

**House Study Bill 559 - Introduced**

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON SWAIM)

**A BILL FOR**

1 An Act relating to mechanics' liens including the establishment  
2 of a state construction registry for residential  
3 construction property and providing an effective date.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Sec. 22. EFFECTIVE DATE. This Act takes effect July 1,  
2 2011.

3     Section 1. Section 572.1, Code 2009, is amended to read as  
4 follows:

5     **572.1 Definitions and rules of construction.**

6     For the purpose of this chapter:

7     1. "Authority" means the Iowa finance authority established  
8 in section 16.2.

9     ~~1.~~ 2. "Building" shall be construed as if followed by the  
10 words "erection, or other improvement upon land".

11     3. "General contractor" includes every person who does work  
12 or furnishes materials by contract, express or implied, with an  
13 owner. "General contractor" does not include a person who does  
14 work or furnishes materials on contract with an owner-builder.

15     ~~2.~~ 4. "Labor" means labor completed by the claimant.

16     ~~3.~~ 5. "Material" shall, in addition to its ordinary meaning,  
17 include includes machinery, tools, fixtures, trees, evergreens,  
18 vines, plants, shrubs, tubers, bulbs, hedges, bushes, sod,  
19 soil, dirt, mulch, peat, fertilizer, fence wire, fence  
20 material, fence posts, tile, and the use of forms, accessories,  
21 and equipment furnished by the claimant.

22     ~~4.~~ 6. "Owner" means the record legal or  
23 equitable titleholder and every person for whose use or benefit  
24 any building, erection, or other improvement is made, having  
25 the capacity to contract, including guardians of record.

26     ~~5.~~ "Owner-occupied dwelling" means the homestead of an  
27 owner, as defined in section 561.1, and without respect to the  
28 value limitations in section 561.3, and actually occupied by  
29 the owner or the spouse of the owner, or both. "Owner-occupied  
30 dwelling" includes a newly constructed dwelling to be occupied  
31 by the owner as a homestead, or a dwelling that is under  
32 construction and being built by or for an owner who will occupy  
33 the dwelling as a homestead.

34     7. "Owner-builder" means the legal or equitable titleholder  
35 of record who offers or intends to offer to sell the

1 owner-builder's property without occupying or using the  
2 structures, properties, developments, or improvements for a  
3 period of more than one year from the date the structure,  
4 property, development, or improvement is substantially  
5 completed or abandoned.

6 8. "Residential construction" means construction on  
7 single-family or two-family dwellings occupied or used,  
8 or intended to be occupied or used, solely for residential  
9 purposes, and includes real property pursuant to chapter 499B.

10 9. "State construction registry" means a centralized  
11 computer database maintained and posted on the internet by  
12 the authority that provides a central repository for the  
13 submission and management of preliminary notices and notices  
14 of commencement of work on all residential construction  
15 properties.

16 10. "State construction registry number" means a number  
17 provided by the authority for all construction properties  
18 posted to the state construction registry.

19 ~~6.~~ 11. "Subcontractor" shall include includes every person  
20 furnishing material or performing labor upon any building,  
21 erection, or other improvement, except those having contracts  
22 directly with the owner. "Subcontractor" shall include those  
23 persons having contracts directly with an owner-builder.

24 Sec. 2. Section 572.2, Code 2009, is amended to read as  
25 follows:

26 **572.2 Persons entitled to lien.**

27 1. Every person who ~~shall furnish~~ furnishes any material or  
28 labor for, or ~~perform~~ performs any labor upon, any building or  
29 land for improvement, alteration, or repair thereof, including  
30 those engaged in the construction or repair of any work of  
31 internal or external improvement, and those engaged in grading,  
32 sodding, installing nursery stock, landscaping, sidewalk  
33 building, fencing on any land or lot, by virtue of any contract  
34 with the owner, general contractor, or subcontractor shall have  
35 a lien upon such building or improvement, and land belonging

1 to the owner on which the same is situated or upon the land  
2 or lot so graded, landscaped, fenced, or otherwise improved,  
3 altered, or repaired, to secure payment for the material or  
4 labor furnished or labor performed.

