

CHAPTER 572

MECHANIC'S LIEN

Referred to in §458A.25, 570.1, 617.11

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572.1 Definitions and rules of construction.

For the purpose of this chapter:

1. "Administrator" means the secretary of state.
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.
4. "Labor" means labor completed by the claimant.
5. "Material", in addition to its ordinary meaning, 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.
6. "Mechanics' notice and lien 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.
7. "Mechanics' notice and lien registry number" means a number provided by the administrator for all residential construction properties posted to the mechanics' notice and lien registry.
8. "Owner" means the legal or equitable titleholder of record.
9. "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.

10. "*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.

11. "*Subcontractor*" 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.

[C51, §982; R60, §1866, 1871; C73, §2144, 2146; C97, §3096, 3097; C24, 27, 31, 35, 39, §10270; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.1; 81 Acts, ch 186, §1]

98 Acts, ch 1142, §1; 2007 Acts, ch 83, §1, 2; 2012 Acts, ch 1105, §2, 27, 28; 2012 Acts, ch 1138, §13, 40, 43

[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

572.2 Persons entitled to lien.

1. Every person who furnishes any material or labor for, or 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.

[C51, §981, 1010; R60, §1846; C73, §2130; C97, §3089; C24, 27, 31, 35, 39, §10271; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.2]

98 Acts, ch 1142, §2; 2007 Acts, ch 83, §3; 2012 Acts, ch 1105, §3, 27, 28; 2012 Acts, ch 1138, §13

[P] Homestead liable, §561.21

[SP] 2012 amendment to section takes 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

572.3 Collateral security before completion of work.

No person shall be entitled to a mechanic's lien who, at the time of making a contract for furnishing material or performing labor, or during the progress of the work, shall take any collateral security on such contract.

[C51, §1009; R60, §1845; C73, §2129; C97, §3088; C24, 27, 31, 35, 39, §10272; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.3]

572.4 Security after completion of work.

After the completion of such work, the taking of security of any kind shall not affect the right to establish a mechanic's lien unless such new security shall, by express agreement, be given and received in lieu of such lien.

[C97, §3088; C24, 27, 31, 35, 39, §10273; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.4]

572.5 Extent of lien.

The entire land upon which any building or improvement is situated, including that portion not covered therewith, shall be subject to a mechanic's lien to the extent of the interest therein of the person for whose benefit such material was furnished or labor performed.

[R60, §1854; C73, §2140; C97, §3090; C24, 27, 31, 35, 39, §10274; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.5]

572.6 In case of leasehold interest.

When the interest of such person is only a leasehold, the forfeiture of the lease for the nonpayment of rent, or for noncompliance with any of the other conditions therein, shall not forfeit or impair the mechanic's lien upon such building or improvement; but the same may be sold to satisfy such lien, and removed by the purchaser within thirty days after the sale thereof.

[R60, §1854; C73, §2140; C97, §3090; C24, 27, 31, 35, 39, §10275; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.6]

572.7 In case of internal improvement.

When the lien is for material furnished or labor performed in the construction, repair, or equipment of any railroad, canal, viaduct, or other similar improvement, said lien shall attach to the erections, excavations, embankments, bridges, roadbeds, rolling stock, and other equipment and to all land upon which such improvements or property may be situated, except the easement or right-of-way.

[C73, §2132; C97, §3091; C24, 27, 31, 35, 39, §10276; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.7]

572.8 Perfection of lien.

1. A person shall perfect a mechanic's lien by posting to the mechanics' notice and lien registry internet site 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 that adequately describes 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 posting of the lien, the administrator shall mail a copy of the lien to the owner. If the statement of the lien consists of more than one page, the administrator may omit such pages as consist solely of an accounting of the material furnished or labor performed. In this case, the administrator shall attach a notification that pages of accounting were omitted and may be inspected on the mechanics' notice and lien registry internet site.

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 mechanics' notice and lien registry internet site 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.

[R60, §1851; C73, §2137; C97, §3092; C24, 27, 31, 35, 39, §10277; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.8]

2007 Acts, ch 83, §4; 2012 Acts, ch 1105, §4, 27, 28; 2012 Acts, ch 1138, §13, 40, 43; 2013 Acts, ch 90, §257; 2013 Acts, ch 99, §1

Referred to in §572.9, 572.10, 572.17, 572.31, 602.8102(8)

[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] Code editor directive applied

[T] Subsection 1, paragraph b amended

572.9 Time of lien posting.

The statement of account required by section 572.8 shall be posted by a 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.

