

572.13B Preliminary notice — subcontractor — residential construction.

1. A subcontractor shall post a preliminary notice to the mechanics' notice and lien 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 mechanics' notice and lien 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 mechanics' notice and lien 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 mechanics' notice and lien 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.

2012 Acts, ch 1105, §10, 27, 28; 2012 Acts, ch 1138, §13, 41, 43

Referred to in §572.8, 572.13A, 572.14, 572.16, 572.18, 572.34

[SP] 2012 amendments to section take effect January 1, 2013; mechanics' liens filed prior to that date shall remain with the clerk of district court of the county in which the building, land, or improvement charged with the lien is situated; 2012 Acts, ch 1105, §27, 28

[SP] Notice provisions contained in 2012 Acts, ch 1105, relating to residential construction apply only to material furnished or labor performed after January 1, 2013; 2012 Acts, ch 1138, §13, 43

[T] NEW section