5 2. If material is rented by a person to the owner,  
6 general contractor, or subcontractor, the person shall have a  
7 lien upon such building, improvement, or land to secure payment  
8 for the material rental. The lien is for the reasonable rental  
9 value during the period of actual use of the material and any  
10 reasonable periods of nonuse of the material taken into account  
11 in the rental agreement. The delivery of material to such  
12 building, improvement, or land, whether or not delivery is made  
13 by the person, creates a presumption that the material was  
14 used in the course of alteration, construction, or repair of  
15 the building, improvement, or land. However, this presumption  
16 shall not pertain to recoveries sought under a surety bond.

17 3. An owner-builder is not entitled to a lien under  
18 this chapter as to work the owner-builder performs, or is  
19 contractually obligated to perform, prior to transferring title  
20 to the buyer.

21 Sec. 3. Section 572.8, subsection 1, Code 2009, is amended  
22 by adding the following new paragraph:

23 NEW PARAGRAPH. *d.* The address of the property or a  
24 description of the location of the property.

25 Sec. 4. Section 572.9, Code 2009, is amended to read as  
26 follows:

27 **572.9 Time of filing.**

28 The statement of account required by section 572.8 shall  
29 be filed by a ~~principal~~ general contractor or subcontractor  
30 within two years and ninety days after the date on which the  
31 last of the material was furnished or the last of the labor was  
32 performed.

33 Sec. 5. Section 572.10, Code 2009, is amended to read as  
34 follows:

35 **572.10 Perfecting lien after lapse of ninety days.**

1     A general contractor or a subcontractor may perfect a  
2 mechanic's lien pursuant to section 572.8 beyond ninety days  
3 after the date on which the last of the material was furnished  
4 or the last of the labor was performed by filing a claim with  
5 the clerk of the district court and giving written notice  
6 thereof to the owner. Such notice may be served by any person  
7 in the manner original notices are required to be served.  
8 If the party to be served is out of the county wherein the  
9 property is situated, a return of that fact by the person  
10 charged with making such service shall constitute sufficient  
11 service from and after the time it was filed with the clerk of  
12 the district court.

13     Sec. 6. Section 572.11, Code 2009, is amended to read as  
14 follows:

15     **572.11 Extent of lien filed after ninety days.**

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

25     Sec. 7. Section 572.13, Code 2009, is amended by striking  
26 the section and inserting in lieu thereof the following:

27     **572.13 General contractor — owner notice — residential**  
28 **construction.**

29     1. A general contractor who has contracted or will contract  
30 with a subcontractor to provide labor or furnish material for  
31 the property shall provide the owner with the following owner  
32 notice:

33     "Persons or companies furnishing labor or materials for  
34 the improvement of real property may enforce a lien upon the  
35 improved property if they are not paid for their contributions,

1 even if the parties have no direct contractual relationship  
2 with the owner. The state construction registry provides  
3 a listing of all persons or companies furnishing labor or  
4 materials who may file a lien upon the improved property.  
5 If the person or company has posted its notice to the state  
6 construction registry, you may be required to pay the person or  
7 company even if you have paid the general contractor the full  
8 amount due. Therefore, check the state construction registry  
9 internet website for information about the property including  
10 persons or companies furnishing labor or materials before  
11 paying your general contractor. In addition, when making  
12 payment to your general contractor, it is important to obtain  
13 lien waivers from your general contractor and from persons or  
14 companies furnishing labor or materials to your property. The  
15 information in the state construction registry is posted on the  
16 internet website of the Iowa finance authority."

17 2. A general contractor who fails to provide notice pursuant  
18 to this section is not entitled to a lien and remedy provided  
19 by this chapter.

20 3. This section applies only to residential construction  
21 properties.