[R60, §1851; C73, §2137; C97, §3092; C24, 27, 31, 35, 39, §10278; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.9]

87 Acts, ch 79, §1; 2007 Acts, ch 83, §5; 2012 Acts, ch 1105, §5, 27, 28; 2012 Acts, ch 1138, §13

Referred to in §572.31

[SP] 2012 amendment to section takes 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

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 posting a lien to the mechanics' notice and lien registry internet site 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 posted to the mechanics' notice and lien registry internet site.

[C73, §2133; C97, §3094; SS15, §3094; C24, 27, 31, 35, 39, §10279; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.10]

87 Acts, ch 79, §2; 2007 Acts, ch 83, §6; 2012 Acts, ch 1105, §6, 27, 28; 2012 Acts, ch 1138, §13, 40, 43; 2013 Acts, ch 90, §257

Referred to in §572.11, 572.20

[P] Service of notice, R.C.P. 1.302 - 1.315

[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] Code editor directive applied

572.11 Extent of lien 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 posting the claim for a lien, such bond shall be enforced to the full extent of the amount found due the subcontractor.

[C73, §2133; C97, §3094; SS15, §3094; C24, 27, 31, 35, 39, §10280; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.11]

87 Acts, ch 79, §3; 2007 Acts, ch 83, §7; 2012 Acts, ch 1105, §7, 27, 28; 2012 Acts, ch 1138, §13; 2013 Acts, ch 99, §2

Referred to in §572.20

[SP] 2012 amendment to section takes 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

[T] Section amended

572.12 Time of filing against railway.

Where a lien is claimed upon a railway, the subcontractor shall have 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.

[R60, §1851; C73, §2137; C97, §3092; C24, 27, 31, 35, 39, §10281; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.12]
87 Acts, ch 79, §4

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 mechanics' notice and lien 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 site address and toll-free telephone number of the mechanics' notice and lien 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.

[R60, §1847; C73, §2131; C97, §3093; S13, §3093; C24, 27, 31, 35, 39, §10282; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.13]

87 Acts, ch 79, §5; 2007 Acts, ch 83, §8, 9; 2011 Acts, ch 25, §69; 2012 Acts, ch 1105, §8, 27, 28; 2012 Acts, ch 1138, §13, 40, 43; 2013 Acts, ch 90, §257

Referred to in §572.13A, 572.13B

[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] Code editor directive applied

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 mechanics' notice and lien registry internet site no later than ten days after the 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 that adequately describes the property to be charged with the lien.
- 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 mechanics' notice and lien registry internet site 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 posting of the required preliminary notice pursuant to section 572.13B. A notice of commencement of work must be posted to the mechanics' notice and lien registry internet site 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 mechanics' notice and lien registry internet site, the administrator shall assign a mechanics' notice and lien 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 mechanics' notice and lien 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 mechanics' notice and lien 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 mechanics' notice and lien registry internet site 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 mechanics' notice and lien registry is posted on the internet site of the mechanics' notice and lien 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 as posted to the mechanics' notice and lien registry by the general contractor, owner-builder, or subcontractor. 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 if a mailing address has been assigned to the property by the United States postal service.

d. Notices under this section shall not be sent to owner-builders.

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.

2012 Acts, ch 1105, §9, 27, 28; 2012 Acts, ch 1138, §13, 41, 43; 2013 Acts, ch 90, §257; 2013 Acts, ch 99, §3 – 5

Referred to in §572.8, 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] See Code editor's note on simple harmonization

[T] Code editor directive applied

[T] Subsections 1 and 2 amended

[T] Subsection 3, paragraph c amended

[T] Subsection 3, NEW paragraph d

572.13B Preliminary notice — subcontractor — residential construction.

1. A subcontractor shall post a preliminary notice to the mechanics' notice and lien registry internet site. 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 that adequately describes the property to be charged with the lien.

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 post 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 proof of service 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; 2013 Acts, ch 90, §257; 2013 Acts, ch 99, §6, 7

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] Code editor directive applied

[T] Subsection 1, paragraph g amended

[T] Subsection 2 amended

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.

[S13, §3093; C24, 27, 31, 35, 39, §10283; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.14; 81 Acts, ch 186, §2]

87 Acts, ch 79, §6; 98 Acts, ch 1142, §3; 2007 Acts, ch 83, §10; 2012 Acts, ch 1105, §11, 27, 28; 2012 Acts, ch 1138, §13

[SP] 2012 amendment to section takes 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

572.15 Discharge of mechanic's lien — bond.

A mechanic's lien may be discharged at any time by submitting a bond to the administrator in twice the amount of the sum for which the claim for the lien is posted, with surety or sureties, to be approved by the administrator, conditioned for the payment of any sum for which the claimant may obtain judgment upon the claim.

