

S-3/11/98 Judiciary
S-3/17/98 800 Pass

UNFINISHED BUSINESS CALENDAR

FEB 23 1998
Place On Calendar

HOUSE FILE 2400
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 625)

Passed House, ^(p.602) Date 3/11/98 Passed Senate, ^(p.1158) Date 4-9-98
Vote: Ayes 95 Nays 0 Vote: Ayes 47 Nays 1
Approved April 22, 1998

^(p.1495) Pass 4-13-98
Vote 95-0

A BILL FOR

1 An Act providing a procedure for the preservation of a mechanic's
2 lien for materials or labor furnished to a subcontractor and
3 providing for related matters.

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

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HT
2400

1 Section 1. Section 572.1, subsection 2, Code 1997, is
2 amended to read as follows:

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

9 Sec. 2. Section 572.2, Code 1997, is amended to read as
10 follows:

11 572.2 PERSONS ENTITLED TO LIEN.

12 1. Every person who shall furnish any material or labor
13 for, or perform any labor upon, any building or land for
14 improvement, alteration, or repair thereof, including those
15 engaged in the construction or repair of any work of internal
16 or external improvement, and those engaged in grading,
17 sodding, installing nursery stock, landscaping, sidewalk
18 building, fencing on any land or lot, by virtue of any
19 contract with the owner, the owner's agent, trustee,
20 contractor, or subcontractor shall have a lien upon such
21 building or improvement, and land belonging to the owner on
22 which the same is situated or upon the land or lot so graded,
23 landscaped, fenced, or otherwise improved, altered, or
24 repaired, to secure payment for the material or labor
25 furnished or labor performed.

26 2. If material is rented by a person to the owner, the
27 owner's agent, trustee, contractor, or subcontractor, the
28 person shall have a lien upon such building, improvement, or
29 land to secure payment for the material rental. The lien is
30 for the reasonable rental value during the period of actual
31 use of the material and any reasonable periods of nonuse of
32 the material taken into account in the rental agreement. The
33 delivery of material to such building, improvement, or land,
34 whether or not delivery is made by the person, creates a
35 presumption that the material was used in the course of

1 alteration, construction, or repair of the building,
2 improvement, or land.

3 Sec. 3. Section 572.33, Code 1997, is amended to read as
4 follows:

5 572.33 REQUIREMENT OF NOTIFICATION.

6 Notwithstanding ~~any provision to the contrary, a claim by~~
7 other provisions of this chapter, and in addition to all other
8 requirements of this chapter, a person furnishing only labor
9 or materials to a subcontractor who is furnishing only
10 ~~materials~~ shall not be entitled to a lien under this chapter
11 unless the person furnishing labor or materials had notified
12 does all of the following:

13 a. Notifies the principal contractor within thirty days of
14 the furnishing of the labor or materials and the lien claim is
15 supported by for which a lien claim is made, including the
16 amount, kind, and value of the labor or materials furnished.

17 b. Supports the lien claim with a certified statement that
18 the principal contractor ~~had been~~ was notified within thirty
19 days after the labor or materials were furnished of the
20 amount, kind, and value of the labor or materials furnished.

21 ~~This requirement is in addition to all other requirements of~~
22 ~~this chapter.~~

23

EXPLANATION

24 This bill amends Code section 572.2 to establish a
25 mechanic's lien for a person who rents to an owner, owner's
26 agent, trustee, contractor, or subcontractor, material used in
27 the course of alteration, construction, or repair of the
28 owner's building, improvement, or land. The mechanic's lien
29 is for the reasonable rental value during the period of actual
30 use of the material and any reasonable periods of nonuse of
31 the material taken into account in the rental agreement. The
32 bill provides that the delivery of material to such building,
33 improvement, or land creates a presumption that the material
34 was used in the course of alteration, construction, or repair
35 of the building, improvement, or land.

1 This bill also amends Code section 572.33 regarding
2 mechanic's liens for labor or materials furnished to a
3 subcontractor. The current Code section addresses only the
4 situation where materials are furnished to the subcontractor.
5 The bill adds the furnishing of labor as grounds for a lien
6 claim. In addition, a person furnishing such labor or
7 materials must notify the principal contractor within thirty
8 days of the amount, kind, and value of the labor or materials
9 furnished, and support the lien claim with a certified
10 statement regarding that notification.

11 The bill expands the definition of material in Code section
12 572.1 to include tools. Existing law includes machinery,
13 equipment, trees, plants, dirt, fence material, and other
14 accessories, among the items defined as "materials".