22 Sec. 8. NEW SECTION. 572.13A Notice of commencement of work  
23 — general contractor — owner-builder.

24 1. A general contractor or owner-builder shall submit  
25 a notice of commencement of work to the authority or post  
26 a notice of commencement of work to the state construction  
27 registry internet website within ten days of commencement of  
28 work on the property. A notice of commencement of work is  
29 effective only as to any labor, service, equipment, or material  
30 furnished to the property subsequent to the posting of the  
31 notice of commencement of work. A notice of commencement of  
32 work shall include all of the following information:

33 a. The name and address of the property owner.

34 b. The name and address of the general contractor or  
35 owner-builder.

1 c. The address of the property if the property can be  
2 reasonably identified by an address or the name and a general  
3 description of the location of the property if the property  
4 cannot be reasonably identified by an address.

5 d. A legal description of the property.

6 e. The date work commenced.

7 f. Any other information prescribed by the authority  
8 pursuant to rule.

9 2. If a general contractor or owner-builder fails to submit  
10 a notice of commencement of work to the authority or fails to  
11 post the required notice of commencement of work to the state  
12 construction registry internet website pursuant to subsection  
13 1, within ten days of commencement of the work on the property,  
14 a subcontractor may submit or post the notice in conjunction  
15 with the filing of the required preliminary notice pursuant to  
16 section 572.13B.

17 3. At the time a notice of commencement of work is posted on  
18 the state construction registry internet website, the authority  
19 shall send a copy of the owner notice described in section  
20 572.13 along with other relevant information to the owner as  
21 prescribed by the authority pursuant to rule.

22 4. A general contractor who fails to provide notice pursuant  
23 to this section is not entitled to a lien and remedy provided  
24 by this chapter.

25 5. This section applies only to residential construction  
26 properties.

27 **Sec. 9. NEW SECTION. 572.13B Preliminary notice —**  
28 **subcontractor — residential construction.**

29 1. A subcontractor shall submit a preliminary notice  
30 to the authority or post a preliminary notice to the state  
31 construction registry internet website. A preliminary notice  
32 posted prior to the balance paid to the general contractor  
33 or owner-builder by the owner is effective as to all labor,  
34 service, equipment, and material furnished to the property by  
35 the subcontractor. The preliminary notice shall contain all

1 of the following information:

2 *a.* The name of the owner.

3 *b.* The state construction registry number.

4 *c.* The name, address, and telephone number of the  
5 subcontractor furnishing the labor, service, equipment, or  
6 material.

7 *d.* The name and address of the person who contracted  
8 with the claimant for the furnishing of the labor, service,  
9 equipment, or material.

10 *e.* The name of the general contractor or owner-builder under  
11 which the claimant is performing or will perform the work.

12 *f.* The address of the property or a description of the  
13 location of the property.

14 *g.* Any other information required by the authority pursuant  
15 to rule.

16 2. A mechanic's lien perfected under this chapter  
17 is enforceable only to the extent of the balance due the  
18 general contractor or owner-builder prior to the posting of a  
19 preliminary notice specified in subsection 1.

20 3. At the time a preliminary notice is posted to the state  
21 construction registry, the authority shall send notification  
22 to the owner as prescribed by the authority pursuant to rule.  
23 Notices under this section will not be sent to owner-builders.

24 4. A subcontractor who fails to submit or post a preliminary  
25 notice pursuant to this section shall not be entitled to a lien  
26 and remedy provided under this chapter.

27 5. This section applies only to residential construction  
28 properties.

29 Sec. 10. Section 572.14, Code 2009, is amended by striking  
30 the section and inserting in lieu thereof the following:

31 **572.14 Liability to subcontractor after payment to general**  
32 **contractor or owner-builder.**

33 Except as provided in section 572.13B, payment to the  
34 general contractor or owner-builder by the owner of any part or  
35 all of the contract price of the building or improvement within



1 ninety days after the date on which the last of the materials  
2 was furnished or the last of the labor was performed by a  
3 subcontractor, does not relieve the owner from liability to the  
4 subcontractor for the full value of any material furnished or  
5 labor performed upon the building, land, or improvement if the  
6 subcontractor files a lien within ninety days after the date  
7 on which the last of the materials was furnished or the last of  
8 the labor was performed.