[C97, §3093; S13, §3093; C24, 27, 31, 35, 39, §10284; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.15]

86 Acts, ch 1017, §1; 2007 Acts, ch 83, §11; 2012 Acts, ch 1105, §12, 27, 28; 2012 Acts, ch 1138, §13; 2013 Acts, ch 99, §8

[SP] 2012 amendment to section takes 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

[T] Section amended

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 general contractor, unless the owner pays a part or all of the contract price to the general contractor before the expiration of the ninety days allowed by law for the posting of a mechanic's lien by a subcontractor; provided that in the case of 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 general contractor, unless the owner pays a part or all of the contract price to the general contractor after the owner receives notice pursuant to section 572.13B, subsection 2 or section 572.13B, subsection 3, paragraph "b".

[C97, §3093; S13, §3093; C24, 27, 31, 35, 39, §10285; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.16; 81 Acts, ch 186, §3]

87 Acts, ch 79, §7; 2012 Acts, ch 1105, §13, 27, 28; 2012 Acts, ch 1138, §13

[SP] 2012 amendment to section takes 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

572.17 Priority of mechanics' liens between mechanics.

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

[R60, §1853, 1855; C73, §2139, 2141; C97, §3095; C24, 27, 31, 35, 39, §10286; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.17]

2012 Acts, ch 1105, §14, 27, 28; 2012 Acts, ch 1138, §13

[SP] 2012 amendment to section takes 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

572.18 Priority over other liens.

1. Mechanics' liens posted by a 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 mechanics' notice and lien registry internet site 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.

2. Construction mortgage liens shall be preferred to all mechanics' liens of claimants who commenced their particular work or improvement subsequent to the date of the recording of the construction mortgage lien. For purposes of this section, a lien is a "construction mortgage lien" to the extent that it secures loans or advancements made to directly finance work or improvements upon the real estate which secures the lien.

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.

4. For purposes of this section, a lender who obtains an interest in the real estate by assignment of a mortgage shall be entitled to the same priority as the original mortgagee.

[R60, §1851, 1853, 1855; C73, §2137, 2139, 2141; C97, §3092, 3095; C24, 27, 31, 35, 39, §10287; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.18]

84 Acts, ch 1215, §1; 2007 Acts, ch 83, §12; 2012 Acts, ch 1105, §15, 27, 28; 2012 Acts, ch 1138, §13, 40, 43; 2013 Acts, ch 90, §257

Referred to in §654.12A

[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] Code editor directive applied

572.19 Priority over garnishments of the owner.

Mechanics' liens shall take priority over all garnishments of the owner for the contract debts, whether made prior or subsequent to the commencement of the furnishing of the material or performance of the labor, without regard to the date of posting the claim for such lien.

[C97, §3095; C24, 27, 31, 35, 39, §10288; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.19]

2013 Acts, ch 99, §9

[T] Section amended

572.20 Priority as to buildings over prior liens upon land.

Mechanics' liens, including those for additions, repairs, and betterments, shall attach to the building or improvement for which the material or labor was furnished or done, in preference to any prior lien, encumbrance, or mortgage upon the land upon which such building or improvement was erected or situated except as provided in sections 572.10 and 572.11.

[R60, §1853, 1855; C73, §2139, 2141; C97, §3095; C24, 27, 31, 35, 39, §10289; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.20]

2007 Acts, ch 83, §13

572.21 Foreclosure of mechanic's lien when lien on land.

In the foreclosure of a mechanic's lien when there is a superior lien, encumbrance, or mortgage upon the land the following regulations shall govern:

1. *Lien on original and independent building or improvement.* If such material was furnished or labor performed in the construction of an original and independent building or improvement commenced after the attaching or execution of such superior lien, encumbrance, or mortgage, the court may, in its discretion, order such building or improvement to be sold separately under execution, and the purchaser may remove the same in such reasonable time as the court may fix. If the court shall find that such building or improvement should not be sold separately, it shall take an account of and ascertain the separate values of the land, and the building or improvement, and order the whole sold, and distribute the proceeds of such sale so as to secure to the superior lien, encumbrance, or mortgage priority upon the land, and to the mechanic's lien priority upon the building or improvement.

