

Senate File 360

S-3174

1 Amend Senate File 360 as follows:

2 1. By striking everything after the enacting clause
3 and inserting:

4 <Section 1. Section 572.8, subsection 1, paragraph
5 b, Code 2013, is amended to read as follows:

6 b. The legal description ~~of that adequately~~
7 describes the property to be charged with the lien.

8 Sec. 2. Section 572.11, Code 2013, is amended to
9 read as follows:

10 **572.11 Extent of lien posted after ninety days.**

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

22 Sec. 3. Section 572.13A, subsections 1 and 2, Code
23 2013, are amended to read as follows:

24 1. A general contractor or owner-builder who has
25 contracted or will contract with a subcontractor to
26 provide labor or furnish material for the property
27 shall post a notice of commencement of work to the
28 mechanics' notice and lien registry internet website
29 ~~within no later than ten days of~~ after the commencement
30 of work on the property. A notice of commencement
31 of work is effective only as to any labor, service,
32 equipment, or material furnished to the property
33 subsequent to the posting of the notice of commencement
34 of work. A notice of commencement of work shall
35 include all of the following information:

36 a. The name and address of the owner.

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

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

42 d. The legal description ~~of that adequately~~
43 describes the property to be charged with the lien.

44 e. The date work commenced.

45 f. The tax parcel identification number.

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

48 2. If a general contractor or owner-builder
49 fails to post the required notice of commencement
50 of work to the mechanics' notice and lien registry

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1 internet website pursuant to subsection 1, within ten
2 days of commencement of the work on the property, a
3 subcontractor may post the notice in conjunction with
4 the filing posting of the required preliminary notice
5 pursuant to section 572.13B. A notice of commencement
6 of work must be posted to the mechanics' notice and
7 lien registry internet website before preliminary
8 notices pursuant to section 572.13B may be posted.

9 Sec. 4. Section 572.13A, subsection 3, paragraph c,
10 Code 2013, is amended to read as follows:

11 c. The notice described in subsection 1 shall be
12 sent to the owner's address as posted to the mechanics'
13 notice and lien registry by the general contractor,
14 owner-builder, or subcontractor. If the owner's
15 address is different than the property address, a
16 copy of the notice shall also be sent to the property
17 address, addressed to the owner if a mailing address
18 has been assigned to the property by the United States
19 postal service.

20 Sec. 5. Section 572.13A, subsection 3, Code 2013,
21 is amended by adding the following new paragraph:

22 NEW PARAGRAPH. d. Notices under this section shall
23 not be sent to owner-builders.

24 Sec. 6. Section 572.13B, subsection 1, paragraph g,
25 Code 2013, is amended to read as follows:

26 g. The legal description ~~of~~ that adequately
27 describes the property to be charged with the lien.

28 Sec. 7. Section 572.13B, subsection 2, Code 2013,
29 is amended to read as follows:

30 2. At the time a preliminary notice is posted
31 to the mechanics' notice and lien registry, the
32 administrator shall send notification to the owner,
33 including the owner notice described in section 572.13,
34 subsection 1, and shall ~~do not~~ post the mailing of
35 the notice on the mechanics' notice and lien registry
36 as prescribed by the administrator pursuant to rule.
37 Notices under this section shall not be sent to
38 owner-builders. Upon request, the administrator shall
39 provide an affidavit of mailing proof of service at no
40 cost for the notice required under this section.

41 Sec. 8. Section 572.15, Code 2013, is amended to
42 read as follows:

43 **572.15 Discharge of mechanic's lien — bond.**

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

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1 Sec. 9. Section 572.19, Code 2013, is amended to
2 read as follows:

3 **572.19 Priority over garnishments of the owner.**

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

10 Sec. 10. Section 572.22, unnumbered paragraph 1,
11 Code 2013, is amended to read as follows:

12 ~~The administrator shall endorse upon every claim for~~
13 ~~a mechanic's lien posted to the mechanics' notice and~~
14 ~~lien registry internet website the date and hour of~~
15 ~~posting.~~ Each claim posted to the mechanics' notice
16 and lien registry internet website shall be properly
17 indexed and shall contain the following items:

18 Sec. 11. Section 572.22, subsection 5, Code 2013,
19 is amended to read as follows:

20 5. The legal description ~~of~~ that adequately
21 describes the property to be charged with the lien.

22 Sec. 12. Section 572.23, subsection 2, Code 2013,
23 is amended to read as follows:

24 2. If satisfaction is not acknowledged within
25 thirty days after service of the demand in writing,
26 the party serving the demand or causing the demand to
27 be served may file for record with the administrator
28 a copy of the demand with proofs of service attached
29 and endorsed and, in case of service by publication,
30 a personal affidavit that personal service could
31 not be made within this state. Upon completion
32 of the requirements of this subsection, the ~~record~~
33 posting shall be constructive notice to all parties
34 of the due forfeiture and cancellation of the lien.
35 Upon the filing posting of the demand with the
36 required attachments, the administrator shall mail a
37 date-stamped copy of the demand to both parties.