9 Sec. 11. Section 572.15, Code 2009, is amended to read as  
10 follows:

11 **572.15 Discharge of ~~subcontractor's~~ mechanic's lien - bond.**

12 A mechanic's lien may be discharged at any time by ~~the owner,~~  
13 ~~principal contractor, or intermediate subcontractor~~ filing with  
14 the clerk of the district court of the county in which the  
15 property is located a bond in twice the amount of the sum for  
16 which the claim for the lien is filed, with surety or sureties,  
17 to be approved by the clerk, conditioned for the payment of any  
18 sum for which the claimant may obtain judgment upon the claim.

19 Sec. 12. Section 572.17, Code 2009, is amended to read as  
20 follows:

21 **572.17 Priority of mechanics' liens between mechanics.**

22 Mechanics' liens shall have priority over each other in  
23 the order of the filing of the statements ~~or~~ of accounts as  
24 ~~herein provided in section 572.8.~~

25 Sec. 13. Section 572.18, subsections 1 and 3, Code 2009, are  
26 amended to read as follows:

27 1. Mechanics' liens filed by a ~~principal~~ general contractor  
28 or subcontractor within ninety days after the date on which  
29 the last of the material was furnished or the last of the  
30 claimant's labor was performed and for which notices were  
31 required to be submitted or posted to the state construction  
32 registry internet website pursuant to sections 572.13A and  
33 572.13B shall be superior to all other liens which may attach  
34 to or upon a building or improvement and to the land upon which  
35 it is situated, except liens of record prior to the time of the

1 original commencement of the claimant's work or the claimant's  
2 improvements, except as provided in subsection 2.

3 3. The rights of purchasers, encumbrancers, and other  
4 persons who acquire interests in good faith, for a valuable  
5 consideration, and without notice of a lien perfected  
6 pursuant to this chapter, are superior to the claims of all  
7 general contractors or subcontractors who have perfected their  
8 liens more than ninety days after the date on which the last  
9 of the claimant's material was furnished or the last of the  
10 claimant's labor was performed.

11 Sec. 14. Section 572.22, unnumbered paragraph 1, Code 2009,  
12 is amended to read as follows:

13 The clerk of the court shall endorse upon every claim for  
14 a mechanic's lien filed in the clerk's office the date and  
15 hour of filing and ~~make an abstract thereof in the mechanic's~~  
16 ~~lien book kept for that purpose. Said book shall be properly~~  
17 ~~indexed and~~ index every claim in the office of the clerk of the  
18 county where such real estate is situated. Each claim shall  
19 contain the following items ~~concerning each claim:~~

20 Sec. 15. Section 572.23, subsection 1, Code 2009, is amended  
21 to read as follows:

22 1. When a mechanic's lien is satisfied by payment of the  
23 claim, the claimant shall acknowledge satisfaction thereof ~~upon~~  
24 ~~the mechanic's lien book, or otherwise in writing,~~ and, if the  
25 claimant neglects to do so for thirty days after demand in  
26 writing is personally served upon the claimant, the claimant  
27 shall forfeit and pay twenty-five dollars to the owner or  
28 general contractor or owner-builder, and be liable to any  
29 person injured to the extent of the injury.