2. *Lien on existing building or improvement for repairs or additions.* If the material furnished or labor performed was for additions, repairs, or betterments upon any building or improvement, the court shall take an accounting of the values before such material was furnished or labor performed, and the enhanced value caused by such additions, repairs, or betterments; and upon the sale of the premises, distribute the proceeds of such sale so as to secure to the superior mortgagee or lienholder priority upon the land and improvements as they existed prior to the attaching of the mechanic's lien, and to the mechanic's lienholder priority upon the enhanced value caused by such additions, repairs, or betterments. In case

the premises do not sell for more than sufficient to pay off the superior mortgage or other superior lien, the proceeds shall be applied on the superior mortgage or other superior liens.

[R60, §1853, 1855; C73, §2139, 2141; C97, §3095; C24, 27, 31, 35, 39, §10290; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.21]

2007 Acts, ch 83, §14

572.22 Record of claim.

Each claim posted to the mechanics' notice and lien registry internet site shall be properly indexed and shall contain the following items:

1. The name of the person by whom posted.
2. The date and hour of posting.
3. The amount thereof.
4. The name of the person against whom posted.
5. The legal description that adequately describes the property to be charged with the lien.
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.

[R60, §1852; C73, §2138; C97, §3100; C24, 27, 31, 35, 39, §10291; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.22]

2007 Acts, ch 83, §15; 2012 Acts, ch 1105, §16, 27, 28; 2012 Acts, ch 1138, §13, 40, 43; 2013 Acts, ch 90, §257; 2013 Acts, ch 99, §10, 11; 2013 Acts, ch 140, §79

[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] See Code editor's note on simple harmonization

[T] Code editor directive applied

[T] Unnumbered paragraph 1 amended

[T] Subsection 5 amended

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 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, general contractor, or owner-builder and be liable to any person injured to the extent of the injury.

2. If satisfaction is not 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 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 posting shall be constructive notice to all parties of the due forfeiture and cancellation of the lien. Upon the posting of the demand with the required attachments, the administrator shall mail a date-stamped copy of the demand to both parties.

[R60, §1867 – 1869; C73, §2145; C97, §3101; C24, 27, 31, 35, 39, §10292; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.23]

99 Acts, ch 79, §1; 2000 Acts, ch 1154, §34; 2012 Acts, ch 1105, §17, 27, 28; 2012 Acts, ch 1138, §13; 2013 Acts, ch 99, §12

[SP] 2012 amendment to section takes 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

[T] Subsection 2 amended

572.24 Time of bringing action — court.

1. An action to enforce a mechanic's lien, or an action brought upon any bond given in lieu thereof, may be commenced in the district court after said lien is perfected.

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 submit the ruling to the administrator who shall make a posting to the mechanics' notice and lien registry internet site regarding the proper amount of the lien or, if warranted, canceling the lien.

[R60, §1856; C73, §2142, 2143; C97, §3098; C24, 27, 31, 35, 39, §10293; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.24]

99 Acts, ch 79, §2; 2012 Acts, ch 1105, §18, 27, 28; 2012 Acts, ch 1138, §13, 40, 43; 2013 Acts, ch 90, §257

Referred to in §631.1

[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] Code editor directive applied

572.25 Place of bringing action.

An action to enforce a mechanic's lien shall be brought in the county in which the property to be affected, or some part thereof, is situated.

[C73, §2142, 2578; C97, §3098, 3493; C24, 27, 31, 35, 39, §10294; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.25]

572.26 Kinds of action — amendment.

An action to enforce a mechanic's lien shall be by equitable proceedings, and no other cause of action shall be joined therewith.

Any lien statement may be amended by leave of court in furtherance of justice, except as to the amount demanded.

[C51, §985; R60, §4183; C73, §2510; C97, §3429; C24, 27, 31, 35, 39, §10295; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.26]

572.27 Limitation on action.

Any action to enforce a mechanic's lien shall be brought within two years from the expiration of ninety days after the date on which the last of the material was furnished or the last of the labor was performed.

[C51, §984; R60, §1865; C73, §2529; C97, §3447; S13, §3447; C24, 27, 31, 35, 39, §10296; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.27]

87 Acts, ch 79, §8; 2007 Acts, ch 83, §16

572.28 Demand for bringing suit.

1. Upon the written demand of the owner served on the claimant requiring the claimant to commence action to enforce the lien, such action shall be commenced within thirty days thereafter, or the lien and all benefits derived therefrom shall be forfeited.

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 post with the 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 posting of the demand with the required attachments, the administrator shall mail a date-stamped copy of the demand to both parties.

