent and not
14 exceeding fifteen percent of the amount due the subcontractor,
15 or the owner by subrogation, for the labor and materials
16 supplied, unless the principal contractor does one or both of
17 the following, in which case no exemplary damages shall be
18 awarded:

19 1. Establishes that all proceeds received from the person
20 making the payment have been applied to the cost of labor or
21 material furnished for the improvement.

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

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SSB #117
Judiciary

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the subcontractor's right to file a mechanic's
2 lien against the property for which labor is performed or
3 material is furnished.

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

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SUB COMMITTEE ASSIGNMENTS
CHAIR: *Varn*
COMMITTEE: *Judiciary*
2/23/87

1 Section 1. Section 572.9, Code 1987, is amended to read as
2 follows:

3 572.9 TIME OF FILING.

4 The statement or account required by section 572.8 shall be
5 filed by a principal contractor or subcontractor within ninety
6 days, ~~and by a subcontractor within sixty days,~~ from the date
7 on which the last of the material was furnished or the last of
8 the labor was performed. A failure to file the same statement
9 or account within ~~said periods shall~~ the ninety-day period
10 does not defeat the lien, except as otherwise provided in this
11 chapter.

12 Sec. 2. Section 572.13, Code 1987, is amended to read as
13 follows:

14 572.13 LIABILITY OF OWNER TO ORIGINAL CONTRACTOR.

15 1. No An owner of any a building, land, or improvement
16 upon which a mechanic's lien of a subcontractor may be filed,
17 ~~shall be~~ is not required to pay the original contractor for
18 compensation for work done or material furnished for ~~said the~~ the
19 building, land, or improvement until the expiration of sixty
20 days from the completion of ~~said the~~ the building, or improvement
21 unless the original contractor ~~shall furnish~~ furnishes to the
22 owner one of the following:

23 1 a. Receipts and waivers of claims for mechanics' liens,
24 signed by all persons who furnished any material or performed
25 any labor for ~~said the~~ the building, land, or improvement, ~~or.~~

26 2 b. A good and sufficient bond to be approved by ~~said the~~ the
27 owner, conditioned that ~~said the~~ the owner shall be held harmless
28 from any loss which the owner may sustain by reason of the
29 filing of mechanics' liens by subcontractors.

30 2. An original contractor who enters into a contract for
31 an owner-occupied dwelling and who has contracted or will
32 contract with a subcontractor to provide labor or furnish
33 material for the dwelling shall include following the notice
34 in any written contract with the owner and shall provide the
35 owner with a copy of the written contract:

1 "Persons or companies furnishing labor or materials for the
2 improvement of real property may enforce a lien upon the
3 improved land if they are not paid for their contributions,
4 even if the parties have no direct contractual relationship
5 with the owner."

6 If no written contract is entered into between the original
7 contractor and the dwelling owner, the original contractor
8 shall, within ten days of commencement of work on the
9 dwelling, provide written notice to the dwelling owner stating
10 the name and address of all subcontractors that the contractor
11 intends to use for the construction; and the notice shall be
12 updated as additional subcontractors and suppliers are used
13 from the names disclosed on earlier notices.

14 An original contractor who fails to provide notice under
15 this section is not entitled to the lien and remedy provided
16 by this chapter as they pertain to any labor performed or
17 material furnished by a subcontractor not included in the
18 notice.

19 Sec. 3. Section 572.30, Code 1987, is amended to read as
20 follows:

21 572.30 ACTION BY SUBCONTRACTOR OR OWNER AGAINST
22 CONTRACTOR.