30 Sec. 16. Section 572.30, Code 2009, is amended to read as  
31 follows:

32 **572.30 Action by subcontractor or owner against**  
33 **general contractor or owner-builder.**

34 Unless otherwise agreed, a ~~principal~~ general contractor or  
35 owner-builder who engages a subcontractor to supply labor or

1 materials or both for improvements, alterations or repairs  
2 to a specific ~~owner-occupied dwelling~~ property shall  
3 pay the subcontractor in full for all labor and  
4 materials supplied within thirty days after the date  
5 the ~~principal~~ general contractor or owner-builder receives full  
6 payment from the owner. If a ~~principal~~ general contractor or  
7 owner-builder fails without due cause to pay a subcontractor  
8 as required by this section, the subcontractor, or the  
9 owner by subrogation, may commence an action against the  
10 general contractor or owner-builder to recover the amount  
11 due. Prior to commencing an action to recover the amount  
12 due, a subcontractor, or the owner by subrogation, shall give  
13 notice of nonpayment of the cost of labor or materials to  
14 the ~~principal~~ general contractor or owner-builder paid for  
15 the improvement. Notice of nonpayment must be in writing,  
16 delivered in a reasonable manner, and in terms that reasonably  
17 identify the real estate improved and the nonpayment complained  
18 of. In an action to recover the amount due a subcontractor,  
19 or the owner by subrogation, under this section, the court  
20 in addition to actual damages, shall award a successful  
21 plaintiff exemplary damages against the general contractor  
22 or owner-builder in an amount not less than one percent  
23 and not exceeding fifteen percent of the amount due the  
24 subcontractor, or the owner by subrogation, for the labor and  
25 materials supplied, unless the ~~principal~~ general contractor or  
26 owner-builder does one or both of the following, in which case  
27 no exemplary damages shall be awarded:

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

31 2. Within fifteen days after receiving notice of nonpayment  
32 the ~~principal~~ general contractor or owner-builder gives  
33 a bond or makes a deposit with the clerk of the district  
34 court, in an amount not less than the amount necessary  
35 to satisfy the nonpayment for which notice has been given

1 under this section, and in a form approved by a judge of the  
2 district court, to hold harmless the owner or person having  
3 the improvement made from any claim for payment of anyone  
4 furnishing labor or material for the improvement, other than  
5 the ~~principal~~ general contractor or owner-builder.

6 Sec. 17. Section 572.31, Code 2009, is amended to read as  
7 follows:

8 **572.31 ~~Co-operative~~ Cooperative and condominium housing.**

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

23 Sec. 18. Section 572.32, Code 2009, is amended to read as  
24 follows:

25 **572.32 Attorney fees - remedies.**

26 1. In a court action to enforce a mechanic's lien, ~~if~~  
27 ~~the plaintiff furnished labor or materials directly to the~~  
28 ~~defendant~~, a prevailing plaintiff may be awarded reasonable  
29 attorney fees.

30 2. In a court action to challenge a filed mechanic's lien  
31 ~~filed on an owner-occupied dwelling~~, if the person challenging  
32 the lien prevails, the court may award reasonable attorney  
33 fees and actual damages. If the court determines that the  
34 mechanic's lien was filed in bad faith or the supporting  
35 affidavit was materially false, the court shall award the owner

1 reasonable attorney fees plus an amount not less than five  
2 hundred dollars or the amount of the lien, whichever is less.

3 Sec. 19. Section 572.33, Code 2009, is amended to read as  
4 follows:

5 **572.33 Requirement of notification for commercial**  
6 **construction.**

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

9 ~~1.~~ 2. A person furnishing labor or materials to a  
10 subcontractor shall not be entitled to a lien under this  
11 chapter unless the person furnishing labor or materials does  
12 all of the following:

13 a. Notifies the ~~principal~~ general contractor or  
14 owner-builder in writing with a one-time notice containing  
15 the name, mailing address, and telephone number of the  
16 person furnishing the labor or materials, and the name of the  
17 subcontractor to whom the labor or materials were furnished,  
18 within thirty days of first furnishing labor or materials for  
19 which a lien claim may be made. Additional labor or materials  
20 furnished by the same person to the same subcontractor for  
21 use in the same construction project shall be covered by this  
22 notice.