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HOUSE FILE 2400

S-5501

1 Amend House File 2400, as passed by the House, as
2 follows:
3 1. Page 2, line 2, by inserting after the word
4 "land." the following: "However, this presumption
5 shall not pertain to recoveries sought under a surety
6 bond."
7 2. Page 2, line 13, by striking the words "the
8 principal contractor" and inserting the following:
9 "the owner and the principal contractor".

By STEVE KING

S-5501 FILED APRIL 6, 1998

adopted
4-9-98 (p.1158)

HOUSE FILE 2400

S-5459

1 Amend House File 2400, as passed by the House, as
2 follows:
3 1. Page 2, by inserting before line 3 the
4 following:
5 "Sec. ____ . Section 572.14, subsection 2, Code
6 1997, is amended to read as follows:
7 2. In the case of an owner-occupied dwelling, a
8 mechanic's lien perfected under this chapter is
9 enforceable only to the extent of the ~~balance-due-from~~
10 ~~the-owner-to-the-principal-contractor-at-the-time~~
11 ~~written-notice, in-the-form~~ amount due the principal
12 contractor by the owner-occupant under the contract,
13 less any payments made by the owner-occupant to the
14 principal contractor prior to the owner-occupant being
15 served with the notice specified in subsection 3, is
16 ~~served-on-the-owner~~. This notice may be served by
17 delivering it to the owner or the owner's spouse
18 personally, or by mailing it to the owner by certified
19 mail with restricted delivery and return receipt to
20 the person mailing the notice, or by personal service
21 as provided in the rules of civil procedure."
22 2. By renumbering as necessary.

By JOANN DOUGLAS

S-5459 FILED APRIL 1, 1998

adopted
4-9-98

(p.1158)

H-9096

1 Amend House File 2400, as passed by the House, as
2 follows:

3 1. Page 2, line 2, by inserting after the word
4 "land." the following: "However, this presumption
5 shall not pertain to recoveries sought under a surety
6 bond."

7 2. Page 2, by inserting before line 3 the
8 following:

9 "Sec. ____ . Section 572.14, subsection 2, Code
10 1997, is amended to read as follows:

11 2. In the case of an owner-occupied dwelling, a
12 mechanic's lien perfected under this chapter is
13 enforceable only to the extent of the ~~balance due from~~
14 ~~the owner to the principal contractor at the time~~
15 written notice, in the form amount due the principal
16 contractor by the owner-occupant under the contract,
17 less any payments made by the owner-occupant to the
18 principal contractor prior to the owner-occupant being
19 served with the notice specified in subsection 3, is
20 served on the owner. This notice may be served by
21 delivering it to the owner or the owner's spouse
22 personally, or by mailing it to the owner by certified
23 mail with restricted delivery and return receipt to
24 the person mailing the notice, or by personal service
25 as provided in the rules of civil procedure."

26 3. Page 2, line 13, by striking the words "the
27 principal contractor" and inserting the following:
28 "the owner and the principal contractor".

29 4. By renumbering, relettering, or redesignating
30 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-9096 FILED APRIL 9, 1998

House Concurred

4-13-98

(P. 1494)

CANCELLED

10 1998

HSB 625

JUDICIARY

Sukup, ch
Churchill
Moreland

Succeeded By
SF

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY CHAIR-
PERSON LAMBERTI)

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

A BILL FOR

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7 fence material, fence posts, tile, and the use of forms,
8 accessories, and equipment.

9 Sec. 2. Section 572.2, Code 1997, is amended to read as
10 follows:

11 572.2 PERSONS ENTITLED TO LIEN.

12 1. Every person who shall furnish any material or labor
13 for, or perform any labor upon, any building or land for
14 improvement, alteration, or repair thereof, including those
15 engaged in the construction or repair of any work of internal
16 or external improvement, and those engaged in grading,
17 sodding, installing nursery stock, landscaping, sidewalk
18 building, fencing on any land or lot, by virtue of any
19 contract with the owner, the owner's agent, trustee,
20 contractor, or subcontractor shall have a lien upon such
21 building or improvement, and land belonging to the owner on
22 which the same is situated or upon the land or lot so graded,
23 landscaped, fenced, or otherwise improved, altered, or
24 repaired, to secure payment for the material or labor
25 furnished or labor performed.

