

Senate Study Bill 3076 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON KREIMAN)

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

3 **572.1 Definitions and rules of construction.**

4 For the purpose of this chapter:

5 1. "Authority" means the Iowa finance authority established
6 in section 16.2.

7 ~~1. 2.~~ "Building" shall be construed as if followed by the
8 words "erection, or other improvement upon land".

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

13 ~~2. 4.~~ "Labor" means labor completed by the claimant.

14 ~~3. 5.~~ "Material" shall, in addition to its ordinary meaning,
15 ~~include~~ includes machinery, tools, fixtures, trees, evergreens,
16 vines, plants, shrubs, tubers, bulbs, hedges, bushes, sod,
17 soil, dirt, mulch, peat, fertilizer, fence wire, fence
18 material, fence posts, tile, and the use of forms, accessories,
19 and equipment furnished by the claimant.

20 ~~4. 6.~~ "Owner" means the record legal or
21 equitable titleholder ~~and every person for whose use or benefit~~
22 ~~any building, erection, or other improvement is made, having~~
23 ~~the capacity to contract, including guardians of record.~~

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

32 7. "Owner-builder" means the legal or equitable titleholder
33 of record who offers or intends to offer to sell the
34 owner-builder's property without occupying or using the
35 structures, properties, developments, or improvements for a

1 period of more than one year from the date the structure,
2 property, development, or improvement is substantially
3 completed or abandoned.

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

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

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

17 ~~6.~~ 11. "Subcontractor" shall include includes every person
18 furnishing material or performing labor upon any building,
19 erection, or other improvement, except those having contracts
20 directly with the owner. "Subcontractor" shall include those
21 persons having contracts directly with an owner-builder.

22 Sec. 2. Section 572.2, Code 2009, is amended to read as
23 follows:

24 **572.2 Persons entitled to lien.**

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

1 altered, or repaired, to secure payment for the material or
2 labor furnished or labor performed.

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

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

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

21 NEW PARAGRAPH. *d.* The address of the property or a
22 description of the location of the property.

23 Sec. 4. Section 572.9, Code 2009, is amended to read as
24 follows:

25 **572.9 Time of filing.**

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

31 Sec. 5. Section 572.10, Code 2009, is amended to read as
32 follows:

33 **572.10 Perfecting lien after lapse of ninety days.**

34 A general contractor or a subcontractor may perfect a
35 mechanic's lien pursuant to section 572.8 beyond ninety days

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

11 Sec. 6. Section 572.11, Code 2009, is amended to read as
12 follows:

13 **572.11 Extent of lien filed after ninety days.**

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

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

25 **572.13 General contractor — owner notice — residential**
26 **construction.**

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

31 "Persons or companies furnishing labor or materials for
32 the improvement of real property may enforce a lien upon the
33 improved property if they are not paid for their contributions,
34 even if the parties have no direct contractual relationship
35 with the owner. The state construction registry provides

1 a listing of all persons or companies furnishing labor or
2 materials who may file a lien upon the improved property.
3 If the person or company has posted its notice to the state
4 construction registry, you may be required to pay the person or
5 company even if you have paid the general contractor the full
6 amount due. Therefore, check the state construction registry
7 internet website for information about the property including
8 persons or companies furnishing labor or materials before
9 paying your general contractor. In addition, when making
10 payment to your general contractor, it is important to obtain
11 lien waivers from your general contractor and from persons or
12 companies furnishing labor or materials to your property. The
13 information in the state construction registry is posted on the
14 internet website of the Iowa finance authority."

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

18 3. This section applies only to residential construction
19 properties.

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

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

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

32 b. The name and address of the general contractor or
33 owner-builder.

34 c. The address of the property if the property can be
35 reasonably identified by an address or the name and a general

1 description of the location of the property if the property
2 cannot be reasonably identified by an address.

3 *d.* A legal description of the property.

4 *e.* The date work commenced.

5 *f.* Any other information prescribed by the authority
6 pursuant to rule.

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

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

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

23 5. This section applies only to residential construction
24 properties.

25 **Sec. 9. NEW SECTION. 572.13B Preliminary notice —**
26 **subcontractor — residential construction.**

27 1. A subcontractor shall submit a preliminary notice
28 to the authority or post a preliminary notice to the state
29 construction registry internet website. A preliminary notice
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, and material furnished to the property by
33 the subcontractor. The preliminary notice shall contain all
34 of the following information:

35 *a.* The name of the owner.

- 1 *b.* The state construction registry number.
2 *c.* The name, address, and telephone number of the
3 subcontractor furnishing the labor, service, equipment, or
4 material.
5 *d.* The name and address of the person who contracted
6 with the claimant for the furnishing of the labor, service,
7 equipment, or material.
8 *e.* The name of the general contractor or owner-builder under
9 which the claimant is performing or will perform the work.
10 *f.* The address of the property or a description of the
11 location of the property.
12 *g.* Any other information required by the authority pursuant
13 to rule.