23 b. Supports the lien claim with a certified statement that  
24 the ~~principal~~ general contractor or owner-builder was notified  
25 in writing with a one-time notice containing the name, mailing  
26 address, and telephone number of the person furnishing the  
27 labor or materials, and the name of the subcontractor to whom  
28 the labor or materials were furnished, within thirty days  
29 after the labor or materials were first furnished, pursuant to  
30 paragraph "a".

31 ~~2. This section shall not apply to a mechanic's lien on~~  
32 ~~single-family or two-family dwellings occupied or used or~~  
33 ~~intended to be occupied or used for residential purposes.~~

34 3. Notwithstanding other provisions of this chapter, a  
35 ~~principal~~ general contractor or owner-builder shall not be

1 prohibited from requesting information from a subcontractor  
2 or a person furnishing labor or materials to a subcontractor  
3 regarding payments made or payments to be made to a person  
4 furnishing labor or materials to a subcontractor.

5     **Sec. 20. NEW SECTION. 572.34 State construction registry**  
6 **— residential construction.**

7     1. A state construction registry is created within the  
8 authority. The authority shall adopt rules pursuant to chapter  
9 17A for the creation and administration of the registry.

10    2. The state construction registry shall be accessible to  
11 the general public through the authority's internet website.

12    3. The registry shall be indexed by owner name, general  
13 contractor name, state construction registry number, property  
14 address, legal description, and any other identifier considered  
15 appropriate as determined by the authority.

16    4. A general contractor, owner-builder, or subcontractor  
17 who posts fictitious, forged, or false information to the  
18 state construction registry shall be subject to a penalty as  
19 determined by the authority by rule.

20    5. A person may post a correction statement with respect to  
21 a record indexed in the state construction registry internet  
22 website if the person believes the record is inaccurate or  
23 wrongfully posted.

24    6. The authority shall charge and collect fees as  
25 established by rule necessary for the administration and  
26 maintenance of the registry and the registry's internet  
27 website.

28    7. A state construction registry fund is created within  
29 the authority. Moneys collected by the authority pursuant to  
30 subsection 6 shall be for the maintenance and administration of  
31 the state construction registry. Section 8.33 does not apply  
32 to any moneys in the fund, and notwithstanding section 12C.7,  
33 subsection 2, earnings or interest on moneys deposited in the  
34 fund shall be credited to the fund.

35    8. Notices may be posted to the state construction registry

1 electronically on the authority's internet website, or may  
2 be sent to the authority by United States mail, facsimile  
3 transmission, or other alternate method as provided by the  
4 authority pursuant to rule.

5 9. Information collected by and furnished to the authority  
6 in conjunction with the submission and posting of notices  
7 pursuant to sections 572.13A and 572.13B shall be used by the  
8 authority solely for the purposes of the state construction  
9 registry.

10 10. This section applies only to residential construction  
11 properties.

12 Sec. 21. Section 572.16, Code 2009, is repealed.

13 Sec. 22. EFFECTIVE DATE. This Act takes effect July 1,  
14 2011.

15 EXPLANATION

16 This bill relates to mechanics' liens including the  
17 establishment of a state construction registry for residential  
18 construction property and provides an effective date.

19 The bill changes all references to "principal contractor"  
20 and "contractor" to "general contractor", defined in the  
21 bill to mean a person who does work or furnishes materials  
22 by contract, express or implied, with an owner. "General  
23 contractor" does not include a person who does work or  
24 furnishes materials on contract with an owner-builder.

25 The bill defines "owner-builder" as the record titleholder  
26 who offers or intends to offer to sell the owner-builder's  
27 property without occupying or using the structures, properties,  
28 developments, or improvements for more than one year from the  
29 date the structure, property, development, or improvement  
30 is substantially completed or abandoned. The bill extends  
31 provisions currently in the Code for general contractors to  
32 owner-builders. These provisions relate to perfecting a lien,  
33 the acknowledgment of a lien that has been satisfied by payment  
34 of a claim, actions by subcontractors or owners to recover  
35 amounts due, and certain notification requirements. The bill

1 also extends provisions for general contractors relating to  
2 notification requirements for commercial construction to  
3 owner-builders.