38 Sec. 13. Section 572.28, subsection 1, Code 2013,
39 is amended to read as follows:

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

46 Sec. 14. Section 572.30, subsection 2, Code 2013,
47 is amended to read as follows:

48 2. Within fifteen days after receiving notice of
49 nonpayment the general contractor or owner-builder
50 gives a bond ~~or makes a deposit with the administrator,~~

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1 in an amount not less than the amount necessary to
2 satisfy the nonpayment for which notice has been
3 given under this section, and in a form approved by a
4 ~~judge of the district court~~ the administrator, to hold
5 harmless the owner or person having the improvement
6 made from any claim for payment of anyone furnishing
7 labor or material for the improvement, other than the
8 general contractor or owner-builder.

9 Sec. 15. Section 572.31, Code 2013, is amended to
10 read as follows:

11 **572.31 Cooperative and condominium housing.**

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

27 Sec. 16. Section 572.33A, Code 2013, is amended to
28 read as follows:

29 **572.33A Liability of owner to general contractor —**
30 **commercial construction.**

31 1. An owner of a building, land, or improvement
32 upon which a mechanic's lien of a subcontractor may
33 be ~~filed~~ posted, is not required to pay the general
34 contractor for compensation for work done or material
35 furnished for the building, land, or improvement until
36 the expiration of ninety days after the completion
37 of the building or improvement unless the general
38 contractor furnishes to the owner one of the following:

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

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

48 2. This section applies only to commercial
49 construction properties.

50 Sec. 17. Section 572.34, Code 2013, is amended to

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1 read as follows:

2 **572.34 Mechanics' notice and lien registry —**
3 ~~residential construction.~~

4 1. A mechanics' notice and lien registry is created
5 and shall be administered by the administrator. The
6 administrator shall adopt rules pursuant to chapter 17A
7 for the creation and administration of the registry.

8 2. The mechanics' notice and lien registry shall
9 be accessible to the general public through the
10 administrator's internet website.

11 3. The registry shall be indexed by owner name,
12 general contractor name, mechanics' notice and lien
13 registry number, property address, legal description,
14 tax parcel identification number, and any other
15 identifier considered appropriate as determined by the
16 administrator pursuant to rule.

17 4. ~~A general contractor, owner-builder, or~~
18 ~~subcontractor~~ Any person who posts fictitious, forged,
19 or false information to the mechanics' notice and lien
20 registry shall be subject to a penalty as determined
21 by the administrator by rule in addition to all other
22 penalties and remedies available under applicable law.

23 5. A person may post a correction statement with
24 respect to a record indexed ~~in~~ on the mechanics'
25 notice and lien registry internet website if the person
26 believes the record is inaccurate or wrongfully posted.

27 6. The administrator shall charge and collect fees
28 as established by rule necessary for the administration
29 and maintenance of the registry and the registry's
30 internet website. The administrator shall not charge
31 a filing posting fee for a preliminary notice required
32 pursuant to this chapter that exceeds the cost of
33 sending such notice by certified mail with restricted
34 delivery and return receipt. The administrator shall
35 not charge a filing posting fee for a mechanic's lien
36 that exceeds forty dollars.

37 7. Notices may be posted to the mechanics' notice
38 and lien registry electronically on the administrator's
39 internet website, or may be sent to the administrator
40 for posting by United States mail or facsimile
41 transmission, or other alternate method as provided by
42 the administrator pursuant to rule. Notices received
43 by United States mail or facsimile transmission shall
44 be posted by the administrator to the mechanics'
45 notice and lien registry within three business days of
46 receipt.

47 8. Mechanics' liens may be posted to the mechanics'
48 notice and lien registry electronically on the
49 administrator's internet website or may be sent to
50 the administrator for posting by United States mail.

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1 Liens received by United States mail shall be posted
2 by the administrator to the mechanics' notice and lien
3 registry within three business days of receipt.

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

8 10. Information collected by and furnished to
9 the administrator in conjunction with the submission
10 and posting of notices pursuant to sections 572.13A
11 and 572.13B shall be used by the administrator solely
12 for the purposes of the mechanics' notice and lien
13 registry.

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

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

27 ~~12.~~ 13. The administrator shall make, or cause to
28 be made, preservation duplicates of mechanics' notice
29 and lien registry records, including records stored in
30 a computer database. Any preservation duplicate record
31 shall be accurate, complete, and clear, and shall be
32 made, preserved, and made accessible to the public by
33 means designated by the administrator by rule.>

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