26 2. If material is rented by a person to the owner, the
27 owner's agent, trustee, contractor, or subcontractor, the
28 person shall have a lien upon such building, improvement, or
29 land to secure payment for the material rental. The lien is
30 for the reasonable rental value during the period of actual
31 use of the material and any reasonable periods of nonuse of
32 the material taken into account in the rental agreement. The
33 delivery of material to such building, improvement, or land,
34 whether or not delivery is made by the person, creates a
35 presumption that the material was used in the course of

1 alteration, construction, or repair of the building,
2 improvement, or land.

3 Sec. 3. Section 572.33, Code 1997, is amended to read as
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9 or materials to a subcontractor who is furnishing only
10 ~~materials~~ shall not be entitled to a lien under this chapter
11 unless the person furnishing labor or materials had notified
12 does all of the following:

13 a. Notifies the principal contractor within thirty days of
14 the furnishing of the labor or materials and the lien claim is
15 supported by for which a lien claim is made, including the
16 amount, kind, and value of the labor or materials furnished.

17 b. Supports the lien claim with a certified statement that
18 the principal contractor had been was notified within thirty
19 days after the labor or materials were furnished of the
20 amount, kind, and value of the labor or materials furnished.

21 ~~This requirement is in addition to all other requirements of~~
22 ~~this chapter.~~

23 EXPLANATION

24 This bill amends Code section 572.2 to establish a
25 mechanic's lien for a person who rents to an owner, owner's
26 agent, trustee, contractor, or subcontractor, material used in
27 the course of alteration, construction, or repair of the
28 owner's building, improvement, or land. The mechanic's lien
29 is for the reasonable rental value during the period of actual
30 use of the material and any reasonable periods of nonuse of
31 the material taken into account in the rental agreement. The
32 bill provides that the delivery of material to such building,
33 improvement, or land creates a presumption that the material
34 was used in the course of alteration, construction, or repair
35 of the building, improvement, or land.

HSB 625

S.F. _____ H.F. _____

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2 mechanic's liens for labor or materials furnished to a
3 subcontractor. The current Code section addresses only the
4 situation where materials are furnished to the subcontractor.
5 The bill adds the furnishing of labor as grounds for a lien
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7 materials must notify the principal contractor within thirty
8 days of the amount, kind, and value of the labor or materials
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10 statement regarding that notification.

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HOUSE FILE 2400

AN ACT

PROVIDING A PROCEDURE FOR THE PRESERVATION OF A MECHANIC'S LIEN FOR MATERIALS OR LABOR FURNISHED TO A SUBCONTRACTOR AND PROVIDING FOR RELATED MATTERS.

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

Section 1. Section 572.1, subsection 2, Code 1997, is amended to read as follows:

2. "Material" shall, in addition to its ordinary meaning, ~~embrace and~~ include 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.

Sec. 2. Section 572.2, Code 1997, is amended to read as follows:

572.2 PERSONS ENTITLED TO LIEN.

1. Every person who shall furnish any material or labor for, or perform 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, the owner's agent, trustee, 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, the owner's agent, trustee, 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.

Sec. 3. Section 572.14, subsection 2, Code 1997, is amended to read as follows:

2. In the case of an owner-occupied dwelling, a mechanic's lien perfected under this chapter is enforceable only to the extent of the ~~balance due from the owner to the principal contractor at the time written notice, in the form amount due the principal contractor by the owner-occupant under the contract, less any payments made by the owner-occupant to the principal contractor prior to the owner-occupant being served with the notice~~ specified in subsection 3, ~~is served on the owner~~. This notice may be served by delivering it to the owner or the owner's spouse personally, or by mailing it to the owner by certified mail with restricted delivery and return receipt to the person mailing the notice, or by personal service as provided in the rules of civil procedure.

Sec. 4. Section 572.33, Code 1997, is amended to read as follows:

572.33 REQUIREMENT OF NOTIFICATION.

~~Notwithstanding any provision to the contrary, a claim by other provisions of this chapter, and in addition to all other requirements of this chapter, a person furnishing only labor or materials to a subcontractor who is furnishing only materials shall not be entitled to a lien under this chapter unless the person furnishing labor or materials had notified~~ does all of the following:

a. Notifies the owner and the principal contractor within thirty days of the furnishing of the labor or materials and the-~~lien-claim-is-supported-by~~ for which a lien claim is made, including the amount, kind, and value of the labor or materials furnished.

b. Supports the lien claim with a certified statement that the principal contractor had-been was notified within thirty days after the labor or materials were furnished of the amount, kind, and value of the labor or materials furnished. This-requirement-is-in-addition-to-all-other-requirements-of this-chapter-

RON J. CORBETT
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2400, Seventy-seventh General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved April 22, 1998

TERRY E. BRANSTAD
Governor