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

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

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

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

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

29 **572.14 Liability to subcontractor after payment to general**
30 **contractor or owner-builder.**

31 Except as provided in section 572.13B, payment to the
32 general contractor or owner-builder by the owner of any part or
33 all of the contract price of the building or improvement within
34 ninety days after the date on which the last of the materials
35 was furnished or the last of the labor was performed by a

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

7 Sec. 11. Section 572.15, Code 2009, is amended to read as
8 follows:

9 **572.15 Discharge of ~~subcontractor's~~ mechanic's lien - bond.**

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

17 Sec. 12. Section 572.17, Code 2009, is amended to read as
18 follows:

19 **572.17 Priority of mechanics' liens between mechanics.**

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

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

25 1. Mechanics' liens filed by a ~~principal~~ general contractor
26 or subcontractor within ninety days after the date on which
27 the last of the material was furnished or the last of the
28 claimant's labor was performed and for which notices were
29 required to be submitted or posted to the state construction
30 registry internet website pursuant to sections 572.13A and
31 572.13B shall be superior to all other liens which may attach
32 to or upon a building or improvement and to the land upon which
33 it is situated, except liens of record prior to the time of the
34 original commencement of the claimant's work or the claimant's
35 improvements, except as provided in subsection 2.

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

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

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

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

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

28 Sec. 16. Section 572.30, Code 2009, is amended to read as
29 follows:

30 **572.30 Action by subcontractor or owner against**
31 **general contractor or owner-builder.**

32 Unless otherwise agreed, a ~~principal~~ general contractor or
33 owner-builder who engages a subcontractor to supply labor or
34 materials or both for improvements, alterations or repairs
35 to a specific ~~owner-occupied dwelling~~ property shall

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

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

29 2. Within fifteen days after receiving notice of nonpayment
30 the ~~principal~~ general contractor or owner-builder gives
31 a bond or makes a deposit with the clerk of the district
32 court, in an amount not less than the amount necessary
33 to satisfy the nonpayment for which notice has been given
34 under this section, and in a form approved by a judge of the
35 district court, to hold harmless the owner or person having

1 the improvement made from any claim for payment of anyone
2 furnishing labor or material for the improvement, other than
3 the ~~principal~~ general contractor or owner-builder.

4 Sec. 17. Section 572.31, Code 2009, is amended to read as
5 follows:

6 **572.31 ~~Co-operative~~ Cooperative and condominium housing.**

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

21 Sec. 18. Section 572.32, Code 2009, is amended to read as
22 follows:

23 **572.32 Attorney fees - remedies.**

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

28 2. In a court action to challenge a filed mechanic's lien
29 ~~filed on an owner-occupied dwelling~~, if the person challenging
30 the lien prevails, the court may award reasonable attorney
31 fees and actual damages. If the court determines that the
32 mechanic's lien was filed in bad faith or the supporting
33 affidavit was materially false, the court shall award the owner
34 reasonable attorney fees plus an amount not less than five
35 hundred dollars or the amount of the lien, whichever is less.

1 Sec. 19. Section 572.33, Code 2009, is amended to read as
2 follows:

3 **572.33 Requirement of notification for commercial**
4 **construction.**

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

7 ~~1.~~ 2. A person furnishing labor or materials to a
8 subcontractor shall not be entitled to a lien under this
9 chapter unless the person furnishing labor or materials does
10 all of the following:

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

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

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

32 3. Notwithstanding other provisions of this chapter, a
33 ~~principal~~ general contractor or owner-builder shall not be
34 prohibited from requesting information from a subcontractor
35 or a person furnishing labor or materials to a subcontractor

1 regarding payments made or payments to be made to a person
2 furnishing labor or materials to a subcontractor.

3 Sec. 20. NEW SECTION. 572.34 **State construction registry**
4 **— residential construction.**

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

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

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

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

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

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

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

33 8. Notices may be posted to the state construction registry
34 electronically on the authority's internet website, or may
35 be sent to the authority by United States mail, facsimile

1 transmission, or other alternate method as provided by the
2 authority pursuant to rule.

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

8 10. This section applies only to residential construction
9 properties.

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

11 Sec. 22. EFFECTIVE DATE. This Act takes effect July 1,
12 2011.

13 EXPLANATION

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

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

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

1 owner-builders.

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

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

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

24 The bill requires a subcontractor to submit a preliminary
25 notice to the authority or post a preliminary notice, including
26 certain specific information, to the state construction
27 registry. A preliminary notice received by the authority or
28 posted prior to the balance paid to the general contractor
29 or owner-builder by the owner is effective as to all labor,
30 service, equipment, or material furnished to the property
31 subsequent to the posting of the notice of commencement
32 of work. A subcontractor who fails to submit or post a
33 preliminary notice pursuant shall not be entitled to a lien and
34 remedy provided under Code chapter 572.

35 The bill provides that the provisions relating to the

1 requirement that a general contractor and a subcontractor
2 post notices to the state construction registry apply only to
3 residential construction properties.

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

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

31 The bill eliminates the requirement that the clerk of court
32 make an abstract of a claim for a mechanic's lien but requires
33 the clerk instead to index every claim in the office of the
34 county where such real estate is located.

35 The bill expands the right to recover attorney fees from any

1 prevailing plaintiff who furnishes materials or labor directly
2 to the defendant to any prevailing defendant.

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

6 The bill takes effect July 1, 2011.