[C73, §2143; C97, §3099; C24, 27, 31, 35, 39, §10297; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.28]

99 Acts, ch 79, §3; 2007 Acts, ch 83, §17; 2012 Acts, ch 1105, §19, 27, 28; 2012 Acts, ch 1138, §13; 2013 Acts, ch 99, §13

[SP] 2012 amendment to section takes 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

[T] Subsection 1 amended

572.29 Assignment of lien.

A mechanic's lien is assignable, and shall follow the assignment of the debt for which it is claimed.

[C97, §3099; C24, 27, 31, 35, 39, §10298; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §572.29]

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

Unless otherwise agreed, a general contractor or owner-builder who engages a subcontractor to supply labor or materials or both for improvements, alterations, or repairs to a specific residential construction property shall pay the subcontractor in full for all labor and materials supplied within thirty days after the date the general contractor or owner-builder receives full payment from the owner. If a 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 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 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 general contractor or owner-builder gives a bond, 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 the administrator, 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 general contractor or owner-builder.

[81 Acts, ch 186, §4]

87 Acts, ch 79, §9; 2012 Acts, ch 1105, §20, 27, 28; 2012 Acts, ch 1138, §13; 2013 Acts, ch 99, §14

[SP] 2012 amendment to section takes 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

[T] Subsection 2 amended

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 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 unit is posted 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 unit.

[C81, §572.30]

C83, §572.31

2012 Acts, ch 1105, §21, 27, 28; 2012 Acts, ch 1138, §13; 2013 Acts, ch 99, §15

[SP] 2012 amendment to section takes 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

[T] Section amended

572.32 Attorney fees — remedies.

1. In a court action to enforce a mechanic's lien, a prevailing plaintiff may be awarded reasonable attorney fees.

2. In a court action to challenge a mechanic's lien posted on 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 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.

83 Acts, ch 106, §1; 99 Acts, ch 79, §4; 2012 Acts, ch 1105, §22, 27, 28; 2012 Acts, ch 1138, §13

Referred to in §631.1

[SP] 2012 amendment to section takes 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

572.33 Requirement of notification for commercial construction.

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

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 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 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".

3. Notwithstanding other provisions of this chapter, a 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.

84 Acts, ch 1248, §1; 98 Acts, ch 1142, §4; 99 Acts, ch 104, §1; 2007 Acts, ch 83, §18; 2012 Acts, ch 1105, §23, 27, 28

[SP] 2012 amendment to section takes 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

572.33A Liability of owner to general contractor — commercial construction.

1. An owner of a building, land, or improvement upon which a mechanic's lien of a subcontractor may be posted, 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:

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

b. 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 posting of mechanics' liens by subcontractors.

2. This section applies only to commercial construction properties.

2012 Acts, ch 1105, §24, 27, 28; 2013 Acts, ch 99, §16

[SP] Section takes 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

[T] Section amended

572.34 Mechanics' notice and lien registry.

1. A mechanics' notice and lien 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 mechanics' notice and lien registry shall be accessible to the general public through the administrator's internet site.

3. The registry shall be indexed by owner name, general contractor name, mechanics' notice and lien 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. Any person who posts fictitious, forged, or false information to the mechanics' notice and lien 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 on the mechanics' notice and lien registry internet site 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 site. The administrator shall not charge a posting 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 posting fee for a mechanic's lien that exceeds forty dollars.

7. Notices may be posted to the mechanics' notice and lien registry electronically on the administrator's internet site, 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 mechanics' notice and lien registry within three business days of receipt.

8. Mechanics' liens may be posted to the mechanics' notice and lien registry electronically on the administrator's internet site 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 mechanics' notice and lien 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 mechanics' notice and lien registry.

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

12. A preliminary notice that remains posted on the mechanics' notice and lien registry internet site two years after the date of posting shall be declared inactive by the administrator, unless renewed. A notice of commencement of work, if there are no related active postings, shall be declared inactive two years from the date of posting, unless renewed. The administrator shall establish a process for the removal of inactive notices and for the renewal of notices pursuant to rule.

13. The administrator shall make, or cause to be made, preservation duplicates of mechanics' notice and lien 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.

2012 Acts, ch 1105, §25, 27, 28; 2012 Acts, ch 1138, §13, 41, 43; 2013 Acts, ch 90, §257; 2013 Acts, ch 99, §17; 2013 Acts, ch 140, §79

[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] See Code editor's note on simple harmonization

[T] Code editor directive applied

[T] Section amended