23 Unless otherwise agreed, a principal contractor who engages
24 a subcontractor to supply labor or materials or both for
25 improvements, alterations or repairs to a specific owner-
26 occupied dwelling shall pay the subcontractor in full for all
27 labor and materials supplied within thirty days after the date
28 the principal contractor receives full payment from the owner.
29 If a principal contractor fails without due cause to pay a
30 subcontractor as required by this section, the subcontractor,
31 or the owner by subrogation, may commence an action against
32 the contractor to recover the amount due ~~and the court may, in~~
33 ~~addition to actual damages, award exemplary damages against~~
34 ~~the contractor in an amount not exceeding fifty percent of the~~
35 ~~amount due the subcontractor, or the owner by subrogation, for~~

1 ~~the-labor-and-materials-supplied.~~ Prior to commencing an
2 action to recover the amount due, a subcontractor, or the
3 owner by subrogation, shall give notice of nonpayment of the
4 cost of labor or materials to the principal contractor paid
5 for the improvement. Notice of nonpayment must be in writing,
6 delivered in a reasonable manner, and in terms that reasonably
7 identify the real estate improved and the nonpayment
8 complained of. In an action to recover the amount due a
9 subcontractor, or the owner by subrogation, under this
10 section, the court in addition to actual damages, shall award
11 a successful plaintiff exemplary damages against the
12 contractor in an amount not exceeding fifteen percent of the
13 amount due the subcontractor, or the owner by subrogation, for
14 the labor and materials supplied, unless the principal
15 contractor does one or both of the following, in which case no
16 exemplary damages shall be awarded:

17 1. Establishes that all proceeds received from the person
18 making the payment have been applied to the cost of labor or
19 material furnished for the improvement.

20 2. Within fifteen days after receiving notice of
21 nonpayment the principal contractor gives a bond or makes a
22 deposit with the clerk of the district court, in an amount and
23 form approved by a judge of the district court, to hold
24 harmless the owner or person having the improvement made from
25 any claim for payment of anyone furnishing labor or material
26 for the improvement, other than the principal contractor.

27 EXPLANATION

28 This bill amends provisions related to the filing of
29 mechanic's liens permitting a subcontractor to file a
30 mechanic's lien directly against the property for which labor
31 is provided or material is furnished and alters notice and
32 exemplary damage provisions. Additional provisions require
33 original contractors to give owners notice of a
34 subcontractor's right to enforce a lien against the property.

35 Section 1 extends the time of filing of a mechanic's lien

1 for a subcontractor from sixty days to ninety days.

2 Section 2 requires an original contractor to provide
3 written notice to an owner of the right of a subcontractor to
4 enforce a lien upon the improved land if the subcontractor is
5 not paid for its contribution. An original contractor who
6 fails to provide notice to an owner will no longer have the
7 lien remedy as to any labor provided or material furnished by
8 a subcontractor not included in the notice.

9 Section 3 removes a limitation that labor be provided or
10 materials furnished to a specific owner-occupied dwelling,
11 before a subcontractor may utilize the relief procedure
12 provided by section 570.30 and reduces possible exemplary
13 damages to fifteen percent of the amount due, but conditions
14 the procedure on the principal contractor's failure to take
15 certain actions.

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SENATE FILE 423

AN ACT

RELATING TO THE SUBCONTRACTOR'S RIGHT TO FILE A MECHANIC'S LIEN AGAINST THE PROPERTY FOR WHICH LABOR IS PERFORMED OR MATERIAL IS FURNISHED.

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

Section 1. Section 572.9, Code 1987, is amended to read as follows:

572.9 TIME OF FILING.

The statement or account required by section 572.8 shall be filed by a principal contractor or subcontractor within ninety days, ~~and by a subcontractor within sixty days,~~ from the date on which the last of the material was furnished or the last of the labor was performed. A failure to file the same statement or account within said periods shall the ninety-day period does not defeat the lien, except as otherwise provided in this chapter.

Sec. 2. Section 572.10, Code 1987, is amended to read as follows:

572.10 PERFECTING SUBCONTRACTOR'S LIEN AFTER LAPSE OF SIXTY NINETY DAYS.

After the lapse of the sixty ninety days prescribed in section 572.9, a subcontractor may perfect a mechanic's lien by filing a claim with the clerk of the district court and giving written notice thereof to the owner, the owner's agent, or trustee. Such notice may be served by any person in the manner original notices are required to be served. If the party to be served, the party's agent, or trustee, 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.