4 The bill provides that a person who intends to perfect a  
5 mechanic's lien shall include the address of the property or  
6 a description of the location of the property in the person's  
7 verified statement.

8 The bill provides that a general contractor who has  
9 contracted or will contract with a subcontractor to provide  
10 labor or furnish material for the property shall provide the  
11 owner with an owner notice stating that persons or companies  
12 furnishing labor or materials for the improvement of real  
13 property may enforce a lien upon the improved property if they  
14 are not paid, even if the parties have no direct contractual  
15 relationship with the owner. The notice shall also provide  
16 information relating to the availability of information posted  
17 on the state construction registry established by the bill.  
18 A general contractor who fails to provide such notice to  
19 the owner is not entitled to a mechanic's lien and remedies  
20 pursuant to Code chapter 572.

21 The bill provides that a general contractor or owner-builder  
22 shall submit a notice of commencement of work to the Iowa  
23 finance authority or post a notice of commencement of  
24 work, including certain specific information, to the state  
25 construction registry.

26 The bill requires a subcontractor to submit a preliminary  
27 notice to the authority or post a preliminary notice, including  
28 certain specific information, to the state construction  
29 registry. A preliminary notice received by the authority or  
30 posted prior to the balance paid to the general contractor  
31 or owner-builder by the owner is effective as to all labor,  
32 service, equipment, or material furnished to the property  
33 subsequent to the posting of the notice of commencement  
34 of work. A subcontractor who fails to submit or post a  
35 preliminary notice pursuant shall not be entitled to a lien and



1 remedy provided under Code chapter 572.

2 The bill provides that the provisions relating to the  
3 requirement that a general contractor and a subcontractor  
4 post notices to the state construction registry apply only to  
5 residential construction properties.

6 The bill provides that payment to the general contractor or  
7 owner-builder by the owner of any part or all of the contract  
8 price of the building or improvement within 90 days after the  
9 date on which the last of the materials was furnished or the  
10 last of the labor was performed by a subcontractor, does not  
11 relieve the owner from liability to the subcontractor for the  
12 full value of any material furnished or labor performed upon  
13 the building, land, or improvement if the subcontractor files  
14 a lien within 90 days after the date on which the last of the  
15 materials was furnished or the last of the labor was performed.

16 The bill provides for the creation of a state construction  
17 registry for residential construction property for the  
18 posting of notices by general contractors, owner-builders, and  
19 subcontractors which such persons must post in order to protect  
20 their lien rights. The state construction registry, once  
21 created, shall be a publicly accessible centralized electronic  
22 database created and maintained by the Iowa finance authority.  
23 The Iowa finance authority shall adopt rules pursuant to Code  
24 chapter 17A for the creation and administration of the registry  
25 which shall include a specific index and which shall be funded  
26 through the collection of fees. The registry provides a  
27 centralized resource of all persons or companies furnishing  
28 labor or materials who may file a lien upon the improved  
29 property. Data collected by and furnished to the authority in  
30 conjunction with the submission and posting of notices to the  
31 state construction registry internet website shall be used by  
32 the authority for the purposes of the registry.

33 The bill eliminates the requirement that the clerk of court  
34 make an abstract of a claim for a mechanic's lien but requires  
35 the clerk instead to index every claim in the office of the

1 county where such real estate is located.

2 The bill expands the right to recover attorney fees from any  
3 prevailing plaintiff who furnishes materials or labor directly  
4 to the defendant to any prevailing defendant.

5 The bill repeals Code section 572.16 relating to rules of  
6 construction regarding the owner's obligation to pay certain  
7 amounts in the owner's contract with the general contractor.

8 The bill takes effect July 1, 2011.