Sec. 3. Section 572.11, Code 1987, is amended to read as follows:

572.11 EXTENT OF LIEN FILED AFTER SIXTY NINETY DAYS.

Liens perfected under section 572.10 shall be enforced against the property or upon the bond, if given, by the owner, as hereinafter provided, only to the extent of the balance due from the owner to the contractor at the time of the service of such notice; but if the bond was given by the contractor, 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. 4. Section 572.12, Code 1987, is amended to read as follows:

572.12 TIME OF FILING AGAINST RAILWAY.

Where a lien is claimed upon a railway, the subcontractor shall have sixty ninety days from the last day of the month in which such labor was done or material furnished within which to file the claim therefor.

Sec. 5. Section 572.13, Code 1987, is amended to read as follows:

572.13 LIABILITY OF OWNER TO ORIGINAL CONTRACTOR.

1. No An owner of any a building, land, or improvement upon which a mechanic's lien of a subcontractor may be filed, shall be is not required to pay the original contractor for compensation for work done or material furnished for said the building, land, or improvement until the expiration of sixty ninety days from the completion of said the building or improvement unless the original contractor shall furnish furnishes to the owner one of the following:

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

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

2. An original contractor who enters into a contract for an owner-occupied dwelling and who has contracted or will contract with a subcontractor to provide labor or furnish material for the dwelling shall include the following notice in any written contract with the owner and shall provide the owner with a copy of the written contract:

"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."

If no written contract is entered into between the original contractor and the dwelling owner, the original contractor shall, within ten days of commencement of work on the dwelling, provide written notice to the dwelling owner stating the name and address of all subcontractors that the contractor intends to use for the construction and, that the subcontractors or suppliers may have lien rights in the event they are not paid for their labor or material used on this site; and the notice shall be updated as additional subcontractors and suppliers are used from the names disclosed on earlier notices.

An original contractor who fails to provide notice under this section is not entitled to the lien and remedy provided by this chapter as they pertain to any labor performed or material furnished by a subcontractor not included in the notice.

Sec. 6. Section 572.14, subsection 1, Code 1987, is amended to read as follows:

1. Except as provided in subsection 2, payment to the original contractor by the owner of any part or all of the contract price of the building or improvement before the lapse of the sixty ninety days allowed by law for the filing of a mechanic's lien 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 files a lien within the time provided by law for its filing.

Sec. 7. Section 572.16, Code 1987, 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 contractor, unless said owner pays a part or all of the contract price to the original contractor before the expiration of the sixty ninety days allowed by law for the filing of a mechanic's lien by a subcontractor; provided that in the case of an owner-occupied dwelling, 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 contractor, unless the owner pays a part or all of the contract price to the principal contractor after receipt of notice under section 572.14, subsection 2.

Sec. 8. Section 572.27, Code 1987, is amended to read as follows:

572.27 LIMITATION ON ACTION.

An action to enforce a mechanic's lien may be brought within two years from the expiration of the sixty-or ninety days-as-the-case-may-be for filing the claim as provided in this chapter and not afterwards.

Sec. 9. Section 572.30, Code 1987, is amended to read as follows:

572.30 ACTION BY SUBCONTRACTOR OR OWNER AGAINST CONTRACTOR.

Unless otherwise agreed, a principal contractor who engages a subcontractor to supply labor or materials or both for improvements, alterations or repairs to a specific owner-occupied dwelling shall pay the subcontractor in full for all

labor and materials supplied within thirty days after the date the principal contractor receives full payment from the owner. If a principal contractor 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 contractor to recover the amount due and the court may, in addition to actual damages, award exemplary damages against the contractor in an amount not exceeding fifty percent of the amount due the subcontractor, or the owner by subrogation, for the labor and materials supplied. 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 contractor 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 contractor 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 contractor 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 contractor gives a bond or makes a deposit with the clerk of the district court, in an amount not less than the amount necessary to satisfy the nonpayment for which notice has been given under this section, and 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 contractor.

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 423, Seventy-second General Assembly.

JOHN F. DWZER
Secretary of the Senate

Approved *April 29* 1987

TERRY E. BRANSTAD
Governor

SF 423